



NEAR EAST UNIVERSITY
INSTITUTE OF GRADUATE STUDIES
INTERNATIONAL LAW PROGRAM

THE IMPACT OF HUMAN RIGHTS LAW ON SEX TRAFFICKING IN NIGERIA

PETLONG MARK DAKHLING

MASTER'S THESIS

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2021

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2021

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DECLARATION

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DEDICATION

This thesis is dedicated to all the victims of trafficking with all hopes that you will find peace, love, and joy that you seek within you and in the world.

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ABSTRACT

THE IMPACT OF HUMAN RIGHTS LAW ON SEX TRAFFICKING IN NIGERIA

Human trafficking has constantly grown to reflect a social, political, and economical problem in the world. Trafficking is a global menace and it has plagued all parts of the world, from the world's poorest nations to the richest. It is, therefore, inherently important to understand the concept of trafficking and how it relates to human rights law. Since trafficking is regarded as an abuse of human right, this thesis, using an exploratory case study approach to understanding human rights, has adopted the Nigerian approach to human rights protection against human trafficking.

Human trafficking has constantly grown to reflect a social, political, and economical problem in the world. Trafficking is a global menace and it has plagued all parts of the world, from the world's poorest nations to the richest. It is, therefore, inherently important to understand the concept of trafficking and how it relates to human rights law. Since trafficking is regarded as an abuse of human right, this thesis, using an exploratory case study approach to understanding human rights, has adopted the Nigerian approach to human rights protection against human trafficking.

The purpose of this thesis is to investigate the nature of sex trafficking as well as obstacles and limitations hindering the compliance and implementation of the laws created to eliminate sex exploitation in women using Nigeria as a case study. It also aims to provide solutions and recommendations that will help in eradicating or at least mitigating this crisis.

Keywords; Human trafficking, Human rights, Nigeria, Palermo Protocol, Illegal Migration, Poverty.

ÖZ

İNSAN HAKLARI HUKUKUNUN NİJERYA'DA SEKS TİCARETİ ÜZERİNDEKİ ETKİSİ

İnsan ticareti, devam eden bir küresel kriz olmaya devam ediyor, özellikle son yıllarda, özellikle kızların ve kadınların ticari cinsel sömürü için kaçakçılığı olmak üzere, giderek artan bir endişe alanı haline geldi. Seks kaçakçılığı dünyada çok büyük bir sorundur, ancak daha iyi yerlere göç etme isteğinin daha fazla olduğu üçüncü dünya ülkelerinde daha yaygındır. Kuşkusuz, bu faaliyetler bireylerin temel insan haklarını her gün ihlal etmektedir, ancak çeşitli yasalar ve sözleşmeler formüle edilmiş olsa da sorunlar hala devam etmektedir.

İnsan ticareti, dünyadaki sosyal, politik ve ekonomik bir sorunu yansıtacak şekilde sürekli büyümüştür. Kaçakçılık küresel bir tehdittir ve dünyanın en fakir ülkelerinden en zenginlerine kadar dünyanın her yerini rahatsız etmiştir. Bu nedenle, insan ticareti kavramını ve insan hakları hukukuyla nasıl ilişkili olduğunu anlamak doğal olarak önemlidir. İnsan ticareti bir insan hakkı ihlali olarak görüldüğünden, insan haklarını anlamak için keşif niteliğinde bir vaka çalışması yaklaşımı kullanan bu tez, Nijerya'nın insan ticaretine karşı insan haklarının korunmasına yönelik yaklaşımını benimsemiştir.

Bu tezin amacı, Nijerya'yı bir vaka çalışması olarak kullanan kadınlarda cinsel sömürüyü ortadan kaldırmak için oluşturulan yasaların uyumunu ve uygulanmasını engelleyen engellerin ve sınırlamaların yanı sıra seks ticaretinin doğasını araştırmaktır. Ayrıca, bu krizin ortadan kaldırılmasına veya en azından hafifletilmesine yardımcı olacak çözümler ve öneriler sunmayı da amaçlamaktadır.

Anahtar Kelimeler; İnsan ticareti, İnsan hakları, Nijerya, Palermo Protokolü, Yasadışı Göç, Yoksulluk

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PLAGIARISM REPORT

ABBREVIATIONS

AU- African Union

ACHR- African Court of Human Right

CEDAW- Convention on the Elimination of all forms of Discrimination Against Women

EU- European Union

ECtHHR- European Court on Human Rights

NAPTIP- National Agency for Prohibition of Trafficking in Persons

NGO- Non-Governmental Organizations

SAP- Structural Adjustment Program

UN- United Nations

UNHCR- United Nations High Commisioner for Refugees

UNODC- United Nations Office on Drugs and Crimes

CHAPTER 1

1.1 BACKGROUND OF STUDY

Human trafficking has created a great concern as a contemporary social problem worldwide. According to the United Nations High Commission on Refugee¹, human trafficking is considered to be the third-largest source of profit for organized crime apart from drugs and arms. A research in 2007 by the United Nations, marking the 200th anniversary for the abolition of slavery, agreed that approximately 800,000 persons are trafficked across the world countries borders each year². The researchers and experts also concurred that human trafficking is nothing but organized crime with the total market value. The international awareness of the scourge of human trafficking has over the years increased considerably. The illegal trade occupies a prominent position among the social ills that pervade the Nigerian Society. While the problem may seem more endemic in the southern part of the country, there are indications that no part of the country is completely immune from this social malaise that has ravaged many countries in the world³.

Human trafficking is largely a form of modern slavery on account of its resemblance to the Trans-Atlantic Slave Trade. Slavery as an institution was abolished in the 19th century, and the 1948 Universal Declaration of Human Rights prohibiting

¹ UNHCR, UNHCR Summary Position on the Protocol Against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime <https://www.unhcr.org/43662b942.html>, 2000

² UN, general assembly marks 200th anniversary of end of trans-atlantic slave trade, hearing calls for elimination of modern enslavement, <https://www.un.org/press/en/2007/ga10581.doc.htm#:~:text=The%20date%2025%20March%202007,Atlantic%20traffic%20in%20human%20beings>, 2007

³ UNICRI, UNICRI Series, http://www.unicri.it/services/library_documentation/publications/unicri_series, 2004

slavery or servitude recognizes the rights of all human beings to live a life of freedom and dignity. Since the abolition of the slave trade, more than two centuries ago, about 300 international protocols and conventions prohibiting and criminalizing slavery and slave trade in any form, have been signed and adopted by nation-states. But the recent global economic crunch, poverty, social and political conflicts, wars, natural disasters and the contemporary climate change have profoundly influenced the alarming dimension with which people are being pulled-up as clients for human traffickers⁴. This alarming increase in human trafficking and the social, political and economic ills that it engenders have induced considerable attention of the international community such as the United Nations Organization (UNO), International Labour Organization (ILO), International Organization for Migration (IOM), United Nations Office on Drug and Crime (UNODC) and the United Nations Children and Education Fund (UNICEF), among others.

The United Nations protocol to prevent, suppress and punish human trafficking, especially women and children, defined human trafficking as “recruitment, transportation, transfer, harbouring, or receipt of persons utilizing threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or a position, of vulnerability, or of the giving or receiving of trust to achieve the consent of a person.

To properly situate this objective for intellectual discussion, this paper shall attempt to provide a theoretical framework for the study, an in-depth social appraisal of the link between trafficking and human rights law. Similarly, the study shall assess the potency of the Nigerian legal instruments available to curb human trafficking and also recommend possible solutions to the problem of human trafficking in Nigeria.

According to the United Nations Office on Drugs and Crime (UNODC), Nigeria is regarded as one of the major sources of global trafficking⁵. While trafficking applies to all demographics, younger women are more susceptible to be trafficked in Nigerian society. Irrespective of the numerous attempts by the Nigerian government in the local, state and the federal level to combat human trafficking in the society, numerous avenues are yet to explore to effectively curb this menace. Unfortunately, in the

⁴ Ibid 1

⁵ Cherti M et, al., *Beyond Borders; Human trafficking from Nigeria to UK*, 2013 p. 25

international sphere, Nigeria as a result of its high population has acquired the reputation of being one of the leading African countries in human trafficking, with cross-border and internal trafficking constituting the vast majority of illegal trafficking⁶. Most stakeholders such as NGOs and the Government of Nigeria, however, contribute towards fighting against the unremitting act of human trafficking but focus mainly on the preventive side.

The government, as well as numerous Non-Governmental Organizations (NGOs), are constantly organizing several awareness programmes to educate the general public on trafficking, while these have not yielded the expected result yet, it could be argued that these various arrangements, seminars, and programmes have laid the necessary framework upon which trafficking could be fought. It is no doubt that this is a serious problem, hence, it requires the actions of not only the government but also of several stakeholders, survivors, multilateral organizations, NGOs, donors, academics, and individuals.

1.2 Significance of the Study

Human trafficking could easily be regarded as a form of slavery. The international awareness of trafficking has over the years increased to show the severity of the problem. Nigeria is a country of origin, transit and destination for human trafficking. This paper attempts to articulate the potential vulnerability of the victims, appraise the link between trafficking and their access to human rights. The significance of this study aims to highlight the dangers of trafficking to the Nigerian society and to show to what extent the Nigerian society is fighting to combat this problem. Similarly, this thesis will focus on the fact that young women are the target market in trafficking due to their vulnerabilities and gendered positions in society. Hence, we will be discussing the various causes of human trafficking in Nigeria which includes numerous aspects such as the economy and social life.

Similarly, this thesis seeks to highlight the various Nigeria legal instruments to curb human trafficking and recommend possible solutions. Because of unemployment, victims are frequently lured with a promise to get a job with fat pay. It also aims to provide solutions and recommendations that will help in eradicating or at least

⁶ UNESCO, Human Trafficking in Nigeria: Root causes and recommendations', policy paper poverty series, Paris <http://unesdoc.unesco.org/images/0014/001478/147844e.pdf>

mitigating this crisis. In addition to the legal instruments, we will also focus on the various methods adopted by civil society organizations to fight against trafficking.

1.3 Research Questions

1. Are the legal provisions established by the Nigerian government sufficient for prosecuting sex trafficking?

1.4 Global Perspective on Human Trafficking

Human trafficking is a worldwide issue that is visible in all parts of the world. Almost, perhaps all countries in the world are battling against human trafficking in whatever form. As it can be noted that human trafficking is a global phenomenon, its levels, however, varies according to location. Some places in the world, mostly third world countries are more prone to human trafficking because a majority of their citizens would be eager to migrate to better nations. Due to its constant rise, human trafficking is beginning to gain popularity amongst various researchers from around the world. A few investigations have been done to proffer suitable solutions on how human trafficking can be managed or combatted.

For most parts of the world, it is proven that while human trafficking applies to people from every demographical arrangement, a greater amount of victims are usually young woman exposed to both sex and work abuse⁷. It, therefore, draws to mind that, considering the endeavours made by various partners to check human traffick in the public, why is the menace still prevalent? Farrell, et, al⁸, highlights that the reason for this persistent nature of human trafficking is due to the difficulty to decipher what constitutes as human trafficking. There is a confusion in understanding the meaning of human trafficking and when to hold someone accountable for committing human trafficking.

This confusion in understanding human trafficking explains the persistent nature of the crime. For example, people may be confused to differentiate between illegal migration and human trafficking, although both offences are conducted via

⁷ Oringanje, C. Responses to Sex Trafficking: The Nigeria Approach, Coventry University, 2014

⁸ Farrell, A., McDevitt, J., Pfeffer, R., Fahy, S., Owens, C., Dank, M., & Adams, W. Identifying challenges to improve the investigation and prosecution of state and local human trafficking cases (NCJ 238795). Report submitted to National Institute of Justice, Washington, DC *Environmental and Institutional Influences on Police Agency Responses to Human Trafficking*
<https://www.researchgate.net/publication/270881194> Environmental and Institutional Influences on Police Agency Responses to Human Trafficking (2012)

similar methods. Many recent texts in the literature continue to highlight the unpredictable forms of human trafficking and discuss how the government may understand one from the other. For sake of clarity, Salt⁹ defines illegal migration as the unlawful passage into a nation, which includes a smuggler and the hidden individual. Human trafficking on the other hand is the migration (legitimate or unlawful) of an individual or gathering of people inside or into another nation by kidnapping or deceit. In human smuggling, the connection between the smuggler and the smuggled individual ends once the individual has entered the intended nation. For human trafficking, however, the relationship proceeds. Human trafficking further includes the pressure of the individual into an obscure illegal transaction as mentioned by Pharoah¹⁰.

Important discussions on human trafficking appear to repeat that force, pressure, or extortion is utilized to keep the individual and the reason for the demonstration is exploitation. Another strategic difference between human trafficking and smuggling is the reason for which an individual is selected. Trafficking for exploited labour has been distinguished as an unrecognized crime, while sexual abuse is the most prevailing purpose behind trafficking, hence, majority of the world leaders are mostly focused on fighting against sexually related trafficking offence.

According to the Eurostat, European Commission of 2013 statistics, it was shown that 62% of trafficked persons were victims of sexual abuse, and 25% for forced labour¹¹. This was additionally certified by the UNODC that 58% of victims were enlisted for sexual abuse internationally, out of which Europe recorded the highest level of over 62%¹². According to recent investigations, despite the constant endeavours to battle trafficking, the crime is consistent and taking new forms mostly because of the advanced nature of the technology used by the traffickers to interact with their victims.

⁹ Salt, J. Trafficking and Human Smuggling: A European Perspective, International Migration, 2000, p. 43

¹⁰ Pharoah, R. Defining Trafficking; Getting to Grips with Trafficking Reflections on Human Trafficking Research in South Africa, 2006

¹¹EuroStat, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_dghome-eurostat_en_1.pdf, 2013

¹² UNODC, Global Report on Trafficking in Person, https://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf, 2012

Another intricacy of human trafficking worldwide is that prostitution and human trafficking are grouped in a similar category, hence, greatly reducing the global effort of combatting human trafficking. Prostitution and human trafficking are two distinct issues and ought to consequently not be categorized together because every one of these events will require an alternate way to deal with them. According to Weitzer¹³, "prostitution includes a business exchange and dealing is a cycle whereby an outsider encourages a person's contribution to sexual trade". Economically, willful prostitution decides to sell their body due to the profit that it brings, whereas, forced prostitution is influenced by traffickers forcing their victims to prostitute for their (traffickers) gains¹⁴. Therefore, to efficiently differentiate prostitution from human trafficking, one must look at the willful act associated with prostitution and the coercion associated with human trafficking.

Similarly, human trafficking is generally categorized as a formative issue as it mostly targets the poor members of the society from poorer nations of the world. Similarly, woman is mostly the target of human trafficking, hence, leading to a greater concern from the feminist school of thought. D'Cunha in the discussion of social development suggests that a global way of tackling human trafficking may be to improve the general wellbeing of members of the society, especially woman. According to the Social Development Notes of 2009, women from Nigeria are regarded as the major victims of sexual abuse in Europe and Central Asia, similarly, young woman in Latin America and the Caribbean are particularly exploited sexually as well as for forced labour. This draws to mind the global nature of human trafficking as well as the target audience for this crime.

1.5 Human Trafficking in Sub-Saharan Africa

Unfortunately, Sub-Saharan Africa (SSA) is the focal point of human trafficking. According to Baykotan¹⁵, human trafficking in this region could take the form of an international or domestic nature. Due to the persistent nature of this crime, human trafficking has over the years is a major discussion in the region amongst analysts, researchers, government and a few associations. According to a 2012 global

¹³Weitzer R, New Directions in Research on Human Trafficking. The ANNALS of the American Academy of Political and Social Science. 2014, p 6-24.

¹⁴ Ibid, 17

¹⁵ Baykotan, C.,. Human Trafficking in Turkey: A Feminist Analysis, 2014, pp.14

estimation of forced labour by the International Labour Organization (ILO), it was recorded that over 3.7 million Africans may be working in conditions regarded as forced labour or human trafficking¹⁶.

In the discussion of forced labour and human trafficking, Africa is regarded as the epicentre, this is mostly due to the economic conditions of the majority of the persons living in this region, therefore, these people are susceptible to fall victims to the lies and deceit that traffickers tell. The ILO study showed that forced work includes characteristics such as slavery, servanthood, and compulsory labour with abuse as the underlying reason. Close to SSA in human trafficking in Asia. In places such as in Nepal and South Asia, human trafficking is prevalent mostly due to the economic position of the countries.

Although trafficking may be seen in the context of migrating from one country to another, trafficking in SSA also takes a domestic nature. Similarly, intra-regional trafficking is common in the region with trafficked individuals passed on between African nations. For example, it is common to find inter-border trafficking between Benin, Cote d'Ivoire, Gabon, Ghana, Nigeria, Liberia and Togo for Central and West Africa. In Southern Africa, the majority of trafficked victims recognized by the state specialists are from Mozambique, Malawi, the Democratic Republic of the Congo (DRC), Zambia and Zimbabwe.

Most of the nations comprising the Sub-Saharan Africa area are majorly agricultural producing nations with economic and political insecurities. The socio-economic nature of these countries already set the tone for human trafficking and exploitation. As mentioned by Donato et. al.,¹⁷ political upheavals, clashes and civil war are determinants of the level of trafficking and social degradation in a community. The International Migration Organization (IOM) started exploring surveys in 2002 and 2003 in Sub-Saharan Africa, where it was reached that a majority of trafficking in the Southern part of Africa occurred as a result of war, displacement of individuals, ignorance, and unemployment.

¹⁶ ILO. Global Estimate of Forced Labour: Results and Methodology. Geneva, Switzerland: International Labour Office, 2012

¹⁷ Donato, K.M., Gabaccia, D., Holdaway, J., Manalansan, M. and Pessar, P.R. A Glass Half Full? Gender in Migration Studies. International Migration Review, 2006, pp.3-26

Victims of trafficking from this area confirmed that they left with their trafficker solely to leave their rural life to enter a more economical stable region which will increase their financial position. Similarly, victims of trafficking may against popular belief be experts in their various profession, who, maybe as a result of war and displacement, are forced to engage in trafficked actions to cater for their needs as well as for their families. Hence, the trafficking agent capitalizes on their suffering and desperation, which in the long run results to the victims to be exploited and easily coerced. Giving another view, Onuoha¹⁸ concurs that globalization might be one of the components of trafficking in Africa, however, not the essential factor that establishes the framework of human trafficking. He reasons that the personality of the state in Africa and its authority cannot successfully ensure the common freedoms of likely victims.

Additionally, the political environment of the nation may be another reason for human trafficking. The government in most parts of SSA easily infringes on the basic liberties of their citizens, hence, forming a state without respect for the rule of law and society. Therefore, citizens of such nations are usually very poor and will choose to do anything just for money or shelter. Also, there is limited government oversight regarding labour in the region, hence, providing employers with the opportunity to exploit their workers, and to put them under forced labour. Another cause of human trafficking in the SSA is race and class. To embody this perspective, a few authors demonstrate that the part of work and body abuse in the region is fostered by the notion that the West is the saviour of other parts of the world, hence if the victims would require to be saved, they must move to the Western part of the world and do as they are told. Sex trafficking is grounded in an imbalance between the rich and poor people and it is additionally fostered by poverty, sexual, and age.

1.6 Human Trafficking in West Africa – Nigeria

West Africa is one of the epicentres of human trafficking. In West Africa, Nigeria has been featured or brought into notoriety over the issue of human trafficking mostly due to the population size as well as poverty. Maduagwu¹⁹ highlights that Nigeria is

¹⁸ Onuoha, B. The State Human Trafficking and Human Rights Issues in Africa. *Contemporary Justice Review*, 14(2), 2011 pp. 149-166

¹⁹ Maduagwu, C. "Human Trafficking: Nigeria's Efforts, not Good Enough", *Daily Champion*, Thursday, July 29, 2004

extraordinarily affected by human trafficking in such a manner that it plays an important position in the starting point, supplier, and user of human trafficking. Historically, human trafficking in Nigeria dates back to the pilgrim era when the slave trade was at its peak. Sponsored by the Portuguese sailors that previously arrived in Africa in the mid-fifteenth century. Although slave has been abolished in recent times, there are still numerous instances of human trafficking which woman are mostly targeted.

To improve its economic standing, Nigeria, like most African nations during the 1980s, embraced the Structural Adjustment Program (SAP). The essential points of the SAP were to change the economic sector and establish a climate for capital, products and enterprises to address the issue of capitalism. The aftermath of SAP created stringent and difficult economic changes to the Nigerian population and this lead to a state of economic depression and increased levels in unemployment. This unemployment, in turn, led to a significant increase in poverty levels and people were actively in search of greener pastures. Hence, making them vulnerable to traffickers and making deceit. The patriarchal nature of the Nigerian society also places women as the target audience for traffickers, as a higher number of woman as of 1989 were uneducated or handling low ranking position in the office.

The Nigerian government is working with both public and private offices to combat human trafficking. Also, agencies have been created to handle such cases, however, this thesis will discuss the effectiveness of these agencies as well as the major reasons for the prevalence of human trafficking.

Conclusion

In this chapter, we have examined the significance of the study, the research questions that the study intends and we have also discussed the background of the study. Owing to our study is focused on human trafficking, the chapter similarly discussed what human trafficking is and the various connotations applied to human trafficking in various parts of the world. We also discussed the usual confusion that people apply when discussing human trafficking, prostitution and illegal migration to a new country. It is indeed inherently important that we discuss the current position of human trafficking in the global as well as the regional environment, hence, we have highlighted these notions per global, regional, and even domestic stage.

Most importantly, we have noted that human trafficking is a phenomenon that is prevalent due to social, economic, and political crises faced by people living in Nigeria and other trafficking prone areas. The next chapter will then provide a comprehensive literature review relating to human trafficking in Nigeria, causes of human trafficking, components of human trafficking and even discuss the various steps taking by the government to combat human trafficking in Nigeria. For sake of expansiveness, we will discuss the various legal agreements and documents provided in the field of human trafficking at the global, regional and domestic level.

CHAPTER 2

UNIVERSAL APPROACH TO HUMAN TRAFFICKING

2.1. Introduction

It is pertinent to note that human trafficking occurs in various forms and structures, and happens everywhere in the world, however, to varying degrees. This implies that although human trafficking is a global phenomenon, the level to which this action is conducted may differ from region to region or country to country. Similarly, human trafficking is known to exert negative influences on not only the victims but also on the lives of the people around them, this explains the intricate nature of the crime and the manner to which states are trying to combat human trafficking. Men, women and children are exposed to human trafficking and are trafficked mostly from developing nations to developed countries.

Due to the quest for economic balance and the search for a better life, people from developing countries have in recent times become the major suppliers of human trafficking to the first world nations. This has created a growing concern for every nation around the world and has stirred worldwide research on a measure through which human trafficking is conducted and organized, thus leading to numerous investigations and research that have been done to investigate and comprehend the component of human trafficking. The conclusion from these studies, however, shows that woman is more helpless than men and teenagers as casualties of human trafficking.

The major concern of our study is to find out the position of human rights in human trafficking in Nigeria. Hence, we will be looking mostly at the various tools or ways explored by the Nigerian Government as well as an international organization to

combat human trafficking and the effectiveness of these tools. We will also be looking at the various ways through which human trafficking is conducted in Nigeria, therefore, a majority of our reviewed literature will discuss the concepts of human trafficking across different parts of the world.

As mentioned earlier, the majority of the research provided in the literature concerning human trafficking shows women and teenagers as the major prey to this menace. Thus, to explain trafficking in Nigeria, it is important to look at the feminist approach and to understand why women are more victims of trafficking²⁰. Nonetheless, it should be noticed that due to the irregular nature of trafficking, the experience of Nigerian victims is not similar since they experience trafficking unexpectedly. This distinction depends on the crossing point of components, for example, age, sex and what the nature of trafficking.

According to Gozdiak²¹, the inability of grouping trafficked victims under one umbrella is a major reason for the inability to combat it, and this adversely impacts powerful arrangements to sufficiently secure casualties of dealing. In like manner, the trafficking of people cannot be assembled too since the reason and types of abuse are different, one from the other. Herzfeld²² mentions that for human trafficking, abuse of people is diverse because of gender roles exhibited in society. However, states around the world continue to do their best in fighting against human trafficking within and beyond their borders. The Nigerian Government has responded with serious of legislative arrangements and state-sponsored organizations which will be discussed in the thesis.

2.2. WHAT IS HUMAN TRAFFICKING?

Human Trafficking as defined by the UNHCR is by and large comprehended to allude to the cycle through which people are set or kept up in a manipulative circumstance for economic gains²³. Trafficking occurs inside a nation or may include

²⁰ Ibid, 21

²¹ Gozdiak, E.M. Data and Research on Human Trafficking: Bibliography of ResearchBased Literature. Diane Publishing, 2011

²² Herzfeld, B. Slavery and Gender: Women's Double Exploitation. Gender & Development, 10(1), 2002, pp.50-55.

²³ UNHCR, <https://www.unhcr.org/human-trafficking.html#:~:text=Human%20trafficking%20is%20involuntary%20and,forced%20labour%20or%20sex%20work., 2020>

development across boundaries. The UNODC understands human trafficking to be a multifaceted issue that requires multifaceted solutions. Human trafficking is visible in cases relating to human rights, politics, criminal justice, national security, and economic frameworks²⁴.

Although it may be inherently difficult to provide a specified figure for a trafficked individual around the world, our understanding of trafficking has improved and significantly grown to understand how trafficking is carried out due to the increase in the literature about trafficking. Some of the reasons for trafficking include; Disparities within and between nations²⁵, stiffened immigration policies²⁶constant demand for cheap labour²⁷, and many other social reasons. From the above-mentioned reasons for trafficking, we can therefore understand that trafficking is mostly concerned with factors such as poverty, discrimination, and violence.

Human abuse and trafficking for selfish gains have a long history with global implication way before the introduction of the present-day basic human right framework. Nonetheless, it is just over the previous decade that trafficking has become a significant concern, and has attracted numerous legal arrangements to combat this issue. These growths of awareness regarding human trafficking affirm a global move to tackle trafficking and to proffer valuable solution feasible to fight off trafficking in the global arena. As knowledge about trafficking grew, states began only in the 1990s to differentiate trafficking from other forms of human abuse and illegal migration²⁸. However, the first globally accepted definition of trafficking was added into the “2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime” (Trafficking Protocol). This accepted definition has since been incorporated into many other legal and policy instruments as well as national laws.

²⁴ UNODC, <https://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>, 2018

²⁵ Omorodion, Francesca. “Child Sexual Abuse in Benin City, Edo State, Nigeria: A Sociological Analysis.” *Issues in Comparative Pediatric Nursing*, 18(1), 1999, 29-36

²⁶ Lazzarino, Runa. “Fixing the Disjuncture, Inverting the Drift: Decolonizing Human Trafficking and Modern Slavery.” *Journal of Modern Slavery*, 2019

²⁷ Kara, Siddharth. “Perspectives on Human Trafficking and Modern Forms of Slavery.” *Social Inclusion*, 2017, pg 1.

²⁸ Bruch, Elizabeth M. “Models Wanted: The Search for an Effective Response to Human Trafficking.” *Stanford journal of international law*, 2004, pp 1-45

According to the Trafficking Protocol:

“Trafficking in person shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age”²⁹

Judging from the above international definition of human trafficking, we can identify the various features of human trafficking to include:

- i. Universal nature: Trafficking affects both woman, men, and children, against the pre-held notion that it affected only woman used for sexual exploitation³⁰. The international definition highlighted above clarifies that women, men and children could all be trafficked or manipulated by traffickers.

²⁹ UNHCR, 2000

³⁰ Hodge, David and Cynthia Lietz. “The international sexual trafficking of women and children: A review of the literature.” In: *Affilia - Journal of Women and Social Work*. 2007, pp. 163-174

- ii. Domestic possibilities: Trafficking can occur both internally and externally³¹, it does not only occur in the international setting or across borders but can occur within a country as highlighted by the definition above.
- iii. Difference between Trafficking and smuggling: From the above definition, we can understand the differences between trafficking and illegal smuggling. Smuggling encourages the illegal movement to foreign countries for economic benefits³². While smuggling may include oppressive treatment just as trafficking, the motive for conducting this illegal action is to benefit from the migration, not the possible abuse as on account of trafficking.
- iv. Trafficking can occur even when movement is not made: The meaning of trafficking according to the definition above highlights movement as one of the multiple ways through which trafficking occurs. Other components of trafficking including holding of victims, receiving victims, and providing support to traffickers.
- v. Consent is inapplicable to trafficking: Under human rights law, it is illegal to render consent to actions that will remove the personal freedom of persons. Since trafficking is associate with manipulation, compulsion, and force, it is, therefore, impossible to associate consent with human trafficking.

2.3 The Push and Pull Factors

According to James and Atler³³ the push factor reinforces the weakness of the negative perception of the society to human trafficking, the pull factors on the other hand signifies the demand placed on human trafficking. As per Sassen, the push factors fall into a more extensive discussion that has to do with the financial effect of globalization and how these effects drive individuals to migrate to other parts of the world in quest for better living opportunities³⁴, while pull factors are those things that

³¹ McGaha, J., & Evans, A. "Where are the victims? The credibility gap in human trafficking research." *Intercultural Human Rights Law Review*, 2009.

³² IOM, *Trafficking in Human Beings and Smuggling of Migrants in ACP Countries: Key Challenges and Ways Forward*, https://publications.iom.int/system/files/pdf/trafficking_in_human_beings.pdf, 2020

³³ James, C., and Atler, S. 'Trafficking of Young Women' in Arvanitakis (ed) *Highly Affected Rarely Considered: The International Youth Parliament Commission's Report on the Impacts of Globalisation on Young People*. *Oxfam International Youth Parliament Sydney*, 2003. 71-82

³⁴ Sassen, S. 'Women's burden: Counter-geographies of globalization and the feminization of survival'. *Nordic Journal of International Law* 71(2), 2002. 255-274

influences or appeals to individuals to look for abundance or a better life in different nations³⁵.

According to the US. State Department, push factors incorporate elements such as unemployment, joblessness, poverty, ignorance, illiteracy, inequality, and abuse of people in public and private areas of authority³⁶. Similarly, other components of push factors include corruption, domestic abuse, minority abuse, and misinterpretation of minority groups. These factors in the long run serves as a catalyst upon which people become encouraged to migrate to other areas or to other places where the push factors are less. In the Nigerian story, for example, a majority of the woman trafficked to Italy are mostly illiterate, poor, ignorant and disadvantaged. Hence, they are automatically placed in the risk group whereby traffickers can easily deceive, abuse, and exploit them.

Katerere³⁷ highlights that, customary practices, for example, early marriage, broken homes or family and conflict in the society can contribute to increased level of trafficking, Hosken refers to these customary practices as push factors, while for the pull factors, it is the appeal for paid sex in advanced nations, for example, Italy, Spain, United States among others³⁸. Truong and Angeles mentions these pull factors as persuasive factors and gathered them into three classifications; the primary persuasive factor which pertains to socio-social factors, for example, poor level of education, illiteracy, child labour, and early marriage, the second classification identifies with economic elements which includes imbalances or inequality in the resources of a country when compared to another country, hence the longing to escape from poverty³⁹. The third and final incorporates political and juridical variables that signifies the presence of little to none democracy and poor government strategy.

These facilitators are not static and vary starting with one nation or area then onto the next depending on the circumstance of that nation. For example, the

³⁵ Aronowitz, A. *Human trafficking, human misery: The global trade in human beings*. Westport, CT: Praeger, 2009.

³⁶ Ibid 33

³⁷ Katerere F. (2007) 'Human Traffickers Thrive in Mozambique'. *The Citizen* [online] available from www.citizen.co.za/index/article.aspx?pDesc=35379, 2007

³⁸ Ibid, 24

³⁹ Truong, T., and Angeles, M. *Searching for best practices to counter human trafficking in Africa: A focus on women and children*. UNESCO: Project to fight human trafficking in Africa, 2005

unawareness of sex education, sex imbalance and ignorance in West Africa, which submit most woman and teenagers into trafficking, does not exist in the western world. We will now look deeply into the various motivational components that answers the resilient nature of trafficking in Nigeria. Similarly, these factors will give an explicit discussion to why individuals become vulnerable even with the awareness constantly sponsored by the Nigerian government.

2.3.1 Poverty and Unemployment

To answer this question, it is pertinent to understand the questions asked by maxwell, which are as follows;

Does poverty have to do with the amount of profit or income a person obtained? Is it about lack of access to social services? Or when one lacks the inability to participate in society economically, socially, culturally and politically?" (Maxwell 1999).

The poverty level in Nigeria is on constant rise as the day passes and is now regarded as a major reason for socio-economic problems in the country. Oji uncovers that a big part of the populace in Nigeria at any social level are living in extreme poverty. Likewise to this submission, the National Bureau of Statistics distribution uncovers that in Nigeria poverty rate has become common and is evident in huge number in the general public⁴⁰. Anumudu et., al,⁴¹ further affirms that the threat of poverty in Nigeria is an irrefutable situation, which results to numerous torments, for example, hunger, sickness, lack of health care, corruption, unemployment and furthermore an elevated level of human abuse. Nwaobi portrays Nigeria as an interesting country where the nation is rich, however its residents are poor⁴².

In Nigeria, regardless of high economic development, poverty is still highly imminent. Over the last decade, Nigeria recorded one of the world's most noteworthy financial development rates with a normal of 7.4%, a robust economy created by its most important natural resources such as petroleum, however, the National Bureau of

⁴⁰ Ibid, 15

⁴¹ Anumudu, C, N., Umar, A., and Madu, M, E. 'Review of Poverty Reduction Policies in Nigeria: Myth and Reality'. *International Journal of Economics, Commerce and Management* 1(2), 2013, 1-16

⁴² Nwaobi, G. Solving the Poverty Crisis in Nigeria: An Applied General Equilibrium approach. *Quantitative Economic Research Bureau*. Gwagwalada: Abuja, 2003.

Statistics, detailed that over 60.9% of Nigerians are living in extreme poverty⁴³. We can therefore understand extreme poverty to include the unavailability to acquire the necessary things for living such as apparel, food, safe house and medical care⁴⁴. Based on this definition of poverty, an analysis by the government of the United Kingdom showed that as at 2013, about 63% of Nigerians live below \$1 every day, hence, signifying its growing poverty levels⁴⁵.

Similarly, Okpe and Abu astutely commented that Nigeria has seen a stupendous expansion in the poverty levels, year after year.⁴⁶ Contrastingly, the former Nigeria's President Goodluck Jonathan at the Labour Congress and Trade Union Congress gathering 2014 tried to downplay the severity of the poverty levels by calling it unequal resource allocation, the current position of the country will however refute this unequal resource allocation claim, especially seeing that Nigeria is now referred to as the poverty capital of the world.

Disregarding the former Nigerian President's refusal to identify poverty as an issue to the country, it is glaring to see the increased population living in abject poverty as you move around the country. Similarly, the current currency crisis led to unfathomable level of inflation as well as a significant loss of money value, which added to poverty levels. Existing measurements by analyst has uncovered that the expansion of poverty in Nigeria began since the 1980s. As expressed by the UNDP somewhere in the range of 1980 and 1996, the level of poverty expanded from 6.2 percent to 29.3 percent, however later diminished to 22.0 percent in 2004⁴⁷. As indicated by the African Economic Outlook, the nation's economy developed at 7.4% in 2013 and will keep on posting genuine development paces of over 7% for 2014 and 2015. Also, as of late, the World Bank positions Nigeria among the first 30th biggest economy on the planet, in front of Austria, Denmark and the United Arab Emirates, yet at the same time thinks about Nigeria as a country with a significant lower pay for labourers⁴⁸.

⁴³ Ibid, 45

⁴⁴ Ibid, 45

⁴⁵ Gov.UK DFID: Nigeria, <https://www.gov.uk/government/world/organisations/dfid-nigeria> , 2013

⁴⁶ Ibid, 23

⁴⁷ Ibid, 29

⁴⁸ Ibid, 18

A possible reason for this lower pay is because over 70% of the populace in Nigeria lives in abject poverty, hence, they will accept whatever job provided to them at the lowest pay possible. Similarly, due to the increased level of unemployment, the millions of unemployed youths in Nigeria are easily exploited to engage in low paying jobs, despite their over-qualification. Ohio-Ehimiaghe claims that there is an enormous component of poverty in Nigeria between the metropolitan and rural regions, poverty is by all accounts evident in rural areas compared to the metropolitan territory⁴⁹.

As per the Development Assistance Committee (DAC) report, it expresses that poverty includes different measurements identified with human disability to achieve their required needs. Due to the vast notion of the term poverty, numerous research has sprouted over the years to include definition and approaches to defining poverty. Maxwell in his work "the Meaning and Measurement of Poverty", sees that the entanglement of estimation reflects the trouble of definition. This unpredictability rises where participatory methodologies are utilized and individual characterize their own proportion of poverty⁵⁰.

In Nigeria, poverty has assisted with expanding the pace of human trafficking and sexual abuse. Roberts' research demonstrated that they are a few methods in which poverty encourages human trafficking by making a large extent of unequal and disadvantaged persons in the society⁵¹. Poverty in this sense is then seen as the lack of living necessities, money, living resources, as well as other things to make living comfortable. Consenting to Robert's proposal on poverty, the UNODC (2008:72) alludes to poverty as an intricate word that has different worrying factors, for example, absence of education and fundamental civilities; absence of properties and food; weakness; ailing health and need; low level of freedom; high number of death from sickness; no shelter; and other social forms of inequality which makes ways for individuals to fall into the hands of traffickers.

⁴⁹ Ohio-Ehimiaghe, A. *Perceptions and realities of the poor in Nigeria: poverty, risks and livelihoods*. Unpublished Doctoral dissertation. England: University of Sussex, 2012

⁵⁰ Ibid, 25

⁵¹ Robert, C. Poverty and Livelihoods: Whose Reality Counts? *Environment and Urbanizations* 7 (1), 1995. Pp: 173-204

Mohammed Babandede who is a high ranking staff of National Agency for Prohibition of Trafficking in Persons (NAPTIP), poverty is be the central point that encourages human trafficking, the circumstance is exacerbated by greed and lack of information. Poverty arises as a result of poor government policies or even poor individual living style. Based on these components of, it is unreasonable to highlight poverty as one of the components of trafficking without carefully understanding what poverty entails and how it influences human trafficking⁵². Similarly, we can understand that the trafficked victims are not really the most unfortunate of the poor in Nigeria, but instead they are the individuals who have the least assets accessible to them, particularly those from agricultural nations, for example, Nigeria, Ghana, Benin, Togo, Senegal among others.

Due to poverty, people are then forced to engage in business that will take them out of their poor state, hence, raising their desperation to engage in any act. Unemployment and poverty in Nigeria, are strongly linked, therefore, these variable establishes a solid connection which thus builds the pace of human trafficking in Nigeria. At the point when individuals are jobless, their income level gradually reduces, and with time, their way of life diminishes. According to a research conducted by Teshome, it was believed that knowledge and education which was previously an entryway into employment and good living in Nigeria is not as important anymore⁵³. Rather, in recent time, working in Nigeria is tied in with having a guardian or somebody at the top and not only on education or knowledge. In 2019, the World Bank assessed the Nigerian unemployment rate to be over 8.1 %. Although, education is still inherently important, due to the level of corruption and greed in the country most disadvantage citizens with no higher connection are often shunned employment, regardless of their qualification. This therefore, increases poverty amongst the disadvantaged members of the society.

2.3.2 Illiteracy and Poor Education

Over the years, researchers have discovered that deficient information and low degrees of proficiency will in general build the weakness of people to human trafficking

⁵² Yunus, M., and Jolis, A. *Banker to the Poor: Micro-Lending and the Battle against World Poverty*. New York: Public Affairs, 2003

⁵³ Teshome, A. Informal and Formal Social Protection in Ethiopia. in *Informal and Formal Social Protection Systems in Sub-Saharan Africa*. ed. By Getu, M., and Devereus, S. African Books Collective, 2013, 95-120

and have additionally diminished the knowledge on people profiting from measures to forestall trafficking. Given the discoveries from UNICEF 1999, approximately 1 billion people in the 21st century find it inherently difficult to read, write, or sign their names. Although, the world is constantly changing, and we may see slight improvement today in this figure, it is also pertinent to note that the global population has exponentially increased, therefore, exposing a greater percentage of the population to this problems of illiteracy. These problems can be vanquished through education.

Education signifies the weapon upon which an individual's knowledge is illuminated and an understanding about things around them is reached. In response to our topic, education will create an insight into the various ways in which trafficking can be understood and fought. As previously highlighted, in the rural and impoverished areas of Nigeria, joblessness cause individuals to look for a superior life outside their local setting, absence of education coupled with unemployment may even increase the quest for a better life, hence, creating way for desperacy. However, the truth of the matter is that, although uneducated people are the target audience of traffickers, educated individuals may also be victims of trafficking, since, education does not signify wealth or possessions.

According to UNICEF⁵⁴, a report shows that following the exponential increase of the Nigerian population, a considerably higher amount of teenagers are actively being taught under the Nigerian education sector. Similarly, due to sub-standard nature of the Nigerian education sector, this constant population increase may become trouble if citizens are in regions where there is unavailability of teaching and learning materials, or where education materials are insufficient. Another discussion adding to illiteracy is that due to poverty and customary beliefs where young men are instructed instead of young woman, there is an increase level of dropout students, especially amongst woman. Be that as it may, the absence of education in Nigeria is more felt by the females than the male, on the grounds that most societies in Nigeria view woman or female as the subordinate sex. Hence, teaching them is silly as their principle intention is to get married and produce children. The enrolment of young woman in school is less, with more young woman exiting after few years of enrolment, leaving a larger proportion of young men in schools when compared to young woman.

⁵⁴ Ibid, 43

It is pertinent to note that the absence of education is connected to poverty since poverty assumes a significant role in an individual achieving some training due to the cost of teaching and other economic issues connected with education. In the same vein, education when attained, can reduce poverty, increase social development, and increase awareness among the young adult and adolescents on trafficking and furthermore a centre for building up a nation.

2.3.3 Corruption

In Nigeria, corruption is often regarded as endemic or systemic. Systemic or endemic corruption signifies the point at which the public authority that should battle or battle against corruption and other illegal acts is themselves corrupt⁵⁵. This implies that the corruption is predominant to the point that it is essential for the day-to-day actions in the country, hence, making the fight against corruption difficult.

Although corruption varies according to its frequency from place to place, it is important to note that it is not particular to only one place nor one country. Corruption is infecting a global issue that affects all nations alike, regardless of religion, location, race, or democratic levels. Corruption in Nigeria is however at a very high extent. In Nigeria, it is viewed as endemic compared to nations such as Britain, France, Greece, Japan, Italy and the United States with significantly lower corrupt levels. Agbu analysis two parts of corruption which are political or petty. Political corruption occurs in the most significant level of the public authority or the political framework, it includes political heads, and public office holders⁵⁶. For this situation, the political leaders and states government with the authority to create and establish laws for their citizens are in themselves bad⁵⁷. The political leaders utilize their situations to obtain influence, abundance and status, not paying attention to the general good.

Petty corruption which is the other classification of corruption occurs as a minor favour between individuals. Petty corruption in Nigeria is very evident mainly due to its multi-tribal structure, hence, people in the position to help will only do so to member of their ethnic groups while disregarding others. In relating to human trafficking in

⁵⁵ Klitgaard, R. 'Leadership under Systemic Corruption
http://www.cgu.edu/include/Leadership_Under_System_Corruption_12-04.pdf, 2004

⁵⁶ Ibid, 33

⁵⁷ Amundsen, I. Political corruption: An introduction to the issues. *CMI WorkingPaper*
http://www.cmi.no/publications/publication/?An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf, 1999

Nigeria, our focus shall be placed on political corruption since this influences government actions in tackling trafficking. Due to increased level of corruption in Nigeria, we understand that all parts of the Nigerian society are infested with endemic corruption. Parts in this sense does not only mean regions or geographic locations but also government offices and society. A research conducted by Ucha⁵⁸ (2010) shows that corruption in Nigeria is now acknowledged as a lifestyle.

In 2009, the US Department of States Report noticed that corruption in Nigeria is unavoidable, broad and enormous at all the level or arms of government and all through the security sector (US. Department of State 2010). Corruption is likewise broadly spread among legal authorities and judges. The Nigerian police power are seen as the most corrupt government body in the country, if not in the world, and some cops are known to be working tirelessly to with and deter casualties from announcing their wrongdoing. For example, the National Agency for the Prohibition of traffic in Persons (NAPTIP) in 2007, in conjunction with the airport authorities of Belgium, France, Italy, Ireland, Netherlands, Nigeria, Spain and United Kingdom organized a widespread trafficking hunt where they captured over 56 Nigerians including top migration authorities profiting from human trafficking.

A general definition of corruption is alluded to the 2011 definition introduced by the Transparency International worldwide alliance against corruption which characterizes the expression "corruption" as the abuse of general assets and resources for individual purposes. Corruption has definitely blocked the socio-political framework in Nigeria as government assets are consistently being stolen by their workers, for the utilization of their own requirements and ignoring the interest of the majority. Because of this impact, the capacity for government to give the important or fundamental social enhancements that will improve the country is seriously compelled by these bad leaders. Accordingly, individuals are confronted with the crumbling of public foundation and they face harsher economic times⁵⁹ (Agbu 2003:4).

⁵⁸ Ucha, C. 'Poverty in Nigeria: Some Dimensions and Contributing Factors'. *Global Majority E-Journal* 1(1), 2010, 46-56

⁵⁹ Agbu, O. 'Corruption and Human Trafficking: The Nigerian case'. *West Africa Review* 4(1), 2003, 1-13

Consequently, we can discover that corruption assumes a role in fostering human trafficking, albeit from an intermediate perspective. The corrupt nature of the government increases poverty and unemployment which motives individuals to fall victims to trafficking, and corrupt government workers are easily bribed to join in fostering trafficking activities.

2.3.4 Gender Inequality

The term gender is often regarded as a social construct which separates the characteristics of people according to their sex. Gender analysis what is expected of a woman and what is expected of a man based on their conduct, exercises or job. Gender influences the perspective upon which trafficking is conducted as women are often trafficked for sex while men are mostly trafficked for cheap labour. Gender inequality is easily mentioned as a major source of poverty and economic inequality since most women are targeted in a patriarchal society for lesser jobs which will provides them with a considerably lesser income. Similarly, due to the lack of laws and government policies to regulate working environment in most parts of the world, there is an unequal level of men to women ratio in the global professional sector.

The issues associated with gender inequality has created a great imbalance in the work market, educational organizations, governmental sector and medical units. In most Africa nations like Nigeria, Benin, Gambia and Togo among others, the male centric frameworks are predominant where men have control over woman. This reality has brought down the confidence and status of woman which may have added to making them more defenceless against trafficking, especially sex trafficking. Moreover, the hostility faced by women and kids has additionally added to the expanded quantities of casualties helpless against trafficking. The examples by which woman are trafficked contrast from that of men, in light of the fact that every individual is answerable for their motivation to leave and look for better life somewhere else.

In a strongly patriarchal nation such as Nigeria, woman is to a great extent denied the chance of arriving at their true abilities of contributing essentially in the nation's economic growth and political decision making. As earlier mentioned, gender inequality is seen amongst all forms of government and business life transcending financial interest, educational qualification, medical care and political matters.

Similarly, the gender disparity increases as most woman find it increasingly difficult to assess education, therefore, making financial dependence difficult for them.

In Nigeria, the circumstance is deteriorated by the absence of laws that secure the privileges of inheritance, possession and command over resources and profitable assets. Woman have been delivered monetarily reliant on their spouses, for help which perpetually restricts their life and work decisions. Additionally, the conventional social structures additionally make woman helpless against human trafficking because of absence of corresponding education, absence of financial freedom and limitation of some open positions to woman.

2.3.5 Income Inequality

The financial development during 1965-1975 in Nigeria has oddly prompted the expansion of poverty in the nation⁶⁰, most particularly between the rural and metropolitan zones in Nigeria. Additionally, income disparity is the dissemination of government resources in an unequal manner where some regions benefit more from government allocations than others. Hence, creating a breeding ground for poverty and disadvantaged members of society.

2.3.6 Conflicts and Natural Disaster

Clashes, wars and catastrophic events have prompted the development of human trafficking. For instance, flood, starvations, famine, ethnic clash, political abuse and turmoil among others help in encouraging trafficking. For example, in Nigeria because of the current humanitarian crisis and social agitation caused by Boko-haram, numerous individuals have been displaced from their homes, states and organizations, and some teenagers as well as women are being trafficked, especially in the Northern part of the country where Boko Haram activities are most felt⁶¹.

Conflicts and natural disasters set the tone for traffickers to deceive their victims since they promise them better living conditions and security out of the nation. On account of horrible events, the repercussions of the South East Asia Cyclone in 2004 prompted numerous human rights infringement, for example, assault, abducting,

⁶⁰ Ibid 36

⁶¹ Conant, E 'Nigeria's Schoolgirls Kidnappings Cast Lights on Child Trafficking'. *National Geographic*, 2014

trafficking and sexual maltreatment⁶². A similar event was caused by the 2010 Haiti earthquake which expanded the pace of child trafficking as young children were sold off to different nations most particularly the United States. A notable example was a trafficking caught trying to traffic 33 kids out of Haiti⁶³. The 2013 hurricane that occurred in The Philippines also created a great source of humanitarian concerns as trafficking activities greatly skyrocketed.

2.3.7 Non-Diversification of the economy

Non-expansion of the economy by implication assumes a role in advancing trafficking since it adds to building poverty in the nation. Thinking back to the 1970, farming was the determined idea of Nigerian economy before the discovery of petroleum. As of now, Nigeria absolutely relies upon the exportation of oil as their significant type of revenue with little attention paid to agribusiness. This has therefore, created a system whereby other sectors of government revenue have crumbled, hence, limiting the chances for multiple growth across various areas of business. This reliance on oil or the utilization of characteristic assets to improve a nation's economy is the thing that is known as the *Dutch Disease*, whereby it makes a nation to be totally less serious.

Aside from this Dutch Disease, Nigeria is confronted with resource curse whereby, residents that live in states where these oil wells are generally impoverished and are constantly battling for asset control, an example is the Niger Delta Crisis where militants were seen fighting to control the oil wells in their region.

2.3.8 Globalization

As mentioned earlier, globalization is regarded as a major motivator of human trafficking, and has transported human trafficking to the international arena⁶⁴. As posited by Lansink the general public has gotten disorientated because of the acknowledgment of globalization by numerous countries which have prompted the

⁶² Fletcher, L., Stover, E., and Weinstein, H. 'After the Tsunami: Human Rights of Vulnerable Populations'. *Human Rights Centre* <http://escholarship.org/uc/item/7g73x8mj#page-4>, 2005.

⁶³ Katz, N. "Human Trafficking Update: Some Haitian Children Weren't Orphans". *CBS News.com* <http://www.cbsnews.com/news/baptist-human-trafficking-update-some-haitian-children-werent-orphans/>, 2010

⁶⁴ Troshynski, E., and Blank, J. 'Sex trafficking: an exploratory study interviewing traffickers'. *Trends in Organized Crime* 11(1), 2008, 30-41

vanishing of conventional assets⁶⁵. The resource inequality caused by globalization due the economy between states has left a wide scope of wealthy and poor networks inside a nation⁶⁶. These worldwide rebuilding improvements have established a favourable climate to trafficking, most particularly sex trafficking, and has increased tourism across nations.

2.3.9 Demand and Supply

It has been contended that human trafficking would not be present if there were no interest from clients searching for these trafficked individuals, either for sexual or work abuse⁶⁷. Similarly, it is evident that supply would not be ended except if there is a decline for demand. This implies that, the interest for trafficked victims, energizes the development in stock and as benefit increments because of popularity, the stockpile will keep on developing. Scientist like Yen acknowledged men as main demanders for sex trafficking because of the interest for sexual pleasure from women⁶⁸. Yen further expressed that due to the unavailability of inventory, it is difficult to understand the manner of trafficking going on in the sex industry, since, this can easily be confused to mean prostitution.

For example, the 1960's invasion of the American soldiers in Korea, prompted a quick development of interest for sexual market. Inherently, it becomes difficult to end the demand for sex trafficking as this relates to the pleasures of people, some of which are insatiable. A recommendation to ending trafficking was suggested by Kempadoo where he contended that for sex dealing to decrease, prostitution should be made legal in places where it is still illegal, hence, wading off sexual abuse of woman and teenagers⁶⁹. The US human trafficking report of 2005 uncovers that the sanctioning of prostitution is probably going to expand the measure of trafficked victims for sexual

⁶⁵ Ibid, 56

⁶⁶ Ibid, 38

⁶⁷ Torrey, M., and Dubin, S. *Demand Dynamics: The Forces of Demand in Global Sex Trafficking*: International Human Rights Institute: DePaul University College of Law, 2004

⁶⁸ Yen, I. 'Of Vice and Men: A New Approach to Eradicating Sex Trafficking by Reducing Male Demand through Educational Programs and Abolitionist Legislation'. *Journal of Criminal Law and Criminology* 98(2), 2008, 653-686

⁶⁹ Ibid, 57

abuse, however no proof has been given to help this reality due to the lack of inventory⁷⁰.

2.4 Inclusion of Trafficking in Human Rights

According to Bales⁷¹, studies in recent times have sought to relate human trafficking with slavery or an element of human trafficking to allude to current slave exchange. Trafficking is viewed as being emphatically identified with the globalization which signified the end of a global world economy and the start of another. This key monetary change alluded to as globalization, created inequality in the world market as well as in the dissemination of financial assets, which brought about the inability of Africa nations to contend in the new global economic system.

According to Aina⁷², the globalized world economy left most African nations less fortunate than they were before globalization, hence, creating a system of irregular migration to fortunate parts of the world for economic reasons. For Anderson and Davidson, a part of this irregular migration signified human trafficking⁷³. However, globalization in the world economy for Onuoha is regarded as a lower cause of human trafficking in Nigeria as there are other numerous first-hand reasons through which human trafficking can be introduced⁷⁴.

Concerning human rights, Wijers and Lap-Chew define human trafficking to involve:

“all acts ... in the recruitment and/or transportation of (persons) within and across national borders for work or service, by means of violence or threat of violence, abuse of authority or dominant position, debt bondage, deception or other forms of coercion”⁷⁵

⁷⁰ US Department of State, *Trafficking in Persons Report*, <http://www.state.gov/documents/organization/47255.pdf> , 2005

⁷¹ Ibid

⁷² Aina T. *Globalization and social policy in Africa*, Dakar: CODESRIA. (CODESRIA Working Paper no. 6, 1996

⁷³ Anderson, B. and Davidson, J.O. *Is trafficking in human beings demand driven? A multi-country pilot study*, Geneva: International Organization for Migration (IOM). (Migration Research, Series, 15, 2003

⁷⁴ Ibid

⁷⁵ Wijers & Lap Chew 1997, p.36

From this definition, we can examine the similarities that it has with the definition provided by the United Nations. The relationship of human trafficking to slavery automatically creates the human rights relationship that this crime exhibits. Since the elements of the crime are related to coercion, force, intimidation, restriction, exploitation, fraud, threat and violence, perpetrators of such crimes are held for human rights offences. Similarly, in defining trafficking, the UN has provided set rules and regulations in combatting human trafficking, especially concerning the requirement of casualties' fundamental basic freedoms and the punishment of traffickers⁷⁶. This consideration has empowered the UN to establish a policy known as 'best practices, which highlights recommended state behaviour in dealing with human trafficking and providing support for victims of human trafficking.

To support the global human right protection of trafficked victims, the United States provides funding to the planning of yearly reports on governments' recognition of best practices⁷⁷. The reports classify nations into three Tiers as well as a fourth stage known as a special list. In this project, the tier the level of consistency every nation has shown in its fight against human trafficking and the protection of human rights. For example, Tier 1 is comprised of nations whose administrations completely agree to the principles outlined in the Trafficking Victims Protection Acts (TVPA)⁷⁸. These principles expect governments to devote more assets for support to victims and maintain the swift punishment of traffickers. Tier 2 incorporates nations whose legislatures, although do not completely agree to TVPA principles are, however, putting forth huge attempts to fight against trafficking.

For Tier 2 countries, it is evident that the number of trafficked victims are increasing, the governments are unable to provide valuable reports needed to check the growing increase of human trafficking and the steps taking to combat human trafficking are mere increase to the steps these governments employed the year before, hence, providing a gradual but steady growth in the fight against human trafficking. Nations in the Tier 3 stage do not completely consent to the minimum standards put forward to combat human trafficking, and they do not provide any significant policy to uphold the minimum standards. According to the US Report, a

⁷⁶ Ibid

⁷⁷ US Gov, US Trafficking in Persons Report, <https://www.state.gov/state-gov-website-modernization/>, 2008.

⁷⁸ Ibid, 23

Special List is assembled when nations do not provide information regarding trafficking in their borders even though there are witnesses to trafficking occurrence⁷⁹. In particular, the fight against human trafficking in Sub-Saharan African nations is explained based on this classificatory framework.

Anderson and Davidson⁸⁰ highlight notable writings about human trafficking and how it relates to human rights. The vast majority of these works by and large talk about what might be viewed as normal components related to human trafficking, however, these studies have not offered a structure for control. In different cases, research activities have been made to inspect various components of human trafficking and even trafficking organizations. For such studies, important information regarding trafficking such as the exercises and general working processes, enlistment, transportation, aims and objections, and the traffickers are studied in relations to the human rights violation.

In addition to these parameters concerning human trafficking, other notable aspects of study include the nature of work in which an individual is being trafficked, organic market factors for increased trafficking, number of trafficked victims, and the prevalence of woman and teenager as victims⁸¹. Bales talked about the gains made by traffickers and how state-sponsored as well as Non- Governmental Organizations are combatting trafficking in their respective countries⁸². For Bertone⁸³, social issues are important in relating trafficking to human rights violation, especially when talking about wars, displacement, poverty, inequality, and other social issues which creates human rights violation, hence, leading to a surge in the number of trafficked individuals.

Highlighted by Bruckert and Parent, before trafficking can be efficiently studied and applied to human rights, studies need to arrange their investigations in an extensive set of globalization and its effect on human populace⁸⁴. Nonetheless,

⁷⁹ Ibid, 24

⁸⁰ Ibid, 38

⁸¹ Adepoju, A. Review of research and data on human trafficking in sub-Saharan Africa. *International Migration*, 2005, 75–98

⁸² Ibid, 10

⁸³ Bertone, A.M. Sexual trafficking in women: International political economy and the politics of sex. *Gender Issue*, 18(1), 2000, p: 4–22

⁸⁴ Bruckert, C. and Parent, C. *Trafficking in human beings and organized crime: A literature review*, Ottawa: Criminology Department, University of Ottawa, for the Royal Canadian Mounted Police, 2002

Kempadoo offered a more intensive and insightful structure regarding globalization and inequality where he mentioned that global political-economical system has debilitated the forces of nation-states and has created adverse ramifications for public resources, especially for those of poorer states in Africa and Asia⁸⁵. Human trafficking, inequality, poverty, disease, low wages, and corruption is an example of the negative effects created by the irregular globalized trading system in poorer nations.

We can therefore understand that the negative outcomes of globalization, added to the current logical inconsistencies of long stretches of an undemocratic political system, military rule, wars, conflict, and other socio-political events which made human trafficking in some regions unavoidable, coupled with the regular abuse of human rights faced by inhabitants of these regions. Fundamentally, in the global sphere, whenever human trafficking is discussed, a connection is made with human rights violation as it represents an infringement of freedom.

The Nigerian case is not any different from the ones witnessed above. This is so as a result of terrible administration and social rot in the country. In the section, we will move on to explicitly understand the position of human trafficking in Nigeria.

2.5 The Story of Trafficking in Nigeria

In 2003, the Nigerian government enacted the *Trafficking Persons (Prohibition) Law Enforcement and Administration Act*, where it defines trafficking to mean

*“all acts and attempted acts involved in the recruitment, transportation within or across Nigerian borders, purchase, sale, transfer, receipt or harbouring of a person involving the use of deception, coercion or debt bondage to place or hold the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in force or bonded labour, or slavery-like conditions”*⁸⁶

Notwithstanding the definition of trafficking provided above, there is still a misconception of what trafficking entails in Nigerian society. Trafficking in Nigeria is usually inter-changed with prostitution which has prompted the criminalization of sex

⁸⁵ Kempadoo, K. “Introduction: Globalizing sex worker’s rights”. In *Global sex workers: Rights, resistance and redefinition*. New York, NY: Routledge, 2000

⁸⁶ Trafficking Prohibition Act, 2003, Art. 50

workers in certain parts of the nation. This misguided judgment according to Nwogu⁸⁷ brought about the misconception of who is a sex worker and who is trafficked as a sex slave. Even though Section 276 of the Penal Code precludes trafficking of woman into Nigeria, it does not specify woman being trafficked abroad from Nigeria, hence, a majority of the trafficked woman are sent internationally to be trafficked⁸⁸.

The part of the Penal Code that does not address the issue of trafficking outside Nigeria is viewed as one major flaw of the Penal Code. A majority of the woman trafficked from Nigeria are sent to Europe, a practice which became very popular during the 1980s⁸⁹. This can be ascribed to the increased societal pressure applied to woman to increase their earnings and provide for their families as well as for their children. According to a 2002 report provided by the UNICEF Fact Sheet, it is believed that over 80% of African prostitutes paraded as sex workers in Italy are trafficked from Nigeria, and about 20% of the prostitutes working in Norway are Nigerian woman⁹⁰. The Central Office for the Fight Against Trafficking in France (OCTRETH), noticed that thirty global prostitution rings were gathered together in France alone in 2006 where it was discovered that fourteen rings came from Eastern Europe and the Balkans, eleven from Africa, out of which 8 rings were from Nigeria⁹¹. In the same report, it was also reached that during the mass arrest made in Paris in 2005 of trafficked sex workers, 2,859 prostitutes were arrested wherein 545 came from Africa, and over 63.3% of them were Nigerians⁹².

Various NGOs, government offices and influential individuals in Nigeria are constantly battling trafficking in Nigeria. A very popular NGO is the NACATIP (National Coalition against Trafficking in Persons), and the West African Coalition of Trafficking in Persons. These NGOs essentially sharpen, teach, and create awareness among others in issues relating to trafficking. Nonetheless, despite every one of these

⁸⁷ Nwogu, V.I. Nigeria: Human Trafficking and Migration. *Forced Migration Review*, 25, 2006. pp.32-34

⁸⁸ Penal Code, Section 276, 1960

⁸⁹ Lee, S. and Persson, P. *Human Trafficking and Regulating Prostitution*, 2015

⁹⁰ UNICEF Innocenti Research Center. *Trafficking in Human Beings, Especially Women and Children, in Africa*, 2003

⁹¹ Oyebanji k, S. *Human Trafficking Across a Border in Nigeria: Experiences of Young Women Who Have Survived Trafficking*

⁹² *Ibid*, 54

endeavours, young women keep on being among the weakest populations prone to trafficking in Nigeria⁹³.

The Nigerian government has equally established numerous approaches and measures to address this issue, which incorporate tight migration approaches and border control. The control and avoidance technique has, nonetheless, been ineffective in controlling human trafficking because of poor preparation and knowledge of the officials that are supposed to combat trafficking⁹⁴. According to Ikpeze and Ifemeje, the laws and arrangements in Nigeria are prohibitive and appear to additionally show a patriarchal standard, which significantly limits women's development over men, therefore, creating a domestic inequality for women. Based on the particular nature of trafficking to women, it is inherently important to discuss the feminist approach to trafficking as our theoretical framework⁹⁵.

Conclusion

From this literature review, we understood that a major aspect of human trafficking is misconceived to include other vices such as smuggling and sex work. Due to the inability of individuals and states to understand one from the other, it is therefore very difficult for an efficient control measure to be influenced. Similarly, the chapter provided an international definition for trafficking where it was understood that trafficking could be forced or conducted through deceit and is non-consensual. Non-consensual arises as a result of the lack of freedom that trafficked victims suffer. International human rights advocates for freedom of expression and other basic human rights, hence, since trafficking takes these away from the victim, it automatically becomes a breach of human rights.

The chapter discussed the nature of trafficking in Nigeria, and although it highlighted some NGOs and government offices fighting against trafficking, the inability to identify sex work from trafficking has led to the criminalization of both actions in the country. It is pertinent to note that the major distinguishing factor

⁹³ Owasanoye, O. Background of Anti-Child Trafficking Network. Ile-Ife: NAPTIP – Oyo State Working Group, 2002

⁹⁴ Lipede, A. Women Trafficking and Insecurity in West Africa: Character, Trend and Scale in Nigeria. Human Trafficking and Economic Crimes across Nigeria's International Borders, Ibadan: Spectrum Books Limited, 2007

⁹⁵ Ikpeze, O.V. and Ifemeje, S.C. Dynamics of Trafficking in Nigerian Women and Globalization. Dynamics, 39, 2015. p.34

between sex work and trafficking is that sex work is an occupation which is usually done by free will, whereas, trafficked victims are forced into sex labour.

In the next chapter, we will move onto discuss human rights violation regarding human rights trafficking in the international arena and what has been done so far to combat this internationally.

CHAPTER 3

HUMAN RIGHTS AND HUMAN TRAFFICKING IN THE INTERNATIONAL ARENA

3.1 Introduction

Human trafficking has been seen to mean different viewpoints by different association, people and associations. Human trafficking is highly evident in the Nigerian society and is constantly seen as an issue of grave concern. Trafficking which signifies the exploitation of people for different corrupt and dehumanizing purposes is a battle that the Nigerian government is constantly fighting against. Another popular form of trafficking in the Nigerian state is the exchange of people in many networks with the end goal of sexual subjugation, forced labour, or commercial sex work. It is being understood that human trafficking is an infringement of basic human right upon which individuals make enormous benefit from the control and misuse of others and perhaps exposing them to abuse, dangerous conditions as well as sicknesses.

Trafficking in the Nigerian society as shown by Olateru and Ikpeme entails not only the international aspect of human trafficking but also domestic elements of trafficking, however, making focus on women as the target group⁹⁶. Similarly, the Nigerian nature of trafficking follows that mentioned in the UN Convention which consists of enlistment, transportation, holding or receiving people with an intent of causing them danger either through force, extortion, or deceit⁹⁷. Owing to the growing discussion on what could be seen as abuse in the Nigerian society, Olagbegi likens the misuse of sex work or prostitution, slavery, and forced labour as some of the forms

⁹⁶ Olateru-Olagbegi, B., and Ikpeme, A., 2004. Review of Legislation and Policies in Nigeria on Human Trafficking and Forced Labour. International Labour Organization

⁹⁷ Ibid, 12

of abuse ravaging the Nigerian society, both domestically and internationally. Judging from this view of abuse, we can therefore equate human trafficking as the most elevated level of abuse which does not only affect the victim but also the family and loved ones of the victims.

To support Olateru and Ikpeme, Gbadamosi opines the commercial sex work in Nigeria is increasingly rampant and he highlights that “*sex abuse and the accompanying evil of trafficking for the purposes of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community*” (Gbadamosi 2006). From this view, it is understood that human trafficking exerts pain not only on the person in question, but also to the family, network and the country at large.

In West Africa, Nigeria is enormously influenced by human trafficking and the circumstance has become a significant issue for society and possibly, one of the easiest reference to human rights’ abuse. To understand the persistent nature of human trafficking, it is important to analyse the variables that leads to human trafficking. Odigie explains that the easiest preys to human trafficking are mostly does from poorer backgrounds⁹⁸. Notwithstanding, the essential persuasive elements that encourage human trafficking are normally inter-related and complex, hence, these elements are referred to as push and pull factors⁹⁹.

3.2 United Nations Human Rights

It is easy to notice the liberal position of the UN towards the protection of Human rights in all its operational facets. To ensure the UN position on Human rights, the preamble to the UN charter introduces the organization by saying Faith in human rights is “reaffirmed”¹⁰⁰. Similarly, Article 1 proclaims international cooperation to promote human rights as one of the purposes of the United Nation, this states that:

1. “*To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and*

⁹⁸ Odigie, D. ‘Human Trafficking Trends in Nigeria and Strategies for combating the crime’. *Peace Studies Journal* 1(1),2008, 63-75

⁹⁹ Delport, E., Koen, K., and Mackay, A. ‘Human Trafficking in South Africa: Root Causes and Recommendations’. *United Nations Educational, Scientific and Cultural Organization*, 2007, 1-79

¹⁰⁰ UN Charter, Preamble, 1945

for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

- 2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;*
- 3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and*
- 4. To be a centre for harmonizing the actions of nations in the attainment of these common ends”.*

Additionally, in Articles 55 and 56, we can understand the position of universal respect for human rights one of the few requirements for joining the UN. The UN through its organizations, especially the General Assembly and the Economic and Social Council (ECOSOC) continues to introduce stimulating principles all aimed at the promotion of human rights both in the domestic and international arena.

In its continual protection of Human Rights, the Human Rights Commission according to Article 68 of the UN Charter became recognized as the main UN subsidiary for analysing human rights cases and abuses around the world. Human rights have figured prominently in the activities of the United Nations since its creation. It is the most discussed topic in every UN session and is becoming the major focus for not only the General Assembly but also ECOSOC and the UN Security Council. Human rights discussion has increasingly grown for the numerous nongovernmental organizations affiliated with the UN, as they all aim to protect human rights in the various places that they are located while enjoying the aid and funding of the UN. Similarly, the Universal Declaration of Human Rights prepared by the Human Rights Commission under the chairmanship of Mrs. Eleanor Roosevelt and unanimously

approved by the General Assembly in 1948 became the championing human rights document establishing the UN's position concerning human rights¹⁰¹.

The General Assembly also in 1959 approved the Declaration of the Rights of the Child and the Declaration on the Elimination of All Forms of Racial Discrimination in 1963.

3.3 European Union and Human Rights

The European Union (EU) for many is established based on the tenets of human rights and freedom. A part of the Copenhagen Criteria which outlines requirement for EU membership explicitly talks about human rights protection. The political section of the Copenhagen Criteria requires intending member states to ensure the “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”¹⁰² Similarly, for many, the enactment of the European Union's Treaty of Lisbon provided numerous implications to human rights which, therefore, established the EU as a human rights actor.

According to the provisions of the Lisbon Treaty, the EU Charter of Fundamental Rights was established which introduced the character of the organization. Similarly, based on the EU Charter, all members of the EU are expected to respect and obey the European Convention on Human Rights (ECHR). Similarly, the position of the EU concerning Human rights protection is highlighted in Article 2 of the Treaty on European Union (TEU), this states that:

“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”¹⁰³.

Similarly, in the Charter of the Fundamental Rights of the European Union, Chapter 1 talks about Dignity which highlights various fundamental human rights ranging from right to life, freedom, property, marriage, association, prohibition of

¹⁰¹ UN, Universal Declaration of Human Rights, 1948

¹⁰² EU, Accession Criteria, 1993

¹⁰³ Treaty on the EU, 2009. Art. 2

torture and slavery, and ensuring integrity all listed from Article 1 to Article 5¹⁰⁴. Our major concern, especially relating to our topic is Article 5 which outlaw's human trafficking, this states that:

"1. No one shall be held in slavery or servitude;

2. No one shall be required to perform forced or compulsory labour;

*3. Trafficking in human beings is prohibited"*¹⁰⁵

3.4 The African Action to Human Trafficking

The African Union was formerly known as the Organization of African Unity (OAU). The OAU established in 1963 sought to ensure independence for all African states so it gained more respect from states in its promotion and protection of rights. In 1998 the Assembly of Heads of State and Government of the OAU adopted an additional Protocol to the ACHPR establishing an African Court of Human and Peoples' Rights. Article 2 of the Charter establishing the ACHPR states that;

*"Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status"*¹⁰⁶

This court initiated the first introduction to human cases being heard at any African regional court. Based on the African Commission on Human and Peoples' Rights, African intergovernmental organizations, and NGOs and individuals are permitted to submit cases direct to the court alleging violations of the ACHPR by their states. It can receive requests for advisory opinions from an OAU state, the OAU and its organs, or "any African organisation recognised by the OAU. Concerning our study, Art 5 to the Protocol established women's rights as fundamental human rights, providing prohibition against a wide range of offenses, especially trafficking, marriage inequality and socio-economic factors¹⁰⁷.

¹⁰⁴ EU, Charter to the Fundamental Rights of the EU, 2000

¹⁰⁵ Charter to the Fundamental Rights of the EU, 2000, Art. 5

¹⁰⁶ Charter to the ACHPR, 1998, ART. 2

¹⁰⁷ Art 5 of the ACHPR Protocol, 1998

However, synonymous to the worldwide reactions to trafficking, the African region has been viewed as an epicentre with horrendous crimes, various offenses and a high pervasive abuse on common freedoms. It is pertinent to note that crude and uncivilized arrangements are utilized or applied to any developing areas, most especially some parts of Africa. Therefore, this has created the persistence of economic, social, legal, and political turbulence¹⁰⁸. Be that as it may, a few nations in African have advanced to democratic systems where common liberties are human rights are regarded however, not observed. Despite the numerous legal arrangements created to maintain human rights in Africa, there are still higher cases of human right abuses in most parts of Africa¹⁰⁹.

Consequently, although trafficking occurs in every part of the world, the African region is most famous for trafficking and other acts such as illegal migration, sex trafficking, and abuse of labour. Similarly, this could be said to be rampant in Africa due to various issues highlighted above such as poverty, joblessness, ignorance, education, and corruption. As indicated by McGowan, West African nations are plagued with socio-political and corruption problems, hence, leading to numerous coups, civil wars, revolutions, and multiple inter-tribal wars¹¹⁰. Due to this reason, many see Africa as a sort of an area for temporal stay, where the end goal is to find their way into other advantage parts of the world. Another reason for fleeing from Africa for some people is due to the constant war, struggle, poverty and catastrophic events, for example, starvation. The present circumstance is exacerbated because of the absence of a solid principle to target trafficking.

Trafficking become a major issue for most parts of Africa some 2 decades ago¹¹¹. A major aspect of trafficking at play in Africa, and mostly in Nigeria is sex trafficking where most woman are trafficked to Europe and other foreign places. Some examples of African organizations for dealing with trafficking include the Economic Community of West African States (ECOWAS), the African Union (AU) and the

¹⁰⁸ Moeckli, D., Shah, S., Sivakumaran, S., and Harris, D. *International human rights law*. Oxford: Oxford University Press, 2013

¹⁰⁹ Ibid, 26

¹¹⁰ Ibid, 35

¹¹¹ Ibid, 68

Southern African Development Community (SADC), in a joint effort with the United Nations (UN). Examined below are these anti-trafficking instruments.

3.4.1 The Ouagadougou Action Plan

This Action Plan ensures the enforcement of international policies concerned with trafficking, especially, those that related with the trafficking of women and children. The action plan is in collaboration with the African Union (AU) State Members and the European Union (EU) Partnership on Migration, Mobility and Employment (MME) to make viable, fruitful and beneficial actions to handle trafficking ongoing in domestic and international arena. The Ouagadougou Action Plan is strengthened by the Lisbon Action Plan and the Joint Africa-EU Strategy for Partnership¹¹². The Ouagadougou Action Plan reaffirms the standards of the five procedure of the Palermo Protocol which includes; “preventing, protecting victims as well as vulnerable victims, , arrainging guilty parties, collaboration and coordination”¹¹³.

Additionally, the Action Plan centres around providing protection and respect to human rights coupled with a gender approach which makes the plan encompassing, fruitful, and superseding in comparison to other regional arrangements established against trafficking. In contrast to the enforcement plan put together by ECOWAS Declaration and the Palermo Protocol relating to trafficking, the Ouagadougou Action Plan requires member states to make authoritative organizations that will provide a civil or criminal judicial action to traffickers, and ensure the safety of casualties. The action plan also encourages countries to punish traffickers, confiscate their belongings, providing support to victims, and holding traffickers criminally responsible for legal offenses against human rights.

3.4.1.1 The Economic Community of West African States (ECOWAS) Responses Approach to Sex Trafficking

ECOWAS as a sub-regional organization in Africa, mostly focused on West African States. Due to the local factors in most West-African countries, trafficking became exceedingly rampant, hence, drawing the worries of ECOWAS to find a lasting solution to the menace. In 2001, the ECOWAS declaration was released to face

¹¹² Ouagadougou Plan, 2006

¹¹³ Ibid, 130

trafficking head-on and look for viable solutions against trafficking¹¹⁴. From then till now, the EOCWAS, through its ECOWAS Plan of Action has engaged in numerous anti-trafficking events as well as sensitization to ensure the protection of its citizens. The ECOWAS understands the motivation of trafficking to be concerned with poverty, unemployment, ignorance, and inequality, hence, it provides supports to member states as well as NGOs in member countries to develop socio-economic factors of the region.

Similarly, the public announcement made by ECOWAS established the enforcing principle of governments of ECOWAS states to take into serious consideration trafficking principles, and ensure that law enforcement officers such as the police, judges, custom and border control officers, airport staff, and immigration are all aware about human trafficking and how to stop it¹¹⁵. We must therefore note that although the ECOWAS declaration was released similar time as the Palermo Protocol, not so much luck has been recorded in its fight against trafficking.

The ECOWAS Action Plan of 2002-2003 commits nations of the ECOWAS Commission to acknowledge the activity taken to battle trafficking within the society and focuses on the issue of trafficking mostly when it relates to women and children, since these are the most vulnerable group. This Action Plan energized countries to take trafficking as a major enemy of growth and development, and places the fight against trafficking as a major human right defines in the region. Similarly, the ECOWAS action plan led to the creation of an anti-trafficking plan set up under the Social Affairs Division of the Department of Humanitarian and Social Affairs in the ECOWAS Commission¹¹⁶. This Action Plan has demonstrated to be more viable and effective than the Ouagadougou Action Plan. For instance, the ECOWAS Action Plan is able to monitor the level of success achieved and provides a work frame for strategies plan to be completed. It also indicates each department's responsibility in terms of achieving directives.

¹¹⁴ ECOWAS,

https://www.achpr.org/public/Document/file/Any/ecowas_declaration_against_trafficking_persons.pdf, 2001

¹¹⁵ Ibid, 132

¹¹⁶ Ibid, 132

3.5 International Response to Human Trafficking

Human trafficking is a global danger to mankind and in recent times has been regarded as a growing problem with an increasing global network which must be curtailed. This explains why over the years, the world has witnessed various global attempts to control human trafficking, especially concerning the defence of human rights. As the danger associated with trafficking increases, so are the steps taking to create global awareness, organize global infrastructure, and prepare global fortification to battle human trafficking. The world has witnessed numerous multilateral and international reactions at global or regional level to fight human trafficking.

A major international agreement that will be our basis for discussion at the international level is the Palermo Protocol of the United Nations (UN) which has obliged Member States to cooperate for the protection of victims or vulnerable. Similarly, the Palermo Protocol ensures the indictment and punishment of those associated with trafficking, as well as those who create demand for trafficking. Members of this protocol are strongly advised to respect the provisions of the protocol as we shall discuss below.

It was contended by Bassoon that out of the growing concern of global human trafficking network, there was a need for the international system to establish a uniform global system to ensure the protection of victims and punishment of traffickers¹¹⁷. The protection of trafficked victims became integrated into international customary law. Due to this outcome, numerous countries around the world developed the commitment to fight against human trafficking, either by rebuffing dealers or the individuals who add to the spread of trafficking, irrespective of them being signatories to any international legal system against trafficking. This implies that, states do not need to be signatories to the Palermo Protocol before ensuring that traffickers are punished.

We can however argue according to Chuang that it may appear that the available international instrument against trafficking may be ineffective in reducing the demand of trafficking from one place to another. We can also fault the internationally available legal protection to possess limited objective and purposes. Despite the fact that the major aim of the international community was to ensure that human trafficking

¹¹⁷ Bassiouni, M. *Introduction to International Criminal Law*. Netherlands: Martinus Nijhoff Publishers, 2012

is reduced, limited outcomes have been recorded to this regard, since human trafficking is still in full effect and even growing, there is a need to revisit the available international order against trafficking, and to ensure even tougher measures¹¹⁸. Another reason owing to the persistence of trafficking are those mentioned in the previous chapter such as corruption, poverty, illiteracy, wars and conflicts, and inequality.

Similarly, the global arrangements against trafficking comes up short on the enforcements that will guarantee that these principles are respected and guaranteed. The inadequacy of this authorization hinders the controlling mechanism, and the essential obligation needed to effectively vanquish human trafficking. Along these lines, a global way to deal with human trafficking will require compelling and extensive law implementation. Amyl uncovers that nations reaction to the topic of trafficking centres around criminal justice and how trafficking is handled after it is being done or discovered. Additionally, the success of the various actions put into place is dependent on the co-operation of the victims and the witnesses¹¹⁹.

In this chapter, we shall discuss the viability of the various legal instruments put forward in the global and regional arena. Similarly, having mentioned these instruments we can then effectively infer the best methodology nations could adopt to deter human trafficking and significantly reduce the motivating factors to engage in human trafficking.

3.5.1 Global Arena

Since 1999, the United Nations (UN) has indicated a unique interest in the battle against trafficking, which lead to setting up the United Nations Office for Drugs and Crime (UNODC) with an aim of fighting trafficking in the global arena. The UN Vienna Declaration of 1993 signified the first convention that aimed to abolish trafficking, and in 1998, the issue of trafficking became connected to the United Nations war against transnational organized crime. In other to characterize the term Human Trafficking, the UN gave three arrangement of rules through the worldwide structure for preventing

¹¹⁸ Ibid, 37

¹¹⁹ Amiel, A. 'Integrating a human rights perspective into the European approach to combating the trafficking of women for sexual exploitation'. *Buffalo Human Rights Law Review*, 2006, 12 (5)

trafficking. These principles will likewise create a precedent for other states to establish their individual laws to battle human trafficking.

In the global arena, the global reaction to deal with human trafficking were shaped from different instruments, on the grounds that there was no singular encompassing legal instrument that reacts to the different structures in which trafficking works until the initiation of the Palermo Protocol¹²⁰. The Palermo Protocol appeared on account of the exponential increase of trafficked victims and the absence of protection for these victims. The Palermo Protocol over the last two decades has significantly influenced the provision of anti-trafficking laws all over the world. It is pertinent to note that before the existence of the Palermo Protocol, the international system in its bid to fight against trafficking introduced the Convention against Transnational Organized Crime (CTOC) and later, the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children (known as the Palermo Protocol). They comprise of various commitments of worldwide principles all attempting to combat the issue of trafficking and its various forms. These international agreements, most particularly the Palermo Protocol reaction to dealing will currently be examined.

3.5.1.1 The UN Palermo Protocol

As a reaction to human trafficking, the Convention of Transnational Organized Crimes (CTOC) was adopted by the United Nations (UN) in a bid of battling issues of trafficking arms and gun smuggling and other transnational crimes, however, the principles of the CTOC only applies to states that are a signatory to this convention. The Palermo Protocol was then created, representing all the principles and guidelines outlined by the CTOC. It could be agreed that the Palermo Protocol was influenced by the CTOC.

Although the CTOC was present before the Palermo Protocol, the Protocol is to a great extent observed as the major internationally accepted principle for fighting against trafficking. This is so because the Palermo Protocol established a comprehensive framework that included a general overview of the various forms of trafficking as highlighted in Article 3 of the protocol¹²¹, how these could be identified

¹²⁰ Ibid, 18

¹²¹ Palermo Protocol, Art. 2, 2000

and dealt with as highlighted in Article 7¹²². The major aim of the Palermo Protocol was set to rebuff dealers and help victims. It perceives poverty as a significant facilitator of trafficking, hence, it encourages states to provide meaningful working and living environment for their citizens. Article 2 of the Palermo Protocol highlights its purpose which states that:

“The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;*
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and*
- (c) To promote cooperation among States Parties in order to meet those objectives”¹²³*

Similarly, the Protocol tends to discuss the issue of human trafficking from the human right viewpoint which fundamentally centres around the assurance of victims’ rights, while ensuring that traffickers are held criminally responsible. Article 9 of the Palermo Protocol outlines the way in which states can ensure the protection of traffickers. This article states thus;

“1. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) To prevent and combat trafficking in persons; and*
- (b) To protect victims of trafficking in persons, especially women and children, from victimization.*

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

¹²² Palermo Protocol, Art. 7, 2000

¹²³ Ibid, 110

4. *States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.*

5. *States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking”* ¹²⁴

As highlighted by Article 9 of the Palermo Protocol, it is expressed that states play a greater role in ensuring the protection of trafficked victims, especially when it includes woman and children. It also stipulates that a nation must grant to trafficked victims their human rights, and where necessary, repatriate them back to their home countries under the regulation of international law. The various objectives of the Palermo Protocol will be discussed in details in the next section.

3.5.1.2 The Responses to the Prosecution of the Palermo Protocol

The significant component of the Palermo Protocol is on law enforcement since it was established based on the United Nations Crime Commission. As highlighted by Jordan, the Palermo Protocol provides a meaningful arrangement to ensuring that states maintain higher positions against trafficking, especially since it highlights how perpetrators are punished, secures the right of individuals, and advance joint effort among member states on issues concerning trafficking¹²⁵. Similarly, due to the enforcement mechanism, the Palermo Protocol is regarded as more than just a supporting tool to encouraging states action, rather, it compels states to prosecute defaulters or traffickers. Kassan highlights that this prosecuting element introduced Human trafficking as a criminal offense, upon which the Palermo Protocol forces mandatory responsibilities with respect to the state party¹²⁶.

¹²⁴ Ibid 110, Art 9

¹²⁵ Jordan, A. 'The annotated guide to the complete UN trafficking protocol'. *Global Rights, Washington DC*, 2002.

¹²⁶ Kassan, D. *Trafficking in Children in Commentary on the Children's Act*. by Davel, C., and Shelton, A. Cape Town: Juta & Co., Ltd, 2007

Consequently, state parties are provided with the opportunity to decide the punishment of the traffickers. As a matter of urgency, the Protocol also provides the state parties with the right to decide the protection of trafficked victims, according to the arrangement of international law. Marks and Clapham argues that the goals and commitment on the state party by the Protocol is to enforce the principle of the protocol in their legislation to condemn and criminalize the various forms of trafficking¹²⁷. Forms of trafficking may relate to the accompaniment, guiding, support, transportation, or arrangement of victims.

3.5.1.3 The Responses to the Protection of the Palermo Protocol

For the Palermo Protection for casualties to be fruitful, articles 6 to 8 of the Protocol should be deciphered along with the CTOC articles 24 and 25. This is on the grounds that the two articles were composed utilizing a distinct articulation, relating to appropriate cases and to the extent possible¹²⁸. Such articulations utilized makes an arrangement for other regional and international anti-trafficking instrument to complement the protection of trafficked individual. For this security to be viable, Article 6 of the Palermo Protocol encourages state parties to protect victims personality from the general society which will increase their protection¹²⁹. This is on the grounds that; assurance of casualty's protection is a significant demonstration of the Protocol, to hide victim's identity from societal pressure, stigma, and attack.

However, while the victim's protection is guaranteed, Art. 6 of the Protocol neglect to stretch out such assurance to the victim's family or family members who will testify against traffickers as highlighted by Article 24 Paragraph 1 of the CTOC. Hence, for a powerful measure to be taken, the protection given to casualties ought to likewise be stretched out to their family and relative also. Another activity completed under the protection demonstration by the Protocol is the arrangement of safe haven, business support, training, and social comforts, such as medical care and examination. These arrangements are upheld by the Article 25 of the CTOC, as it makes government responsible to accommodate trafficked victims and their families. Additionally, Article 25 of the Protocol likewise encourages the government to consider the usage of social, physical and mental recuperation measure taken in suitable cases.

¹²⁷ Ibid, 64

¹²⁸ Ibid, 35

¹²⁹ Palermo Protocol, Art. 6, 2000

Moreover, the Protocol looks to compensate trafficked casualties with the assurance that member states must guarantee the protection of individuals. According to Pearson the only limitation to the Palermo Protocol is that it emphasizes mostly on the victims of trafficking and spends lesser interest on the traffickers¹³⁰.

3.5.1.4 Prevention Response of the Protocol

Due to the global reaction to trafficking, Article 9, Paragraph 5 of the Protocol enforces states to provide adequate prevention measures to fight against trafficking¹³¹. These techniques utilized by the international community were generally unmatched in relations to the imminent dangers of trafficking, this explains why the Protocol builds up a more strategic policy recommended to effectively differentiate illegal migration from trafficking. Change highlights that the issue of confusing trafficking with illegal migration is exacerbated as most government officials are seen to have created policies believed to prohibit illegal migration with regards to trafficking¹³².

Bermudez agrees that for worldwide network to battle human trafficking, it requires the criminalization of the offense as well as the creation of clearly mapped out punishment for offenders¹³³. Nonetheless, the assents discipline in the Protocol enforcement is quiet, since it does not have any commitment that involves official punishment against traffickers. Therefore, member states are left to depend on the sanction created by the protocol, which in a long rule may be inefficient in battling traffickers.

3.5.2 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

As expressed in the past section, gender or inequalities are major factors that sustains human trafficking. CEDAW was introduced to fight against abuse, marginalization, cruelty and coercion of woman to engage in actions which limits their human rights. The essence of CEDAW is to ensure the privileges of young woman; it

¹³⁰ Pearson, E. 'Half-hearted protection: What does victim protection really mean for victims of trafficking in Europe?' *Gender & Development* 10(1), 2002, 56-59

¹³¹ Palermo Protocol, Art 9 (5), 2000

¹³² Ibid, 45

¹³³ Bermudez, L. "No experience necessary" *the internal trafficking of persons in South Africa*. Pretoria, South Africa: Regional Office for Southern Africa, International Organization for Migration (IOM) <http://southafrica.iom.int/?wpdmdl=149>, 2008

likewise reprimands criminals who abuse these privileges through both civil and criminal law measures. It additionally calls for states to annul any segregation laws and standards in their law making body that separates men from woman and furthermore set up organizations that will guarantee that the laws obeyed. It is pertinent to note that CEDAW is not widely accepted as some state such as Saudi Arabia critics this Convention since woman are not permitted to partake in political activities in their nation. Others, especially the United States contend that the Convention builds the current troubling circumstance with women equality instead of assisting woman with accomplishing their privileges.

Similarly, the US sees the CEDAW as a "camouflage for continuing abominations" for non-member states¹³⁴. However, the CEDAW has been influential in countries such as Turkey and Nepal where young woman and women have been able to access justice against gender influenced crimes. Similarly, in 2010, the CEDAW managed to influence a bill in Saudi Arabia that permits woman to look for justice when required. Notwithstanding the expanding progress of CEDAW, studies have shown that this Convention needs a stronger government support, it is inherently important to mention that CEDAW is not widely known, hence, its absence of public awareness makes it challenging in actualizing the set goals and objectives.

Conclusion

From the above findings, we have examined a global as well as African approach to the fight against trafficking. The finding so far provides us with an understanding that the global and African reaction to trafficking are all aimed at mostly ensuring protection for victims while providing state parties with the opportunity to determine what punishment they prefer to give to offenders and traffickers. However, seeing that the international activities to trafficking may be less effective in some parts of the world when compared to others, there is a need for growing regional activities that understand first-hand the motivations and facilitators of trafficking. For example, steps taken to fight against trafficking in the EU may be different than those taken to fight against trafficking in Africa, therefore, regional organizations or instruments to combat trafficking are very important.

¹³⁴ Ibid, 34

Since our focus is on Nigeria, we have examined various anti-trafficking instruments in Africa some of which include the Ouagadougou Plan, the ECOWAS Action Plan, as well the role of the AU. Another reason why global instrument may not be as useful in combatting trafficking is because some countries may view this as being against their culture, an example which we gave with Saudi Arabia and CEDAW. Conclusively, in this chapter, it was examined that the African response to trafficking could yield very successful result if policies aimed at promoting and protecting women and children's right are kept. Similarly, it is important to identify the facilitators of trafficking as only then can meaningful solutions regarding trafficking be made. It is therefore, the state's authority to ensure that human rights are respected, socio-economic problems are solved, and inequality is erased in order to create a lasting problem to inequality. The next chapter shall discuss the Nigerian approach to human trafficking.

CHAPTER 4

THE NIGERIAN APPROACH TO TRAFFICKING

4.1 Introduction

Trafficking in the world has become widespread lately, which has prompted the establishment of a few NGOs mostly collaborating with the United Nations and pushing for laws that will battle trafficking. One of such associations is the Coalition against Trafficking in Women International (CATW), which advances the privileges of woman and cooperates with the worldwide association to battle different types of trafficking including sex trafficking. In recent times, trafficking in Nigeria has been seen as a deliberate attempt in which individuals, mostly woman and children are being abused by powerful members of the society. Hence, it is the goal of every government to ensure safety of its citizens by following the generally accepted responses to trafficking known according to Goodey as the three "Ps" of trafficking; prevention, protection, and prosecution of traffickers¹³⁵.

Lindstrom states that these various reactions to trafficking aligns with the international framework against trafficking which includes the migration approach, law implementation approach, the monetary methodology and the common freedoms approach¹³⁶. In this chapter, we shall analyse in detail the Nigerian techniques or way to deal with human trafficking and its efficiency in comparison to global provisions.

¹³⁵ Goodey, J. 'Human trafficking Sketchy data and policy responses'. *Criminology and Criminal Justice* 8(4), 2008, 421-442

¹³⁶ Ibid, 43

Similarly, other submissions made by researchers on the best way to conduct anti-trafficking measures in Nigeria shall be highlighted in this chapter.

4.2 Human Trafficking in Nigeria

Recently in Nigeria, while all the various forms of trafficking are present, the most common trafficked form in Nigeria is sex trafficking. As mentioned earlier, sex trafficking has attracted different meanings from various geographical location, hence, creating no singular accepted meaning of the term. Due to this unavailability of highlighting what sex trafficking means, numerous confusions has arose relating sex trafficking to prostitution. This absence of understanding relating to sex trafficking adds to the unawareness about this form of trafficking, hence, its persistent nature¹³⁷.

In regards to sex trafficking, the abuse of victims' right does not only come from the trafficker but also from the public authority which neglect to identify and prevent trafficking from happening, indict culprits or give powerful solutions to prosecuting traffickers. As per Farley, trafficking can occur locally or globally¹³⁸. By globally, the victim is taken and sold for sexual activities in various parts of the world, locally, the casualty included are sold and transported within their home nation.

Universally, trafficking is an infringement of victims' privileges which makes an impact on the societal values. Unfortunately, this crime provides traffickers with numerous benefits, hence, their continual increase and investment in trafficking. Similarly, sex trafficking could exert psychological oppression on the victims and is strongly related to drug abuse, weapon smuggling, increased crime rates, and even tax evasion. It is also pertinent to note that trafficking is of a global nature, hence, when governments try to combat trafficking in their domestic environment, there is every need to tackle foreign inspired trafficking as well.

For example, according to the Minnesota Law of the United States, trafficking is characterized with the demonstration of selecting, acquiring, luring, holding, or giving using any and all means (with or without the consent of the person) an individual

¹³⁷ Bortet, A., Ellingen, M., Ellison, M, C., Philips, B., and Thomas, C. 'Sex Trafficking Needs Assessment for the State of Minnesota'. *The Advocates for Human Rights*
http://www.theadvocatesforhumanrights.org/sites/608a3887-dd53-4796-8904-997a0131ca54/uploads/REPORT_FINAL.10.13.08.pdf, 2008

¹³⁸ Ibid, 58

for abuse to increase monetary gains of the trafficker¹³⁹. This definition enjoins both local and international aspect as a victim may be held, acquired, or lured in a country different from the United States. Sex trafficking has been characterized by Toepfer and Wells¹⁴⁰ as a condition where its casualties cannot immediately change the conditions they are in, regardless of how they got into the circumstances. It is critical to note that sexual abuse incorporates any profit or favour gotten, not entirely for cash but may be for food, shelter, dress and medications.

4.3 The Nigerian Approach to combatting Trafficking.

Before the acknowledgment and presentation of the Palermo Protocol Act, Nigeria has been tackling the issue of trafficking through the Nigerian Constitution, the Criminal Code and through the Northern Nigeria Penal Code¹⁴¹. Since trafficking is the encroachment of basic liberties, it is important to consider the relevant arrangement of the Federal Republic of Nigerian 1999 constitution that ensures fundamental basic freedoms. The section IV of the Constitution explains fundamental opportunity of the general public though part XI contains the major objectives of state strategy. Section 34 of the Nigerian Constitution supports the respect and freedom of an individual. Hence, this section 34 is concerned with us since it talks about human rights.

Section 34 of the Nigerian Constitution states that:

“Every individual is entitled to respect for the dignity of his person, and accordingly:

(a) no person shall be subject to torture or to inhuman or degrading treatment;

(b) no person shall be held in slavery or servitude; and

(c) no person shall be required to perform forced or compulsory labour.

(2) for the purposes of subsection (1) (c) of this section, “forced or compulsory labour” does not include:

(a) any labour required in consequence of the sentence or order of a court;

¹³⁹ Ibid, 137

¹⁴⁰ Toepfer, S., and Wells, B. ‘The Worldwide Market for Sex: A Review of International and Regional Legal Prohibitions Regarding Trafficking in Women’. *Michigan Journal of Gender & Law* 2, 1994, 83-128

¹⁴¹ Falola, T., and Afolabi, N. (Eds) *The human cost of African migrations* (Vol. 1). New York: Routledge, 2007

- (b) any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such;*
- (c) in the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service;*
- (d) any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or*
- (e) any labour or service that forms part of:*
 - (i) normal communal or other civic obligations of the well-being of the community.*
 - (ii) such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or*
 - (iii) such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly”¹⁴²*

In addition to Section 34, other sections in the Constitution that ensures the respect and protection of an individual can be found in "Section 35" which secures an individual freedom and "Section 41" which protect the rights to development and growth. These rights are additionally implemented in the Federal and States High courts of Nigeria. Accordingly, "section 46" states that any individual who abuses the rights referenced above will be responsible by the High Court in the State where the infringement happened. Note that this section 46 does not cover casualties that are being trafficked internationally, hence any one that abuses these laws outside Nigeria cannot be responsible to the high court's in Nigeria, except if the person is sent back to Nigeria for trial. Since trafficking is not only an inward network, there is a great deal of work to be done in the external or international arena regarding trafficking. In addition to the Nigerian Constitution, other legal documents ensuring the protection of victims and prosecution of traffickers in Nigeria are discussed below.

4.3.1 The Nigerian Criminal Code

The Criminal Code of Nigeria which was established on the 1st of June 1916 does not involve the definition and types of trafficking, however, it instead manages the abuse of victims for slavery and prostitution, domestic abuse, as well as foreign

¹⁴² Nigerian Constitution, 1999, Art. 35

migration for trafficking. For example, if an individual or a Nigerian resident is being arrested for trafficking inside or outside Nigeria, under the Criminal Code of Nigeria, it is an offense and the person shall be punished according to the law.

Nonetheless, not all parts of the nation acknowledge the criminal code. As a matter of fact, the Criminal Code is mostly applied in the Southern part of the country, whereas, the Penal Code is applicable to the Northern part. Regarding sex abuse, the Criminal Code Section 223 (2) states that:

*“Any Nigerian internal or external that force a person to become a prostitute or have any intention for a person to become an inmate of a brothel outside Nigeria, or deceives and exploits an individual into prostitution, has been found guilty in the Criminal code and is liable to imprisonment for two years”*¹⁴³

(Nigerian Criminal Code, Section 223, 1916)

In addition, Section 365 of the Criminal Code Section contends strongly against the limitation of the freedom of any individual either by detainment or restriction with a punishment of two years imprisonment¹⁴⁴. Section 224 rebuffs any individual who by the utilization of force, extends danger or forcefully attempts to sexually abuse their victims whether inside or outside of Nigeria¹⁴⁵. Section 225a counts it a crime for individuals to base their livelihood on prostitution. For male prostitutes, a two years’ imprisonment with whipping is meted out to them, while, female prostitutes receive a lesser punishment than the male counterparts. This therefore shows that according to the Nigerian Criminal Code, prostitution is synonymous to trafficking, which in current time is not the case. Hence, there is a need for a more improved legal system that will clearly demarcate the relationship between prostitution and trafficking.

4.3.2 The Nigeria Penal Code

As said before, the Penal Code is relevant in the Northern part of Nigeria as a source of criminal law and was established on 30th September 1960. It was set up after the Criminal Code of Sudan, which was gotten from the Indian Penal Code. The

¹⁴³ Nigerian Criminal Code, 1916, section. 223

¹⁴⁴ Nigerian Criminal Code, 1916, section. 365

¹⁴⁵ Ibid 142, Section 224

Northern part of Nigeria and Sudan share a similar Sharia law system¹⁴⁶. Synonymous to the Nigerian Criminal Code, the Nigeria Penal Code consider trafficking as an offense that abuses the human right of an individual. With the Penal Code, however, the punishments are harsher, for instance, in the Penal Code Section 276, it expresses that if an individual is indicted for abetting prostitution, or bringing in under-aged girls for prostitution, the person in question is condemned to a maximum ten years' imprisonment together with a fine. The Penal Code Section 275 further clarifies the importation of under-aged young woman into prostitution. It states that:

“If anyone uses any means to influence an underage girl (under 18 years) to engage in to any form of sexual activities with the opposite sex knowingly or unknowingly or the use of force shall have extend imprisonment for to 10 years or a fine”¹⁴⁷

Similarly, the Penal Code such as Sections 275 and 276 above, there is no minimum punishment, therefore, providing the judge with the opportunity to choose whatever punishment he or she deems fit, depending on the gravity of the offense committed. The Section 276 of the Penal Code centres its judgment around internal trafficking committed inside Nigeria, while outward trafficking committed by Nigerians are not prosecuted, except the trafficker is sent back to Nigeria for prosecution. In any case, Fayola and Afolabi, faults the constitution as a law that only established punishment for dealers with no provision of remedy to the solution¹⁴⁸. On the other hand, Olateru-Olagbegi and Ikpeme portray the constitution as an insufficient material with regards to trafficking, on the grounds that the Constitution does not distinguish any type of trafficking, but instead relies on the Penal and the Criminal codes¹⁴⁹.

The enforcement mechanism of the codes is lost when the traffickers are offered a fine as an alternative. Seeing that trafficking is a beneficial exchange, it will be inherently easy for trafficker to accept the fine as opposed to the imprisonment so they can proceed with their business. As discussed above, one can determine that the Penal Code have a more exacting judgment or discipline offered to offenses that relieve the law than that of the Criminal Code. With the Criminal Code a portion of

¹⁴⁶ Ibid, 43

¹⁴⁷ Nigerian Penal Code, 1960, section. 275

¹⁴⁸ Ibid 141

¹⁴⁹ Ibid 34

the offenses are treated as a misdemeanour, yet for the Penal code all violations or offenses are named a crime and requires exacting judgment. To further ensure the support of victims of trafficking, the Nigerian Government, under the constitution established the National Agency for Prohibition of Trafficking in persons in 2003.

4.3.3 National Agency for Prohibition of Trafficking in Persons (NAPTIP)

To further increase its fight against trafficking, the Nigeria approach used in managing this menace is in line with the minimum standard required for combatting trafficking. Nigeria became signatory to the TOC Convention in 2000 and furthermore received numerous training and awareness on the various forms and aspects of trafficking. Article 5 of the Palermo Protocol urges state government to condemn any structure, practices and roots of trafficking that includes sexual and work abuse¹⁵⁰. This bill was supported by NGO known as the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) established by the wife of the former Vice-President of Nigeria, Mrs Titi Atiku Abubakar.

Nonetheless, because of the constant complaint of trafficking by members of the society, the Nigerian government in 2003, explored a solid avenue against trafficking by creating the Trafficking in Persons (Prohibition) Law (Enforcement) And Administration Act, 2003, this protocol led to the creation of the National Agency for Prohibition of Trafficking in Persons (NAPTIP) on august 26th 2003. The NAPTIP Act is operational in Nigeria and it is an instrument, which reacts to all types of trafficking, abuse, as well as other forms of inhumane treatment exercised on citizens. It is important to note that NAPTIP is constantly aiming to protect trafficked individuals, within and outside the country. Similarly, NAPTIP is an ardent follower of the regulations outlined in the United Nations Transnational Organized Crime Convention (TOC).

4.3.3.1 Prevention systems

The NAPTIP Act with the Palermo Protocol prevention techniques depends on creating public awareness to trafficking, through public knowledgeable units such as media, school and establishment or rather organizing local events in areas with high vulnerability to trafficking, so residents of such areas will know about the risks of trafficking, understand the forms of trafficking and furthermore ensure that trafficking

¹⁵⁰ Ibid, 128

does not occur in their locality. In addition to providing awareness to members of the society in trafficked prone regions, the law enforcement officers such as the police, migration and custom officials are prepared to distinguish a trafficked individual from a non-trafficked one. These awareness programs have had positive outcomes and this expansion has prompted the victims of trafficking to be identified, helped, and supported. On account of the increase in awareness, most traffickers having understood the increased volume of government knowledge with regards to trafficking are now switching their operations to nearby countries such as Cameroon, Benin, Niger and Ghana with the hopes of continuing their trafficking operations¹⁵¹.

Trafficking is not only being shifted to the neighbouring countries of Nigeria but also to the country side. It has been noticed that because of the increased awareness in the metropolitan zones of Nigeria, traffickers have migrated to the rustic territories for the enrolment of vulnerable casualties. All in all, perhaps due to political reasons, large scale awareness program has refused to identify the relationship between trafficking and poverty leaving most rustic territories in obscurity and under-development. Just as the saying goes “information is power” awareness programs in all parts of the country will assist with lessening the number of trafficking as even members in vulnerable areas will be aware of the tricks used by traffickers to get their victims¹⁵². Gaining permission from previous trafficked individuals, NAPTIP organizes meetings with most disadvantaged members of the society to learn the various ways in which these trafficked victims were gotten, hence, enabling that they are aware of the forms through which a trafficker might arrive.

4.3.3.2 Protection systems

The NAPTIP Act has additionally made an immense stride in forestalling the discrimination of trafficked victims and giving a safe haven to survivors of trafficking, particularly woman and children. This Act additionally ensure utilizing the term casualties to establish relationship between all types of trafficking and give victims the rights not to be arrested on the grounds that they are being trafficked¹⁵³.

¹⁵¹ Ibid, 92

¹⁵² Ibid, 87

¹⁵³ NAPTIP ACT, Section 37, <https://www.refworld.org/pdfid/54f989d24.pdf>, 2003

Although this may be seen as an odd principle, woman trafficked abroad for sex were treated as illegal migrants when caught and deported back to their home countries with no proper investigation, protection, care or concern.

4.3.3.3 Prosecution procedures

In Nigeria, the NAPTIP Act with that of Article 5 of the Palermo Protocol both concur with the criminalization of traffickers either by life imprisonment beginning from two years above or by punishments depending on the current circumstance. Section 47 of the NAPTIP Act enforces additional measures against crimes committed abroad¹⁵⁴. This demonstration tries to debilitate traffickers and exhibit the intention of the nation to fervently combat trafficking.

However, not so much progress have been recorded from these arrangements. This is due to the fact that many instances of trafficking have not been settled in the court. Another prevention to prosecution is the level of corruption exhibited by some government officials such as the Nigeria Police Force (NPF)¹⁵⁵. Aside from corruption, Pearson further distinguish different obstacles that lead to the futility of the prosecution of traffickers, they are; lack of understanding by law enforcement officials, lack of clarity or ineffectiveness of the judiciary in applying the law and lack of resources.

Conclusion

As discussed above, some of the instruments that have been used in responses to trafficking in Nigeria have been evaluated. From this research, it was observed that many of the early Constitution or treaties which were used to combat the problem of sex trafficking in Nigeria focus mostly on the prosecution of the traffickers, which at that time the punishment given by the prosecutors was not effective enough and depends largely on the prosecutors.

Furthermore, cooperation between Nigeria and international were able to establish an anti-trafficking organization known as NAPTIP in Nigeria that has effectively fought hard to reduce the rate of trafficking through the use of the three 'Ps' strategies responses (prevention, protection and prosecution). Conversely, scholars argue that these response strategies are not enough to combat trafficking but rather,

¹⁵⁴ Ibid, 150, Section 47

¹⁵⁵ Ibid, 105

Nigeria should focus and tackle on the factors that facilitate trafficking in their country for an effective elimination of trafficking.

CONCLUSION

As highlighted in chapter 1, the major essence of this thesis is to assess the position of trafficking in Nigeria and to understand various steps and measures taken by the Nigerian government to combat trafficking. To fulfil this goal, the study enjoys a qualitative study approach which imbibes the use of primary sources from articles, books, legal materials, and other electronic sources to effectively discuss the research objectives. Similarly, through the use of this research method, we were able to investigate the components that encourage trafficking and furthermore assess the global reactions to trafficking in comparison with the Nigerian reactions.

The second part of the thesis provided a comprehensive literature review about the research topic. We highlighted in this section the global nature of trafficking where it was established that trafficking occurs in all parts of the world regardless of geography, financial situation, race or religion. Due to the global nature of trafficking, we understood that it was in the best interest of states to establish international controlling bodies that will effectively check this global network of trafficking. The literature review chapter equally talked about the various motivating factors that may be responsible for the persistent nature of trafficking. Some of the factors highlighted included poverty, ignorance or lack of education, corruption, wars, natural disaster and inequality which is mostly against women. Hence, our theoretical approach to study was based on the theory of feminism. The feminist theory supports the growth and representation of women in all facet of life, hence, since women and children are regarded as the most vulnerable group to trafficking, the feminist approach ensures the safety and protection of women.

Additionally, we understood that trafficking is pervasive in nature because of the unfriendly financial issues in Nigeria, generally for woman. Unfortunately, in a

patriarchal society such as in Nigeria, woman is generally disadvantaged and the privileges given to them are extremely smaller when compared to men. Therefore, we see that women are usually considered as subordinates of men, which serves as a catalyst for their rights to be trampled. We also understood that due to the preferential treatment given to male child education when compared to females, most women are faced with the difficulty of improving their lives since they lack basic education to pursue their careers, therefore, placing them in a more difficult situation in comparison to men whom are trained with a higher propensity of receiving quality education.

In the literature review chapter, we also sought to explain that trafficking according to the Palermo Protocol cannot be legal, even if anyone may claim that it was consented. This is so because trafficking creates an avenue for infringement of human rights, hence, under no situation could a human consent to having their rights abused. Similarly, we understood that the UN Palermo Protocol and that of the Nigeria organization liable for trafficking (NAPTIP) exhibit similar characteristics in their essential reactions to trafficking in terms of fighting against trafficking and the arraignment of dealers. The Nigerian reaction to trafficking has grown quickly due to its collaboration with numerous global associations and multilateral agreements. The anti-trafficking methodology utilized by the NAPTIP is a methodology that talks about the United Nations Palermo Protocol dependent on the three 'Ps'.

In relating human rights with trafficking, we understood that trafficking is a criminal offense, wherein perpetrators of the crime are punished before the court of law. Since trafficking aims to subdue human rights, its directly becomes a phenomenon conducted against human rights. Similarly, government both within and outside their nations have sought to combat the trafficking menace by establishing punishment for traffickers. Similar situation is in place in Nigeria where the Nigerian Criminal Code, Nigerian Penal Code, and the Nigerian Constitution amongst others has created documents aimed at protecting victims of trafficking and punishing offenders.

Notwithstanding, despite the various control mechanism put in Nigeria to control the incessant growth of traffick concerns, they still persist issues of trafficking. The major anti- trafficking body known as NAPTIP has sought to constantly created awareness against trafficking in collaboration with the UNODC, ILO and UNICEF. In

order to efficiently conduct awareness, campaigns and outreaches, especially in the rural parts of the country are conducted on a frequent basis to increase the knowledge of the citizens concerning trafficking. However, a major reason why NAPTIP's efforts are not as successful as envisaged is mostly because of the corruption rocking Nigeria.

We analysed that the Nigerian system is extremely corrupt even officers of the law are supporters and witnesses of corrupt activities. In addition to this, NAPTIP confronted genuine difficulties when it came to indictment, therefore, there are numerous unresolved cases of trafficking in Nigeria. The most important goal for NAPTIP is to protect victims, ensure that traffickers are punished, and provide a safe-haven for trafficked victims to get back into the society.

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