

The Trafficking of Women and Children in Nigeria An Analysis of the New Anti-Trafficking Legislation and Its Application

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ABSTRACT

Human trafficking refers to the use of force, coercion or fraud to move people, mostly women and children, within or across national borders, for the purpose of labour or sexual exploitation. Human trafficking poses global challenges relating to human rights, labour and security. Every country is affected by the problem of human trafficking although the scale of it may be higher in one country than in another. This article analyses the legal framework for dealing with the trafficking of women and children in Nigeria. It does so by exploring the various anti-trafficking measures contained in the Nigerian Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003 as amended and recommending further new amendments to it. This article begins with a background information on the problem of human trafficking in the global arena and in Nigeria; gives an overview of the 2000 UN Protocol on Trafficking; highlights the U.S. Minimum Standards on the combat against human trafficking with particular attention to the objectives of the annual U.S. TIP Report and uses the Three P's approach to discuss the provisions of the TIPPLEA 2003 Act and the various efforts of the Nigerian anti-trafficking agency, NAPTIP, to implement the provisions of the Act. The article concludes with an appreciation of the efforts of Nigeria to tackle human trafficking and a call for greater attention to the problem by for instance plugging some of the gaps in the law.

Keywords: human trafficking, women and children, new Anti-Trafficking legislation, Nigeria.

ABSTRAK

Pemerdagangan manusia merujuk pada penggunaan kekuatan, kekerasan atau frod untuk memindahkan manusia, kebanyakannya wanita dan kanak-kanak, dalam atau merentasi sempadan negara, bagi tujuan perburuhan atau eksploitasi seks. Pemerdagangan manusia menimbulkan cabaran global berhubung hak asasi manusia, perburuhan dan keselamatan. Setiap negara terkesan dengan permasalahan pemerdagangan manusia walaupun skalanya mungkin tinggi di sebuah negara berbanding negara lain.

Artikel ini menganalisis kerangka undang-undang berhubung dengan pemerdagangan wanita dan kanak-kanak di Nigeria. Bagi tujuan ini, artikel ini meninjau pelbagai langkah anti-pemerdagangan yang terkandung dalam akta Nigeria, *Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003* (Pindaan) dan mencadangkan pindaan-pindaan baru kepada akta ini. Artikel ini dimulakan dengan maklumat latar belakang mengenai permasalahan pemerdagangan manusia dalam arena global dan di Nigeria; memberikan gambaran keseluruhan mengenai 2000 UN Protocol on Trafficking; menyetengahkan U.S. Minimum Standards mengenai kombatan menentang pemerdagangan manusia dengan perhatian khusus kepada objektif laporan tahunan US TIP Report dan penggunaan pendekatan Three P's untuk membincangkan peruntukan Akta 2003 serta pelbagai usaha agensi anti-pemerdagangan di Nigeria, NAPTIP, untuk menguatkuasakan peruntukan Akta tersebut. Artikel ini diakhiri dengan apresiasi usaha Nigeria dalam membanteras pemerdagangan manusia dan keperluan perhatian yang lebih serius terhadap permasalahan secara, contohnya, menyelesaikan kelompangan yang terdapat dalam undang-undang sedia ada.

Kata kunci: pemerdagangan manusia, wanita dan kanak-kanak, perundangan baru Anti-Pemerdagangan, Nigeria.

INTRODUCTION

Since July 2003, there has been in force in Nigeria a specific and comprehensive anti-trafficking legislation called the *Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, ("The TIPPLEA Act") 2003*¹ as amended in December 2005. The TIPPLEA Act is intended to establish a national anti-trafficking agency, to vest such agency with the responsibility of enforcing laws against trafficking in persons; including investigating and prosecuting traffickers, protecting and assisting victims of trafficking, as well as conducting programmes aimed at preventing the crime of trafficking. Based on the provisions of this new legislation and their presumably effective implementation and enforcement by the National Agency for the Prohibition of Traffic In Persons ("NAPTIP" in short), Nigeria was in June 2009 adjudged as one of the only two African countries that had fully complied with the minimum standards for the

¹ Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003, Act No. 24, A411-427, Federal Republic of Nigeria Official Gazette No. 89, Vol. 90, Lagos-6th October, 2003; Trafficking in Persons (Prohibition) Law Enforcement and Administration (Amendment) Act, 2005, A209-225, Act No.14, A209-225, Federal Republic of Nigeria Official Gazette No.113, Vol.92, Lagos-28th December, 2005.

elimination of human trafficking, which standards the US Government, through the State Department, uses annually to assess the anti-trafficking efforts of various countries in the world; the other African country being Mauritius.

According to the 2009 Trafficking in Persons (TIP) Report itself, the Tier 1 ranking achieved by Nigeria is attributable to "the cumulative impact of progressively increasing efforts made by NAPTIP over the last several years."² It should be recalled that between 2005 and 2008, a period of four years, Nigeria was, in an unbroken succession, ranked as a Tier 2 country; a ranking which indicated that although Nigeria had not then fully complied with the US minimum standards for the elimination of human trafficking, it was in fact making significant efforts to bring herself into compliance with those standards.

But what, in concrete terms, has Nigeria been doing in the anti-trafficking arena which earned her the position of a Tier 1 country in the 2009 TIP Report? To answer this question, this article will explore the various anti-trafficking measures contained in the TIPPLEA Act (as amended) and their implementation, especially in the context of the most influential anti-trafficking legal instruments in the international arena, namely the UN Trafficking Protocol and the American Trafficking victims Protection Act (TVPA).

Although the coverage of the TIPPLEA Act extends to all incidences of human trafficking regardless of the gender or age of the victims, it is common knowledge that most victims of trafficking in Nigeria are women and children, both boys and girls but usually the latter.³ The enactment of domestic legislation by individual countries to specifically and comprehensively tackle human

² Trafficking in Persons, June 2009, at p 226.

³ A NAPTIP source indicates that identified victims of trafficking in Nigeria are mostly women. The same source gives the ratio of female victims to male victims as 8:2. In terms of age, most victims are within the age bracket of 15-23 years. From its inception to June 2008, NAPTIP has handled two thousand two hundred and eighty five (2285) victims of trafficking. The Distribution of these victims according to their States of origin in Nigeria is: Edo State, 470; Akwa Ibom State, 27; Cross Rivers State, 192; Delta State, 156; Kano State, 96; Imo State, 61; Plateau State, 56; Ebonyi State, 55; Kwara State, 54; Niger State, 50; Anambra State, 50; Jigawa State, 43; Benue State, 42; Enugu State, 41; Nasarawa State, 41; Abia State, 16; Kaduna State, 25; Osun State, 20; Ogun State, 19; Ondo State, 16; Oyo State, 14; Kogi State, 13; Adamawa State, 12; Katsina State, 11; FCT, 11; Bayelsa State, 7; Lagos State, 7; Ekiti State, 6; Bauchi State, 5; Rivers State, 5; Borno State, 3; Yobe State, 2; Sokoto State, 2; Taraba State, 1; Gombe State, 1; and Kebbi State, 1. The forms of exploitation which these victims were subjected to included sexual exploitation, child labour, street hawking, domestic service and street begging. As for non-citizen victims, their distribution according to their countries of origin is: Benin Republic, 224; Togo, 62; Mali, 32; Burkina Faso, 30; Ghana, 26; Guinea Bissau, 11; Cameroun, 9; Senegal, 9; Congo, 2; Niger Republic, 2; and Ivory Coast, 2. See L.A. Aderonmu and Hajara Muhammed, 'Victims of Trafficking: Where are They From?', 1 NATIP News (Special Edition) 4, 16.

trafficking is a recent development. At the time the foremost international instrument on human trafficking, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ("The UN Trafficking Protocol"), came into force in December 2003, most countries in the world did not have any specific legislation on human trafficking. Since then however, the situation has significantly changed, thanks to the inspiration of that UN instrument on trafficking.

The signing into law of the Trafficking Victims Protection Act (TVPA) by President Clinton on October 28, 2000, is universally considered to be an important milestone in the fight against human trafficking. The TVPA is the first comprehensive national legislation on the subject⁴ and the annual Trafficking in Persons (TIP) Report mentioned earlier is prepared and released in fulfillment of its requirements. This article begins with a background information on the problem of human trafficking in the global arena and in Nigeria; highlights the U.S. Minimum Standards on the combat against human trafficking with particular attention to the objectives of the annual TIP Report; and uses the Three P's approach⁵ to discuss the provisions of the TIPPLEA Act and the various efforts of the Nigerian anti-trafficking agency, NAPTIP, to implement the provisions of the Act. The article concludes with an appreciation of the efforts of Nigeria to tackle human trafficking and a call for greater attention to the problem by for instance plugging the gaps in the law.

BACKGROUND: THE GLOBAL HUMAN TRAFFICKING ARENA

According to Moises Naim⁶, countries all over the world are now struggling to either stamp out completely or reduce to the barest minimum five notorious transnational crimes—"the illegal international trade in drug, arms, intellectual property, people and money." Out of these "five global wars", that against the international and domestic trafficking of people is arguably the toughest as well

⁴ See Kara C. Ryf, 'The First Modern Anti-Slavery Law: The Trafficking Victims Protection Act Of 2000' (2002) 34 *Case W. Res. J. Int'l L.* 45.

⁵ The three P's approach is the framework used in the annual trafficking in persons (tip) report to assess the anti-trafficking efforts of each country that is listed in the report. The p's are for prosecution, protection and prevention. Muhammed Y. Mattar advocates the use of the five P's approach instead, adding two p's for provision and participation. See Muhammed Y. Mattar, 'Incorporating The Five Basic Elements Of A Model Antitrafficking In Persons Legislation In Domestic Laws: From The United Nations Protocol To The European Convention' (2006) *Tul. J. Int'l & Comp. L.* 357.

⁶ Moises Naim, 'Conference: The Fourth Annual Grotius Lecture Five Wars Of Globalization' (2002) 18 *Am. U. Int'l L. Rev. I.*

as the most pressing; if we are to take into consideration the hidden nature of the crime and its perceived newness.

At the global level, the number of trafficked persons who, as Ambassador Luis Cde Baca has said, "labor in bondage and suffer in silence...trapped and alone";⁷ is indeed high. Estimates produced by the ILO indicate that there could be as many as 12.3 million people in forced labour, bonded labour and commercial sexual servitude worldwide at any given time.⁸ Statistics emanating from the U.S. government gives the number of people who are trafficked across international borders annually as between 600,000 and 800,000. According to the same source, eighty percent of these people are women and girls, and that fifty percent are minors. The number of women trafficked annually into the United States alone each year is estimated at 50,000.

Sexual exploitation is the most common form of trafficking, followed by forced labour.⁹ Most trafficking victims are women and children. They are usually poor and uneducated. Commentators on the magnitude of global human trafficking have expressed particular concern about the pervasiveness of child trafficking and its devastating effects on the victims.¹⁰ In 2004, the United Nations estimated that 700,000 children were forced into domestic servitude in Indonesia; 559, 000 in Brazil; 264,000 in Pakistan; 200,000 in Kenya; and 250, 000 in Haiti.¹¹ In 2002, UNICEF estimated that 200,000 children were being enslaved by cross border smugglers in Central and West Africa.¹² The 2009 TIP Report lists, as the devastating consequences of sex trafficking on minors, such

⁷ Trafficking In Persons (Tip) Report, 2009, p 2.

⁸ Trafficking In Persons (Tip) Report, 2009, p 8.

⁹ Un/Un.Gift *Global Report On Trafficking In Persons*, p 6.

¹⁰ See for example Roger J.R. Levesque, 'Article: Sexual Use, Abuse And Exploitation Of Children: Challenges In Implementing Children's Human Rights' (1994) 60 *Brooklyn L. Rev.* 959; Timothy P. Mcelduff, Jr. & John Veiga, 'Note: The Child Labour Deterrence Act Of 1995: A Choice Between Hegemony And Hypocrisy' (1996) 11 *St. John's J. L. Comm.* 581; Joseph N. Maduibuike-Ekwe, 'Article: The International Legal Standards Adopted To Stop The Participation Of Children In Armed Conflicts' (2005) 11 *Ann. Surv. Int'l & Comp. L.* 29; Ilo *The End Of Child Labour: Within Reach* (A Global Report Under The Follow-Up To The Ilo Declaration On Fundamental Principles And Rights At Work, International Labour Office, Geneva, 2006); Tracy Agyemang, 'Reconceptualizing Child Sexual Exploitation As A Bias Crime Under The Protect Act' (2006) 12 *Cardozo J. L. & Gender* 937; And Jonathan Todres, 'Women's Rights And Children's Rights: A Partnership With Benefits For Both' (2004) 10 *Cardozo Women's L. J.* 603.

¹¹ Rancee Khoshie Lal Panjabi, 'Born Free Yet Everywhere In Chain: Global Slavery In The Twenty-First Century' (2008) 37 *Denn. J. Int'l & Pol'y* 1.

¹² Linda Smith And Muhamed Y. Mattar, 'Global Challenges: Trafficking In Persons, Humanitarian Intervention And Energy Policy: Creating International Consensus On Combating Trafficking In Persons: U.S. Policy, The Role Of The Un And Global Responses And Challenges' (2004) 28 *Wtr Fleicher F. World Aff.* 155.

problems as long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, malnutrition, ostracism, and possibly death.¹³

In February 2009, the UNODC reported that the majority of identified trafficking cases in the countries where information was available involved the movement of victims across international borders, although many cases of domestic trafficking were also found in some countries.¹⁴ International trafficking usually involves the movement of victims from the countries of the South to those of the North and from one country to another within the South.¹⁵ However the UNODC source previously referred to says that nowadays, more cross-border trafficking activity involving countries of the same general region, particularly neighbouring countries, is taking place.

Trafficking victims of South and South East Asian origin are now the most visible globally as they can be found in Europe, the Americas, the Middle East, Central Asia and Africa. African victims are also found in distant places including locations in Europe and North America. Latin Americans are usually trafficked to North America and Europe, while victims from Central Europe are usually trafficked to Europe and the Middle East.¹⁶

The international trafficking of human beings for various forms of exploitation usually starts in a source country and terminates in a destination country. In some cases however, a stop-over is made in what is known as country of transit before the final arrival at the country of destination. A good illustration of the long distances through which trafficking victims are moved in consonance with the so-called dynamics of demand and supply was provided in 2003 by Kevin Bales.¹⁷ The leading American authority on the contemporary forms of slavery, while blaming what he called “[t]he modernization process” for pushing “significant numbers of people in the developing world into social, economic and political vulnerabilities”, reports how in Brazil, for example, victims of trafficking are recruited from the densely-populated and poverty-stricken parts of the country and transported to far way places for use as slaves in steel mills.

¹³ Trafficking In Persons (Tip) Report 2009, p 5.

¹⁴ Unodc/Un.Gift *Global Report On Trafficking In Persons*, p 59.

¹⁵ Janie Chuang, 'Redirecting The Debate Over Trafficking In Women: Definitions, Paragisms And Contexts' (1998) 11 *Harv. Hum. Rts. J.* 65.

¹⁶ Unodc/Un.Gift *Global Report On Trafficking In Persons*, p 59.

¹⁷ Kevin Bales, 'Monitoring international labor standards: quality of information and measures of progress in combating forced labor' (2003) 24 *Comp. Lab. L. & Pol'y J.* 321.

In most cases, traffickers share the same nationality, if not locality, with their victims. In a 2005 sex trafficking case,¹⁸ in which two persons were convicted for the offence of trafficking a woman from Kano (Nigeria), to Jeddah (Saudi Arabia), the principal offender, a woman, was from the same locality with the victim and had known her for a long period before the commission of the offence. According to the UNODC, an interesting angle relating to the profile of trafficking offenders is the indication that “[f]emale offenders have a more prominent role in present-day slavery, than in most other forms of crime.”¹⁹ So the gender dimension to the enslavement of people is gradually taking the form a double-edged sword. Human traffickers operate within a small, often loosely organized, criminal groups and in many cases, the facilitators, that is to say those who engage in the actual recruitment, transportation or transfer of people into exploitative situations are not the actual users of the services of the trafficking victims.²⁰

The facts of the sex trafficking case mentioned earlier can be illustrative here. In January 2005, the two accused persons, Hussaina Ibrahim (F) and Idris Aminu (M) recruited and transported the victim Sakina Muhammad (F) from Kano (Nigeria) to (Jedda) Saudi Arabia for prostitution. They secured a passport for her, obtained a visa for her, paid for her airfare, provided her with a male escort for her trip and on her arrival in Saudi Arabia accommodated her. Sakina was tricked into embarking on the journey by the accused persons who told her that they were assisting her to “solve her dire economic problems.” They also gave her the impression that she would have the good fortune of marrying an Arab or a Nigerian or get a boyfriend on her arrival in Saudi Arabia.

When Sakina arrived in Saudi Arabia, Hussaina, the 1st accused person, sold her passport and retained the money. She also introduced her to the sex trade. For the duration of her stay in Saudi Arabia, Sakina was put under surveillance by the 1st accused person and be made to engage in prostitution. Her “routine was [to have] sex with 5 men as she was the most popular new arrival and was being paid SR50 for quick sex and SR300 for overnight sex”. All the payments for the prostitution were being collected by her handlers and it was out of such payments that the 1st accused person was making deductions as reimbursements for the expenses she incurred in transporting the victim to Saudi Arabia. Both Hussaina, the 1st accused person, and Sakina, the trafficked person, were later

¹⁸ *Hon. Attorney-General Of The Federation---Complainant V. (1) Hussaina Ibrahim And (2) Idris Aminu (Alias Vip)---Accused Persons* Suit No. K/1tp/2003 (Unreported), 26-07-25. Delivered By Hon. Justice A.M Haliru, High Court Of Kano State, Nigeria.

¹⁹ Unodc/Un.Gift *Global Trafficking In Persons Report*, p 46.

²⁰ Anna Gekht, ‘Shared But Differentiated Responsibility: Interaction Of International Obligations In Fight Against Trafficking In Human Beings’ (2008) 37 *Dnv. J. Int’l & Pol’y* 29.

deported to Nigeria by the Saudi Arabian authorities and the National Agency for the Prohibition of Traffic in Persons and Other Related Matters (NAPTIP) conducted an investigation and charged the two accused persons under the TIPPLEA Act.

SOME FACTS ON HUMAN TRAFFICKING IN NIGERIA

In Nigeria, as in many other countries, human trafficking (internal or cross-border) is a very serious problem. In fact it is supposed that in the whole of the Sub-Saharan Africa, Nigeria's human trafficking problem is the severest.²¹ In Nigeria, human trafficking is the third largest crime after economic fraud and the drug trade. Although it is only recently that the problem began to receive the public attention it deserves, it is now generally agreed that the problem of human trafficking has had a long history in Nigeria.²² The absence of an appropriate legislation in the past, as well as the non-enforcement of the pre-existing relevant laws must have contributed to the low level of awareness and understanding of the problem among the general public. It is also likely that cultural and religious tolerance, if not acceptance, of certain forms of traditional practices²³ that are nowadays clearly categorized as human trafficking or child labour had ensured that the problem did not receive the required publicity. Fortunately, the situation is now changing for the better as a consequence of the establishment of NAPTIP. But we are still far away from surmounting our

²¹ Unesco/Intersectoral Programme/Poverty Eradication, *Human Trafficking In Nigeria: Root Causes And Recommendations* (Policy Paper No. 14.2 (E), Paris 2006) p 11.

²² According to an NGO, the women trafficking and child labour eradication foundation (wotclef), a search in the back copies of some newspapers covering the period between 1983 and 1989 revealed yielded reports of several cases of buying and selling of children in bauchi, imo, anambra and cross river. The same source adds that during the last decade, the problem trafficking in Nigeria seems to have escalated. As at 1998, there said to be 20,000 Nigerian girls engaged in commercial sex work in italy, including 3000 in Turin alone. See *Understanding The Anti-Trafficking Law The Trafficking In Persons (Prohibition) Law Enforcement And Administration Act, 2003* simplified by The Wotclef.

²³ A traditional practice which one can easily mention here is the almajiri (almajiranci) system. The almajiri system involves the recruitment and transfer of male children, some as young as seven years old, mostly from rural to urban areas, for qur'anic education under the tutelage of a teacher who, in most cases, is also a graduate of the same system. The movement of the children is normally done during the dry season when farming activities have ceased. An almajiri-child is, according to the Unicef, a vulnerable child and in many cases is exposed to moral and social hazards. Many almajiri-children metamorphose into drug addicts, street beggars and slaves. See Unicef *Report Of Survey To Document Innovative Interventions On Almajiri Child In Nigeria* (Unicef Abuja, March 2008) p 1.

“knowledge crisis” concerning the scale of the problem human trafficking in Nigeria.

There is no doubt that thousands of Nigerian women and children are among the millions of human trafficking victims all over the world who, as Kofi Annan has said, are denied “the right to live in dignity, free from fear or want.”²⁴ A NAPTIP-sponsored study²⁵ aimed at establishing the scale of both internal and external human trafficking in Nigeria has revealed that the level of internal or domestic trafficking is much higher than the cross-border one, although it would appear that more public attention is focused on the latter than the former. The same study has also estimated that between 750,000 to one million persons are trafficked annually in Nigeria. About 75 per cent of the people trafficked annually, says the same study, are trafficked across states of the Federation, 23 per cent trafficked within states and 2 per cent trafficked across the Nigerian borders. The study emphatically concluded that in Nigeria, human trafficking “is therefore substantially internal.”

The 2009 Trafficking in Persons (TIP) Report²⁶ lists the forms of domestic human trafficking that take place within the Nigerian borders to include: the trafficking of women and girls for domestic service and commercial sexual exploitation; the trafficking of boys for forced labour in street vending, agriculture, mining, stone quarries and domestic servants; the trafficking of boys called *almajirai* (migrant pupils of Qur’anic schools) by Qur’anic schools teachers for forced begging. According to the same Report, Nigeria is a source country from which women, girls and boys are trafficked to other West and Central African countries for the same exploitative purposes listed above. The same Report identifies the countries of destination for the trafficked persons of Nigerian origin as: Gabon, Ghana, Cameroun, Chad, Benin, Togo, Niger, Burkina Faso, and the Gambia. Nigerian women and girls are also trafficked to Europe primarily for commercial sexual exploitation. Women and girls recruited for this purpose are transported through Libya, Morocco and Algeria to European countries like Italy, Spain, Belgium, Austria, Norway, Denmark, Finland, Germany, Switzerland, Ireland, France and Greece. The United Kingdom is also another European destination to which Nigerian children are trafficked. Such children can be found in the urban centres in the UK being exploited in domestic service and forced labour as workers in restaurants and shops. As the facts of

²⁴ Kofi A. Annan Secretary-General *Foreword To United Nations Convention Against Transnational Organized Crime And The Protocols Thereto* (Un/Unodc, New York/Vienna, 2004) Piii.

²⁵ Naptip *The Dynamics And Contexts Of Trafficking In Persons: A National Perspective* (National Agency For The Prohibition Of Traffic In Persons And Other Related Matters, 2008, Dalaba Street, Zone 5, Wuse, Abuja. Website www.Naptip.Com) p 83.

²⁶ See Country Narratives p 225-227.

the sex trafficking case earlier described must have shown, women and girls are also trafficked from Nigeria to Saudi Arabia for commercial sexual exploitation. In addition to Saudi Arabia, other Middle Eastern countries receive women and girls trafficked from Nigeria for commercial sexual exploitation and domestic service.

Nigeria is a country of destination for boys trafficked from Benin for the purpose of forced labour in Nigeria's granite quarries. Nigeria is also said to be a country of transit for some forms of trafficking within the West African Sub Region.

Several factors contribute to the pervasiveness and rising escalation of the trafficking of women and children both globally and in Nigeria. In fact the aspect of the subject of trafficking in persons relating to its causes and purposes is the most discussed issue among academic commentators; and there is an emerging consensus that globalization is a major contributing factor. Some commentators have approached the debate on the causes of trafficking from the perspective of what they have referred to as "the push and pull factors".²⁷ In using this approach, commentators highlight the causes of human trafficking from both the demand and the supply angles.

In Nigeria, the NAPTIP-Sponsored research mentioned earlier has identified what it called "multiple causation" as responsible for the prevalence and escalation of human trafficking nationally. The research strongly cautioned against the concentration of attention on the role of poverty in sustaining the egregious violation of the most fundamental of human rights, to the exclusion of other factors. While conceding to the fact that many victims of human trafficking are indeed propelled by poverty and ignorance, the research pointed out that others are motivated by greed and the search for adventure.

THE UNITED NATIONS TRAFFICKING IN PERSONS PROTOCOL

There are now about "fourteen international conventions prohibiting trafficking and related crimes, some of which date as far back as 1904."²⁸ There are also several Regional instruments touching on the same subject either directly or indirectly. As for UN declarations, resolutions and reports concerning trafficking, it appears that there have been so many of them over the years such that their numbers are now beyond easy reckoning. The reason for the multiplicity of

²⁷ See for instance Luz Estella Nagle, *Selling Souls: The Effect Of Globalization On Human Trafficking And Forced Servitude* (2008) 26 *Wis. Int'l. L. J.* 131.

²⁸ Diane L. Fahey, 'Can Tax Policy Stop Human Trafficking?' (2009) 40 *Geo. J. Int'l L.* 245.

international treaties in this regard is obvious enough. Not only is trafficking a transnational organized crime which is beyond the capacity of one country to combat, the human rights violations which the dastardly crime gives rise to are so many such that several principles of international law are violated whenever it is committed.²⁹

What is most noticeable about the international legal instruments³⁰ which are either trafficking-specific or affect trafficking indirectly, is their failure to stamp out the scourge.³¹ This failure is seemingly as a result of some implementation-related difficulties being experienced by the ratifying States. Even the UN Trafficking in Persons Protocol, the international legal instrument on which the success or failure of the global fight against trafficking now largely depends, is not immune from this. While as at February 2009, the Protocol has been ratified by 119 States, it is clear that effective implementation of its provisions at the national level is dogged by a number of problems. According to Ms Joy Ngozi Ezeilo, the UN Special Rapporteur on Trafficking in Persons, the reasons which have given rise to this include: lack of comprehensive national legislation in

²⁹ Stephanie Farriour, 'The International Law on Trafficking in Women and Children for Prostitution: Making it Live up to its Potential' (1997) 10 *Varv. Hum. R.H. J.* 213; Yasmine Rassam, 'International Law and Contemporary Forms of Slavery: An Economic and Social Rights-Based Approach' (2005) 23 *Penn St. Int'l L. Rev.* 809.

³⁰ The following international legal instruments are relevant to the issue of trafficking: The Universal Declaration of Human Rights; The International Covenant on Civil and Political Rights; The International Covenant on Economic, Social and Cultural Rights; The Convention on the Elimination of all Forms of Discrimination against Women; The Convention on the Rights of the Child (CRC); The Optional Protocol to CRC on the Sale of Children, Child Prostitution and Child Pornography; The Optional Protocol to CRC on Involvement of Children in Armed Conflict; The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; The International Convention on the Elimination of all Forms of Racial Discrimination; ILO Convention No.29 on Forced or Compulsory Labour; ILO Convention No.138 concerning Minimum for Admission to Employment; ILO Convention No.182 on Worst Forms of Child Labour; The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; The Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime; The Rome Statute of International Criminal Court; The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; The General Assembly Declaration on Violence against Women; the Vienna Declaration and Programme of Action; and the Beijing Platform of Action. For the Articles of each of these instruments that have relevance to trafficking see UN/General Assembly/HUMAN RIGHTS COUNCIL: Tenth Session Agenda item 3: Report submitted by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 20 February 2009, at p11; See also GAATW *Human Rights and Trafficking in Persons: A Handbook* (Global Alliance Against Trafficking in Women, Bangkok, Thailand 2000) p 11-19.

³¹ Rance Khooshie Lal Panjabi 'Born Free Yet Everywhere in Chains'.

some countries; lack of sufficient resources to enforce the appropriate laws in some others; as well as lack of political will in yet many other countries.

The UN Trafficking in Persons Protocol was a culmination of some earlier international legal measures relating to the abolition of the movement of women and children across international borders for prostitution purposes. Before 2000, the most notable instrument containing such measures was the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, an instrument which was itself a consolidation of earlier treaties on the same subject. This Convention is the anti-trafficking treaty immediately preceding the Protocol. This Convention was ineffectual in combating trafficking and its conceptualization of prostitution was inadequate.

In November 15, 2000, the United Nations General Assembly adopted the Transnational Organized Crime Convention. Two additional Protocols, the UN Trafficking in Persons Protocol itself and the UN Migrants Protocol were attached to this Convention. These instruments were then opened for signature at Palermo, Italy. The two Protocols are, although separate from the Convention, significantly linked to it. For example only governments that have signed the Transnational Organized Crime Convention can sign the Trafficking Protocol. More importantly, governments who have ratified both the Convention and the Trafficking Protocol "are obligated to adopt domestic laws implementing the Convention and the Trafficking Protocol."³² Under Article 1 of the Protocol, it is provided that the Protocol supplements the Convention; that it shall be interpreted together with the Convention; and that the Convention shall apply, *mutatis mutandis*, to the Protocol unless otherwise provided. The meaning of all this is that relevant provisions of the Convention are incorporated into the Protocol and that although "[t]he Trafficking Protocol contains the majority of the Commitments made by governments regarding trafficking in persons, ... a number of very important provisions (for example, regarding protection of witnesses) are contained in the Convention."

According to Kelly E. Hyland,³³ five factors contributed to the development of the UN Trafficking in Persons Protocol. These factors are: lobbying of Governments by non-governmental organizations on behalf of trafficking victims; the projection that the number of trafficking victims will continue to rise in line with the rising level of migration; the view among nations worldwide that trafficking is not only a violation of human rights, but a transnational

³² Global Rights Annotated Guide To The Complete Un Trafficking Protocol (A Tool To Assist Advocates In Development Of A Human Rights Framework For National Anti-Trafficking Laws And Policies, Global Rights Washington Dc) p 2.

³³ Kelly E. Hyland, 'The Impact Of The Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children' (2001) 8 *Hum. Rts. Br.* 30.

organized crime requiring global response; the apparent problems associated with the prosecution of trafficking cases at national level, notably in the US, as a result of the inadequacy of the preexisting laws on the subject; and the inadequacy of the pre-existing body of international law to combat trafficking.

The aim of the UN Trafficking in Persons Protocol is "to provide mandatory minimum standards upon which States can build their own response" to the complexities and numerous challenges associated with the fight against human trafficking. Since its adoption, the Protocol has been serving as "a model for national legislations" on human trafficking. Its definitions of the two most important legal terms in the subject, namely "Trafficking in Persons" and "Exploitation" are now the universally accepted foundation of any anti-trafficking legislation. It is regarded by many experts in the field as a genuine attempt at addressing the conceptual defects inherent in the earlier legal instruments. To the credit of the Protocol, we now have a modern concept of human trafficking encompassing what Hyland has referred to as "the diversity of trafficking practices worldwide." This is a somewhat revolutionary achievement, if we recall that the anti-trafficking measures contained even in the most relevant and all-encompassing of the preceding international instruments, were aimed at protecting women alone and they were exclusively applicable to trafficking for prostitution. Advocates of women's right to engage in voluntary prostitution also find gratification in the approach taken by the Protocol on the issue. Unlike the 1949 Convention, which considered both voluntary and forced prostitution as trafficking, the Protocol has, technically at least, recognized that voluntary, non-coercive prostitution involving adults does not constitute trafficking.

According to the Preamble to the Protocol, for the fight against human trafficking to be effective, there must be "comprehensive international approach in the countries of origin, transit and destination." For the avoidance of doubt, the Protocol has, in its Statement of Purpose, declared what the major components of such comprehensive international approach should be. Under Article 2, the prevention and combating of trafficking in persons; the protection of and assistance to the victims of trafficking; and the promotion of cooperation among State Parties on these matters, are listed.

It should have been noticed by now that everything concerning the legal approach to the problem of human trafficking revolves around the meaning being attached to the concept itself. The phrase "trafficking in persons", a term which under international and American laws is used in place of "human trafficking", has been defined by Article 3(a) of the Protocol. According to the provision of the said Article, for the purposes of the Protocol and the domestic anti-trafficking laws of the State parties to it:

“Trafficking in Persons” 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. It is provided under Article 3(b) that:

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

The significance of this definition in the overall anti-trafficking legal framework is easy to appreciate, if we remember that it contains all the necessary elements of the criminal offence of human trafficking as are recognized under international law; and as every State party to the Protocol should entrench in its domestic anti-trafficking legislation, if such State party is to meet its treaty obligations under the Protocol.

Looking at the Protocol’s definition of “exploitation” stated in Article 3(a), it is quite obvious that the Protocol’s scope is not limited to sex trafficking. In fact there are seven forms trafficking which are clearly and unequivocally recognized by the Protocol, and a State party is under an obligation to criminalize, at a minimum, all of them. Mattar³⁴ has listed them thus:

- Trafficking for the exploitation of prostitution of others.
- Trafficking for other forms of sexual exploitation.
- Trafficking for forced labour.
- Trafficking to place somebody in a condition of servitude.
- Trafficking for the purpose of enslavement of somebody.
- Trafficking for purposes similar to slavery.
- Organ trafficking or removal of organs from human beings.

³⁴ Muhamed Y. Mattar, *International Conventional Law: The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, Conference on Globalization, Justice and the Trafficking of Women and Children, University of Washington, Seattle, USA, October 25, 2002.

Now, what, from the above cited definition, are the elements of the criminal offence of trafficking in persons? According to the authors of *Human Rights and Trafficking in Persons: A Handbook*, the core elements of trafficking are: (a) movement of a person, (b) with deception or coercion, (c) into a situation of forced labour, servitude or slavery-like practices. These three elements are usually referred as the act, the means and the purpose.

It should be noted that "trafficking in persons", both as legally defined and as understood among commentators and NGOs, is fundamentally different from illegal migration or the smuggling of persons across international borders into other countries. Migration, as we all know, happens when a person moves from one country to another. In most cases, migration is a voluntary act but it may sometimes be forced. Migration caused by trafficking, and migration arising from the displacement of people, are the most common forms of forced migration. When illegal means are used to transport a person voluntarily to another country, there is said to be smuggling of person. Experts on trafficking are always quick to remind us that there cannot be anything like "trafficking with consent". This is because no one ever consents to be in any of the exploitative situations which traffickers commonly haul their victims into. Some adult women, for example, migrate from Nigeria to Italy, mostly through illegal means, but with the knowledge that they are going there to work in the sex industry. Yet some of those women ultimately end up as trafficking victims because of the coercive tactics used by pimps to control them and to ensure their exploitation to the maximum. The point therefore is that an adult woman can consent to work as a prostitute but she cannot consent to be trafficked into forced prostitution.

The obligations of State Parties under the UN Trafficking in Persons Protocol and the relevant provisions of the parent Convention are summarized as follows:

- Criminalize trafficking, attempted trafficking, participating as an accomplice and organizing and directing trafficking.
- Adopt legislative measures which consider and penalize trafficking as a transnational and organized crime.
- Adopt legislative measures which recognize trafficking as an extraditable offence.
- Criminalize corruption, participating in corruption as an accomplice, and establish legislative or administrative measures that will ensure the prevention of corruption, detection and punishment of corrupt public officials and as well as ensure the integrity of public officials.
- Establish in their laws the liability of legal persons for acts of trafficking.
- Adopt, without prejudice to the rights of third parties, laws that will allow for the confiscation of the proceeds of the crime of trafficking and the property, equipment or other instrumentalities used or destined for use to commit the offence of trafficking.

- Adopt, subject to domestic laws and procedures, measures permitting the use of the confiscated proceeds of trafficking to pay compensation, restitution and damage to trafficked persons.
- In appropriate cases and to the extent possible under its domestic laws, protect the privacy and identity of victims of trafficking in persons, by, for example, making legal proceedings relating to that trafficking confidential.
- Adopt, in appropriate cases, measures that provide to victims of trafficking in persons the following—(a) information on relevant court and administrative proceedings; (b) assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
- In appropriate cases and in cooperation with non-governmental organizations, implement measures aimed at providing for the physical, psychological and social recovery of victims of trafficking in person, including the provision of appropriate housing, counseling and information, medical psychological and material assistance, and employment, educational and training opportunities.
- In implementing the immediately afore-mentioned measures, take into account the age, gender and special needs of victims of trafficking in person, especially children.
- Endeavour to provide for the physical safety of victims of trafficking while they are within its territory.
- Adopt legislative measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.
- Take appropriate measures, within its means, to provide effective protection from potential retaliation or intimidation for witnesses who testify in criminal proceedings concerning trafficking.
- In appropriate cases and while giving consideration to humanitarian and compassionate factors, take measures which will permit victims of trafficking in persons to remain in its territory temporarily or permanently.
- As a country of origin, facilitate and accept the return of its national who has been a victim of trafficking in another country, with due regard to the safety of that person and without undue or unreasonable delay.
- As a country of destination, in returning a victim of trafficking to the country of origin, give due regard for the safety of the person and the status of any legal proceedings related to the fact that the person is a victim of trafficking, and such return should preferably be voluntary.
- Establish comprehensive policies, programmes, and other measures, to

prevent and combat trafficking in persons, protect victims of trafficking especially women and children from re-victimization; and undertake in cooperation with NGOs, research, information, mass media campaigns, social and economic campaigns initiatives to prevent and combat trafficking.

- 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.
- Adopt or strengthen legislative measures 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.
- Implement measures relating to information exchange, border controls and security and control of documents.

The implementation of the treaty obligations set out above, by the individual State parties, is reviewed annually by the Conference of the Parties to the Convention and the Protocol. The meeting takes place in Vienna and NGOs are permitted to attend as observers.

As mentioned earlier, the main problem of the Protocol is lack of effective implementation of its provisions at the national level. But apart from that, the Protocol has some inherent weaknesses. First, almost all commentators on it have expressed concern about the fact that in matters relating to assistance and protection for victims of trafficking, as well as the prevention of trafficking, the obligations of State parties are not mandatory. The same is also the case with respect to the status of trafficked person in receiving countries. This problem is discernable from the nature of the language used in Articles 6, 7 and 8. Secondly, the Protocol does not provide for the principle of non-criminalization of the conduct of trafficked person relating to illegal entry into a country, or working without proper permit, or engaging in prostitution, when such conduct is incidental to or caused by the act of trafficking. Thirdly, the Protocol does not squarely address the issue of legality or illegality of prostitution except in the strict context of fraudulent movement of women into the sex industry. Fourthly and most importantly, the Protocol does not impose on the State parties any specific obligations with respect to children. While the definition of the word "child" and the 18-years-of-age threshold, as contained in the Protocol and the requirement that States parties should, in whatever they do, take into account the special needs of children, are noteworthy, there is a conspicuous failure on the part of the Protocol to address unequivocally the forms of exploitation to

which children are peculiarly exposed. But then the UN Protocol was a child of compromise. It is therefore not unexpected for it suffer from what, at least from a human rights perspective, are considered to be substantial imperfections.

THE TVPA AND THE TRAFFICKING IN PERSONS (TIP) REPORT

The enactment of the American Trafficking Victims Protection Act in October, 2000 may be seen as an immediate reaction to some high-profile, conscience-pricking trafficking cases which came into limelight in that country in the 1990s. The cases involved the severe exploitation of migrants, many of them women, by criminal groups, for financial gains. Attempts by prosecutors to apply the relevant laws in order to bring the perpetrators to justice were not quite successful due to the inherent inadequacies of those laws. Consequently, The TVPA was enacted to reform the legislative and administrative frameworks so as to sufficiently punish traffickers, protect victims of severe forms of human trafficking, and prevent human trafficking from taking place. An important objective of the Act worthy of emphasizing here is that of enhancing international cooperation in the fight against human trafficking. The passage and enforcement of the TVPA has been described as paradigmatic.³⁵

The TVPA's approach to the problem of human trafficking is at once domestic and international. Its provisions that have proved to be globally influential because of their extraterritorial reach are the main focus of this section of the article.

The TVPA's definition of "trafficking" is narrower than that contained in the UN Trafficking in Persons Protocol. Under the TVPA, the focus is on what has been referred to as "severe forms of trafficking in persons", a term which is defined³⁶ as:

- (a) Sex trafficking in which commercial sex act is induced by forced, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) the recruitment, harbouring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

³⁵ Sarah Lecvan, 'Comparative Treatment of Human Trafficking in the United States and Israel: Financial Tools to Encourage Victim Rehabilitation and Punish Trafficking' (2000) 6 *Cardozo Pub. L. Pol'y & Ethics J.* 773.

³⁶ Trafficking in Persons (TIP) Report, 2009, p 6.

This definition has the following terms as its elements: "sex trafficking", "commercial sex act", "involuntary servitude", "debt bondage" and "coercion"; and that each of these terms has been statutorily defined. The TVPA requires the Department of State to submit to Congress an annual report each year on the status of severe forms of trafficking in persons worldwide. The first of such reports was issued in June 2001 and henceforward, the annual Trafficking in Persons (TIP) Report is released in June of every year. The aims of the Report are to increase global awareness of the phenomenon of human trafficking, shed new light on various facets of the problem, highlight efforts of the international community, and encourage foreign governments to take effective action on the problem.³⁷

In selecting the countries to include in the Report, the U.S. State Department first determines whether a particular country is a "country of origin, transit, or destination for a significant number of victims" of trafficking. At least the number of victims of trafficking discovered in a particular country must be up to one hundred or more for it to be included in the Report. Each country selected for inclusion in the Report is then put in one of the three lists, or tiers, in accordance with the requirements of the TVPA.

Generally, the rule is that a country is placed in any one of the three Tiers based on the assessed level of that country's efforts to combat trafficking. The assessment is done in line with the minimum standards laid down in the TVPA. All countries whose governments have fully complied with the TVPA's minimum standards for the elimination of trafficking are placed in Tier 1. Countries whose governments do not fully comply but are making "significant efforts to bring themselves into compliance" with the standards are placed in Tier 2. The last list, namely Tier 3, is for countries whose governments have not complied with the minimum standards and are also not making any significant efforts to do so. In 2003, the TVPA was amended via the TVPRA to, among other things, create what is known as "Tier 2 Watch List". This list contains countries which, due to some predetermined reasons, are to receive special scrutiny during the following year. According to the TVPA³⁸, the minimum standards for the elimination of trafficking in persons are:

- 1) The government should prohibit trafficking and punish acts of trafficking.
- 2) The government should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault, for the known commission

³⁷ Trafficking in Persons (TIP) Report, 2009, p 5.

³⁸ Trafficking Victims Protection Act of 2000 Div. A of Pub. L. No.106-386 S 108 as amended. See extract on p 314 of the Trafficking in Persons (TIP) Report, 2009. See p 8-14 of the same Report.

of trafficking in some of its most reprehensible forms (trafficking for sexual purposes, trafficking involving rape or kidnapping, or trafficking that causes death).

- 3) For known commission of any act of trafficking, the government should prescribe punishment that is sufficiently stringent to deter, and that adequately reflects the offense's heinous nature.
- 4) The government should make serious and sustained efforts to eliminate trafficking.

In deciding whether a government is making serious and sustained efforts to eliminate trafficking as required under the fourth and last point above, the TVPA mandates the State Department to take into consideration eleven criteria or indicia. These are:

- 1) Whether the government vigorously investigates and prosecutes acts of trafficking within its territory.
- 2) Whether the government protects victims of trafficking, encourages victim's assistance in investigation and prosecution, provides victims with legal alternatives to their removal to countries where they would face retribution or hardship, and ensures that victims are not inappropriately penalized solely for unlawful acts as a direct result.
- 3) Whether the government has adopted measures, such as public education to prevent trafficking.
- 4) Whether the government cooperates with other governments in investigating and prosecuting trafficking.
- 5) Whether the government extradites persons charged with trafficking as it does with other serious crimes.
- 6) Whether the government monitors immigration and emigration patterns for evidence of trafficking, and whether law enforcement agencies respond appropriately to such evidence.
- 7) Whether the government vigorously investigates and prosecutes public officials who participate in or facilitate trafficking, and takes all appropriate measures against officials.
- 8) Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.
- 9) Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts; and
- 10) Whether the government of the country achieves appreciable progress in elimination severe form of trafficking when compared to the assessment of the previous year.

- 11) Whether the government of the country has made serious and sustained efforts to reduce the demand for (A) Commercial sex acts; and (B) participation in international tourism by nationals of the same country.

The TVPA further mandates the State Department to look at three mitigating factors before determining whether a country is making significant efforts to bring itself into compliance with the minimum standards listed above. Briefly, the three factors are: 1) the extent of trafficking in the country; 2) the extent of governmental non-compliance with the minimum standards, particularly the extent to which government officials have participated in, facilitated, condoned, or are otherwise complicit in trafficking; 3) what measures are reasonable to bring the government into compliance with the minimum standards in light of the government's resources and capabilities.

The TVPA provides for the imposition of sanctions on countries in Tier 3. The sanctions shall be in the form of termination of non-humanitarian, non-trade-related assistance to those countries and potential opposition from the U.S. against the giving of similar assistance to such countries by international financial institutions. The use of sanction to punish countries for their non-compliance with the TVPA minimum standards on trafficking was, by a provision of the Act, to commence in October 2003. The application of TVPA's provisions on sanctions against a non-complying country is subject to a special waiver by the President of the U.S. on some grounds.

The annual Trafficking in Persons (TIP) Report is structured in such a way that every listed country is dealt with in what is referred to as "Country Narrative" and the portion relating to a particular country highlights that country's response to the problem of human trafficking in the context of the "three P's"—prosecution, protection and prevention. In the area of protection, the "Three R's"—rescue, rehabilitation and reintegration—are also considered. This is in line with the requirements of a victim-centered approach.

The positive impact of the annual Trafficking in Persons (TIP) Report on the global war against trafficking in persons is now well known among all persons who, for one reason or the other, have something to do with the problem of trafficking. However some academic commentators³⁹ have expressed reservations regarding that aspect of the TVPA dealing with the issue of sanctions, arguing that what countries listed as Tier 3 need is not unilateral sanctions from the U.S. but rather some assistance. There is also the argument that the whole international dimension of the TVPA amounts to the unnecessary creation of some international anti-trafficking norms parallel to the lamentably

³⁹ See for example Janie Chuang, 'The United States as a Global Sheriff' (2006) 27 *Mich.J. Int'l L.* 437.

fragile international consensus which are entrenched in the UN Trafficking in Persons Protocol. Finally, some commentators have also criticized the TVPA minimum standards for their inherent ambiguity as well as for the way in which they are implemented in the context of specific countries.

THE TIPPLEA ACT

An Ideal Anti-trafficking Legislation

A national legislation aimed at tackling human trafficking must be such as will meet the law enforcement and human rights challenges which the dastardly crime poses both nationally and internationally. In concrete terms, such legislation must therefore contain measures "that will promote human dignity, protect the people from any threat of violence and exploitation, eliminate trafficking in persons and mitigate pressures for involuntary migration and servitude of persons".⁴⁰ It is also expected that a key part of such legislation will be devoted to matters concerning the support of trafficked persons, their recovery, rehabilitation and reintegration into the mainstream society. In other words, legislative measures to combat human trafficking should take a human rights and victim-centered approach.

The trafficking of women and girls is based "on the dynamics of supply and demand".⁴¹ So any legislative measures which unduly focus on the victims of trafficking can only tackle the supply side and this may result in some "negative consequences for victims and [for] the successful prosecution of traffickers". Hughes has therefore cautioned against over-emphasis on the supply side of the problem in order to avoid what she has called "a form of victim blaming". What this means in practical terms is that a human rights, victim-centered approach to the problem of human trafficking needs to be complimented with a perpetrator-focused approach targeted at "the motivations, activities, and profits of the perpetrators".

But beyond the crafting of an appropriate legislative framework at the national level, the struggle against the scourge of human trafficking also requires action on the part of all concerned, if it is to make any appreciable level of progress. This, in fact, is the major lesson derivable from the Tier Placement system of the annual Trafficking in Persons (TIP) Report. Yes, having a good

⁴⁰ USAID/Solidarity Center/TUCP *The Philippines Anti-Trafficking in Persons Act 2003 Republic Act No. 9208, Section 2 Declaration of Policy.*

⁴¹ Donna M Hughes, 'Combating Sex Trafficking: A Perpetrator-Focused Approach' (2008) 6 *U.St. Thomas L.J.* 28.

anti-trafficking law is important but that is not enough. In addition, such law must be implemented with all the zeal, determination and perseverance that its enforcers can muster. In the 2009 UNODC Global Report on Human Trafficking, it is stated that although no country is immune from the problem of human trafficking, the absence of anti-trafficking laws at national level, or their poor enforcement (where they are available) can make some countries worse than others. Nothing illustrates this point more than the now well known preference of sex tourists for destination countries with "lax laws" or inadequate legislation on sex tourism; or those that have such legislation but do not enforce them at all.⁴²

Background

The TIPPLEA Act, originated from a private bill presented to the National Assembly, Nigeria's Federal legislature, by an NGO with nationally recognized advocacy antecedents in the fight against human trafficking; the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), in 2001.⁴³ The National Assembly passed the bill into law on 7th July 2003 and the then President of the Federal Republic of Nigeria, Chief Olusegun Obasanjo, assented to it on 14th July 2003. Significantly, the Act was passed in order to domesticate the UN Trafficking Protocol which Nigeria had ratified in 2001. The main features of the Act have already been highlighted in the introductory part of the Article.

In December 2005, the TIPPLEA Act 2003 was amended via the Trafficking in Persons (Prohibition) Law Enforcement and Administration (Amendment) Act, 2005. According to Mrs. Carol Ndaguba, the then Executive Secretary of NAPTIP, the 2005 amendment was aimed at addressing some gaps in the 2003 Act, which gaps the Agency had discovered within the very short period that the law was implemented.

Ndaguba, who was asked to justify the sundry amendments introduced into the Act in 2005, just within three years of the coming into force of the Act, explained its rationale in the following words:

The law...is really a very good law because it has most of the basic things you need to fight trafficking in persons. It also has most of the elements contained in the Palermo Convention [the UN TIP Protocol]...But we found that in our specific situation here we needed to amend a few things to bring in some things

⁴² Muhamed Y. Mattar, *Legal Responses to the Conditions of Victims of Trafficking in Countries of Destination* (Speech delivered at the Friedrich Ebert Foundation, June 18, 2002).

⁴³ Wotclef, *Understanding The Anti-Trafficking Law* Foreword, p 5.

we felt were not there but should be there to enable us succeed in our work. For example, our law did not touch on house help [child domestic servants] and you and I know that the issue of house help fits the trafficking of children, so we have to criminalize the issue of domestic help in that Act. It was not there before and we had to add it. We had to [also] bring in the prosecutorial powers of the Agency [NAPTIP] because even though the title of the law talks about prohibition and all that, but it did not give us specific power to prosecute offenders. We also had to add the seizure of the assets of the traffickers because until you touch the finances of traffickers you are not doing anything...⁴⁴

The TIPPLEA Act as amended in 2005 contains sixty-four Sections and two Schedules. Its Statement of Purpose is contained in its Long Title and the Explanatory Memorandum provided at its end. Unlike almost all the anti-trafficking legislation that I have been privileged to peruse, the TIPPLEA Act is not structured into any well-delineated Parts or Divisions. The Act is, understandably, not an epitome of good draftsmanship. I say understandably because at the time it was being drafted, there were very few, if any, precedents on exactly the same subject from which the legal draftsmen and the legislators could borrow. It is true that by then, the TVPA had been enacted and the UN Trafficking Protocol had been opened for signature. It is however wrong to assume that these two pioneering anti-trafficking instruments had been studied closely enough by the makers of the Act as to afford them any opportunity to model the new national anti-trafficking law after them.

The Pre-Existing Laws

The absence of trafficking-specific legislation in Nigeria prior to the enactment of the TIPPLEA Act of 2003 should not be taken to mean that human trafficking was, until that year, not a crime in the country or that the Nigerian legal system was silent on the several human rights violations that the process of trafficking in human beings brings about. The main sources of Nigerian law contain provisions relating to trafficking related acts, and the position of the legal system on those acts. Such legal provisions are important because the application of TIPPLEA Act is in addition to, or in the case of the Constitution subject to, them.

Constitutional Provisions Relating to Human Rights

Under Chapter II of the Constitution⁴⁵, all organs of government, all authorities, and all persons exercising governmental powers are charged with the

⁴⁴ Cover Interview "This Battle Must Be Won"-Ndaguba' 1 Naptip News 3, Pt 15.

⁴⁵ Constitution of The Federal Republic of Nigeria 1999 (Printed By Federal Government Press Mobil Road, Apapa Lagos) See Sections 13-24, p 10-14.

responsibility of conforming to, observing and applying several provisions of the Constitution dealing with social and economic rights. The rights contained in this Chapter are in the form of fundamental objectives and directive principles of State policy and are therefore not subject to enforcement in a court of law. But in so far as the political office holders in the country are ready to abide by the constitutional exhortations regarding the implementation of these rights, there is no reason why they will not provide solutions to the many root causes of human trafficking in Nigeria.⁴⁶

The following provisions under the said Chapter II are worthy of note:

- That the Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.⁴⁷
- That national integration shall be actively encouraged, whilst discrimination on the ground of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.⁴⁸
- That the State shall abolish all corrupt practices and abuse of power.⁴⁹
- That the State shall control the national economy in such a manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity.⁵⁰
- That every citizen shall have equality of rights, obligations, and opportunities before the law.⁵¹
- That the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced.⁵²
- That governmental actions shall be humane.⁵³
- That the exploitation of human or natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented.⁵⁴
- That the State shall direct its policy toward ensuring that all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment; and that conditions of work are just and

⁴⁶ "Trafficking... flourishes where gender discrimination hinders the exercise of one's right to food, health, education, or work." Stephanie Farriour 'The International Law On Trafficking In Women And Children For Prostitution'.

⁴⁷ Section 14.

⁴⁸ Section 15(2).

⁴⁹ Section 15(5).

⁵⁰ Section 16(1)(b).

⁵¹ Section 17(2)(a).

⁵² Section 17(2)(b).

⁵³ Section 17(2)(c).

⁵⁴ Section 17(2)(d).

humane; and that there are adequate facilities for leisure and for social, religious and cultural life.⁵⁵

- That Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.⁵⁶

Chapter IV of the Constitution⁵⁷ is exclusively devoted to fundamental human rights. All the classical civil and political rights are entrenched therein. Among other rights, all persons, whether citizens or non-citizen, are guaranteed the right to life; the right to respect for the dignity of their persons, including protection against torture, inhuman and degrading treatment, slavery or servitude and forced or compulsory; the right to personal liberty; the right to freedom of movement; and the right to freedom from discrimination.

Penal Provisions on Trafficking Related Acts

Nigeria is party to most of the existing international conventions⁵⁸ on human rights including women's and children's rights, slavery and human trafficking. In line her treaty obligations under those international instruments, and in fulfillment of some of the constitutional mandate as outlined above, several trafficking related acts have been criminalized, and provisions concerning them are included in both the Criminal Code, applicable in the Southern States, and the Penal Code, applicable in the Northern States.

⁵⁵ Section 17(3).

⁵⁶ Section 18(1).

⁵⁷ Sections 33-26, Particularly sections 33, 34, 35, 41, 42 and 45. See p 18-26.

⁵⁸ The International Instruments Which Address Some Aspects Of Trafficking In Persons And The Status Of Nigeria Regarding Them Are: Ilo Convention No. 182 On The Worst Forms Of Child Labour [1999](Ratified By Nigeria On 2 October 2002); Un Convention Against Transnational Organized Crime[2000](Ratified By Nigeria On 28 June 2001); Un Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children [2000] Supplementing The United Nations Convention Against Transnational Organized Crime (Ratified By Nigeria On 28 June 2001); 1989 Un Convention On The Rights Of The Child (Ratified By Nigeria On 16 April 1991); Optional Protocol To The Convention On The Rights Of The Child On The Sale Of Children, Child Prostitution And Child Pornography [2000] (Signed By Nigeria On 8 September 2000 But Not Ratified); Rome Statute Of The International Criminal Court [2000] (Ratified By Nigeria On 27 September 2001); UN Supplementary Convention On The Abolition Of Slavery, The Slave Trade, And Institutions And Practices Similar To Slavery [1956] (Ratified By Nigeria On 26 June 1961); Hague Convention No.33 On Protection Of Children And Cooperation In Respect Of Inter-Country Adoption [1993] (Not Ratified By Nigeria); Convention On The Protection Of The Rights Of All Migrant Workers And Members Of Their Families [1990] (Not Ratified By Nigeria). See Unesco/Intersectoral Programme/Poverty Eradication Policy Paper No 14.2 (E) *Human Trafficking In Nigeria: Root Causes And Recommendations*, Paris, 2006 at p 45.

Under the Penal Code⁵⁹ for example, kidnapping, abduction, trafficking, slavery, forced labour, rape and other acts which lead to the violation of human person and dignity are prohibited, and are punishable with terms of imprisonments and or fines. The specific criminal offences relevant to the issue at hand are:

- Kidnapping from lawful guardianship or from the particular State, an offence punishable with imprisonment for ten years and a fine.
- Abduction, an offence punishable with imprisonment for ten years and a fine.
- Kidnapping or abducting in order to commit culpable homicide, an offence punishable with imprisonment for fourteen years and a fine.
- Concealing or keeping in confinement kidnapped or abducted person, an offence punishable with imprisonment for ten years and a fine.
- Procuration of minor girl, an offence punishable with imprisonment for ten years and a fine.
- Traffic in women, an offence punishable with imprisonment for seven years and a fine.
- Importation of girl from foreign country, an offence punishable with imprisonment for ten years and a fine.
- Buying or selling minor for immoral purpose, an offence punishable with imprisonment for ten years and a fine.
- Buying or disposing of slave, an offence punishable with imprisonment for fourteen years and a fine.
- Unlawful compulsory labour, an offence punishable with imprisonment for one year or with a fine or with both.
- Rape, an offence punishable with imprisonment for fourteen years and a fine.

It should be noted that under the Penal Code, adultery, a term which means extra-marital sexual intercourse not amounting to rape, is an offence when committed by a Muslim, man or woman. The offence of adultery is punishable with imprisonment for two years or with a fine or with both.⁶⁰ Since 2002 when Islamic criminal law was re-introduced in some States in the North, there have been in operation, side by side with the Penal Code, Shariah Penal Codes in at least twelve States in the country. These Shariah Penal Codes contain provisions making *Zina* a criminal offence, in accordance with the Islamic injunctions concerning fornication and adultery. Attempts to apply these provisions in at least two States have led to acquittals of the accused persons, two women. Such attempts have also attracted international condemnation from human

⁵⁹ Penal Code, Sections 271-283.

⁶⁰ The Penal Code, sections 387 and 388.

rights groups as well as ignited inter-religious conflicts between Muslims and Christians. The Shariah Penal Codes offences are only applicable to Muslims. The above-mentioned provisions of the two Codes relating to adultery and fornication can be construed to mean that in most of the Northern States, both the acts of engaging in prostitution and that of patronizing prostitutes are prohibited, at least among Muslims. This point is important when seen in the context of demand for commercial sex, a problem which is regarded as causal factor to sex trafficking.

Statutory Provisions on Child Labour

The Labour Act⁶¹ deals with minimum standards for the employment of an individual worker. Its provisions are enforced by labour inspectors in the Ministry of Labour. Its provisions dealing with matters concerning child labour are outlined below.

Generally, the employment of any person who is below 12 years of age or her engagement to work in any capacity is prohibited. It is also prohibited to require a child who is below 12 years to lift, carry or move anything so heavy as to be likely to injure her physical development. However a child may be employed by a member of her family for light work of an agricultural, horticultural or domestic character.

A young person under the age of 14 years may be employed only on a daily wage, on a day-to-day basis, and only so long as he returns each night to the place of residence of his parents or guardian or a person approved by his parent or guardian. A young person under the age of 15 years shall not be employed or work in any industrial undertaking. No young person under the age of 16 years shall be employed in circumstances in which it is not reasonably possible for him to return each day to the place of residence of his parents or guardian except with the approval of an authorized labour officer and on a written contract. It is also illegal to employ a young man under the age of 16 years to work underground, or on machine work or on a public holiday. No young person under the age of 18 years may be employed in any employment which is injurious to his health, or which is dangerous or immoral. The Minister of Labour may require an employer to discontinue the employment of a young person on the ground that employment is injurious to

⁶¹ The Labour Act Cap 198 Laws Of The Federation Of Nigeria, 1990. The Labour Act, Described As A Workers' Charter, provides greater protection in certain areas of employment to certain classes of employees than the common law. The Labour Act is divided into four parts. For our purposes, sections 59, 60, 61, 65, and 73 are the relevant provisions. See also E.E. Uvieghara *Labour Law In Nigeria* (Malthouse Press Ltd, Ikeja 2001) p 101-144.

the young person's health, dangerous, immoral or otherwise unsuitable. The parents or guardian of a young person under the age of sixteen years may require an employer of such young person to discontinue because the employment is against the wish of the parent or guardian. But a parent or guardian does not have this power where the employment of the young man is based on a written contract entered into with the approval of an authorized labour officer.

No young person under the age of eighteen years may be employed during the night. Night here means a period of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning. These statutory provisions are, like the penal and the constitutional provisions cited earlier, hardly enforced.

NAPTIP: ITS POWERS AND FUNCTIONS

The National Agency for Prohibition of Traffic in Persons and Other Related Matters, ("NAPTIP" or "The Agency") is the sole Agency charged with the responsibility for implementing the TIPPLEA Act. In popular parlance, the Act itself is known as the "The NAPTIP Act", an acronym which shows, in a most significant way, the central role of the Agency in tackling the menace of trafficking in Nigeria. NAPTIP is a federal agency. There is no constitutional provision barring the States from legislating on human trafficking. Therefore, it is possible for State Governments to create agencies like NAPTIP at the state level, but so far, no State Government has done that.

The Agency has a part-time Governing Board and an Executive Secretary.⁶² The Governing Board is responsible for supervising the activities of the Agency, for the formulation of its policies and for generally superintending over the Agency's affairs and promoting it's the Agency's interest, objects and purposes. The Chairman and members of the Agency, including the Executive Secretary, are appointed by the President of the Federal Republic of Nigeria. Only a person who, by reason of his ability, character, experience and knowledge can deal with the problem of trafficking in persons, is appointed as Chairman of the Agency. Other members of the Agency, six in number, are appointed by the President on the recommendations of the Attorney-General and Minister for Justice of the Federation.

The Executive Secretary is responsible for the day to day administration of the Agency, being its Chief Executive and Accounting Officer. He is subject to the supervision and control of the Board. The Executive Secretary is appointed

⁶² Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 as amended, sections 1, 2, and 3.

by the President on the Recommendation of the Attorney-General and Minister of Justice of the Federation.

Under section 4 of the TIPPLEA Act, the Agency is charged with not less than twelve functions. They include: the general enforcement and administration of the Act; co-ordination and enforcement of all laws on traffic in persons and other related offences; adoption of measures to increase the effectiveness of eradication of trafficking in persons; taking charge of the responsibility of obtaining and making available persons who will assist in the investigation of trafficking and or participate in proceedings relating to trafficking; enhancing the effectiveness of law enforcement agents in suppressing trafficking; facilitating exchange of information, conduct of research, and improvement of international co-operation regarding the suppression of trafficking by road, sea and air; reinforcing and supplementing measures contained in the bilateral and multilateral treaties and conventions adopted by Nigeria to counter trafficking; Taking measures, in collaboration with other agencies and bodies, that may ensure the elimination and prevention of the root causes of the problem of traffic in person; strengthening and enhancing effective means for international cooperation in criminal matters for suppressing global trafficking; Strengthening cooperation among the relevant Ministries and law enforcement agencies in the eradication of trafficking; taking charge of, supervising, controlling and coordinating the rehabilitation of trafficked persons; and taking charge of, supervising, controlling or coordinating all the responsibilities, functions and activities relating to current investigation and prosecution of all offences connected with or relating to traffic in persons and other related matters in consultation with the office of the Attorney-General of the Federation.

For the avoidance of doubt, the power of the Agency to investigate the commission of any offence under the Act, and that of subsequently prosecuting any person involved in the commission of the offence, have been reiterated under Section 5 of the Act. In order to ensure the effective conduct of its functions, the Agency has, as mandated by the Act, established four Departments⁶³ as follows:

- a) The Investigation Department, charged with the responsibility of liaising with the police for the prevention and detection of offences, as well as collaborating with the Immigration Service, Custom Service, and other relevant security agencies;
- b) The Legal Department, responsible for prosecuting offenders, providing legal advice and assistance to the Investigation Department, providing secretarial services to the Board, and conducting the proceedings necessary for recovering assets and properties forfeited under the Act;

⁶³ Section 8.

- c) The Public Enlightenment Department, responsible for, in collaboration with the relevant Ministries and Agencies, campaigns, seminars and workshops aimed at educating the public on the problem of trafficking, thereby stimulating interest in and awareness of the problem; and
- d) The Counseling and Rehabilitation Department, to, in collaboration with the relevant Ministries and Agencies, be responsible for counseling, after care rehabilitation, social re-integration and education of trafficked persons; and counseling and the promotion of the welfare of convicts.

Notwithstanding its enormous statutory powers, NAPTIP is not completely independent of political control. The Attorney-General and Minister of Justice may, from time to time, give to the Agency general policy guidelines⁶⁴. He may also give to the Agency directives of a general or specific nature relating generally to a particular matter or case. Whenever any policy guidelines or directives are given to the Agency by the Attorney-General and Minister for Justice, it is obligatory on the Agency to comply accordingly. The Attorney-General and Minister for Justice is also charged with the responsibility of making rules or regulations with respect to the exercise of any of the duties, functions and powers of the Agency under the Act.⁶⁵

Definitions

Under Section 64 of the TIPPLEA Act, a section devoted exclusively to interpretation, a number of terms are defined. The term "trafficking" is defined to include:

All acts and attempted acts involved in the recruitment, transportation within or across Nigerian borders, purchases, sale, transfer, receipt or harbouring of a person involving the use of deception, coercion or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in force or bonded labour, or in slavery like conditions.

From this definition, the elements of trafficking in persons under the TIPPLEA Act are:

1. Acts, in the form of recruitment, transportation, purchases, sale, transfer, receipt or harbouring;
2. Means, in the form of deception, coercion or debt bondage;
3. Purpose, in the form of placing or holding...in involuntary servitude, forced labor, bonded labour, or slavery-like conditions.

⁶⁴ Section 60.

⁶⁵ Section 63.

The definition obviously applies to the trafficking of any person, irrespective of gender, age or place of origin or nationality. In fact under the same section, the term "trafficked person" is defined just as a victim of trafficking. It also covers both domestic and cross-border trafficking. The definition also clearly covers attempt as well as participation and abetment, since the same provision has defined the word "trafficker" as a person or any entity that intends to commit, aids, abets, or acquiesces to an act of trafficking. The definition of trafficker described above seems to indicate that even the users of services provided by trafficked persons may be, at least in law, considered to be traffickers, if it can be proved that they have acquiesced to the act of trafficking.

Quite interestingly, the definition of traffickers also covers the liability of both natural and legal persons for any acts of trafficking which they commit. Regarding the means employed, the definition lists three, namely: deception, coercion and debt bondage. It appears that the offence of trafficking can only arise if there is evidence that one of these means is used. Out of these three terms, the Section has only defined "coercion", which like the term "force", is considered to include obtaining or maintaining, through act of threat, the labour, service or other activities of a person by physical, legal, psychological or mental coercion or abuse of authority. As for the last mentioned element of the offence of trafficking, which is purpose, the definition has referred to only four types of exploitation, namely forced labour, bonded labour, involuntary servitude and slavery-like conditions. Again except for the definition of the term "slave", these terms have also not been defined by the Section.

Overall, the definition of trafficking in persons under the TIPPLEA Act seems to be less wordy than the Protocol's definition term under Article 3(a). In contrast to the definition under the Protocol, this definition has avoided the use of terms like "exploitation of the prostitution of others" and "other forms of sexual exploitation", although under "involuntary servitude", reference is made to the sexual, domestic and reproductive species of that form of exploitation.

There is no evidence that the current definition is less comprehensive than the one under the UN Trafficking Protocol, or that it will be less effective because it has left out certain forms of trafficking in persons which it should have covered. The only problem one may point out is its requirement, like its Protocol counterpart, that there has to be an evidence of use of fraudulent means before the offence of trafficking can be said to have been committed. A better approach, as Mattar⁶⁶ has indicated, is that which recognizes trafficking for any of the exploitative purposes even when there is no coercion deception or force. Under that approach, the use of any of these means is regarded as an aggravating

⁶⁶ Muhammed Y. Mattar, *Remarks on the Anti-trafficking Law of Mexico* (Presented to the Senate Mexico, Mexico City, Mexico, October 17, 2005).

factor warranting stricter penalty.

One last point with regard to definitions has to do with the conspicuous absence of the definition of the word "child" under Section 64. It may be recalled that under the Protocol's definition as contained in Article 3, the word "child" has been defined as any person who is under the age of 18 years. In addition, the Protocol has clearly indicated that the use of fraudulent means is not a necessary element of the offence of child trafficking.

Prosecution

The substantive criminal law aspect of the TIPPLEA Act⁶⁷ consists of several trafficking-related offences, most of them apparently culled from the pre-existing laws discussed above. These offences are predominantly aimed at prohibiting and penalizing all acts relating to the sexual exploitation of minors who are below 18 years of age. In addition, there are other offences concerning prostitution related activities generally, slavery, slave-dealing, forced labour, servitude, child labour and so on. Long as the list of these offences may appear, it is important to enumerate them here even for the purpose of showing that some of the offences are not, conceptually speaking at least, acts of trafficking in persons in completed and full blown forms. In fact, all the specific offences seem to stand parallel to the trafficking concepts defined under Section 64 of the Act in the sense that no cross references exist between them and the defined concepts therein.

Under the Act, it is unlawful:

- To export out of Nigeria, or import into Nigeria, any person who is under the age of eighteen years for the purpose of forced or seduced prostitution.⁶⁸
- To induce, by the use of deception, coercion, debt bondage or any means whatsoever, any person who is under the age of eighteen years, to go from one place to another for the purpose of forced or seduced illicit intercourse with another person.⁶⁹
- To procure, entice or lead away any person who is under the age of eighteen years for the purpose of gratifying the passions of another person.⁷⁰
- To, as a parent or guardian, cause or encourage the seduction or unlawful carnal knowledge or prostitution or the commission of an indecent assault upon any person who is under the age of eighteen years. This offence is

⁶⁷ Sections 11-35.

⁶⁸ Section 11.

⁶⁹ Section 12(a).

⁷⁰ Section 12(b).

committed when a parent or guardian allows his child or ward to consort with, or enter into or continue in the employment of any prostitute or a person of known immoral character.⁷¹

- To procure a person who is under the age of eighteen years for the purpose of unlawful carnal Knowledge with any other person either in Nigeria or any place outside Nigeria.⁷²
- To procure any person who is under the age of eighteen years to become a prostitute either in Nigeria or any place outside Nigeria.⁷³
- To procure, use or offer any person for prostitution or the production of pornography or pornographic performance.⁷⁴
- To keep a brothel.⁷⁵
- To allow a person who is under the age of eighteen years to be in a brothel or trade in prostitution.⁷⁶
- To procure, use or offer any person for the production of and trafficking in drugs.⁷⁷
- To traffic in any person for the purpose of forced or compulsory recruitment and use in armed conflict.⁷⁸
- To organize or promote foreign travels for the purpose of promoting the prostitution of another person, or encouraging such activity.⁷⁹
- To, in conspiracy with another, induce a person who is under the age of eighteen years, by false pretence or other fraudulent means, for the purpose of permitting another man to have unlawful carnal knowledge of such person.⁸⁰
- To detain any person who is under the age of eighteen years against such person's will, in or upon any premises for the purpose of being unlawfully carnally known by any man.⁸¹
- To, with threats or intimidation, procure any person who is under the age of eighteen years, for the purpose of having carnal knowledge or connection with a man or animal either in Nigeria or in any place outside Nigeria.⁸²
- To, under false pretence, procure any person who is under eighteen years

⁷¹ Section 13.

⁷² Section 14(1).

⁷³ Section 14(1)(a).

⁷⁴ Section 15(a).

⁷⁵ Section 15(b).

⁷⁶ Section 15(c).

⁷⁷ Section 15(d).

⁷⁸ Section 15(e).

⁷⁹ Section 16.

⁸⁰ Section 17(a).

⁸¹ Section 17(b)

⁸² Section 18(a).

- of age, to have carnal knowledge with a man within or outside Nigeria.⁸³
- To administer to, or cause any person who is under the age of eighteen years to take any drug, or any other thing, with intent to stupefy or overpower such person, for the purpose of enabling any man to have carnal knowledge of such person.⁸⁴
 - To take, or entice any person who is under eighteen years of age or any person who is of unsound mind out of the custody of the lawful guardian of such person without the consent of the lawful guardian of such person or convey any such person beyond the limits of Nigeria without the consent of someone who is legally authorized to give consent to such removal.⁸⁵
 - To compel or induce any person to go from place to place.⁸⁶
 - To confine or detain any person against his will or otherwise unlawfully deprive any person of his personal liberty.⁸⁷
 - To unlawfully take an unmarried person who is under the age of eighteen years out of the custody or protection of such person's father or mother or other person having the lawful care of or charge of such person.⁸⁸
 - To intentionally deprive any parent, guardian or other person who has lawful care or charge or custody of a person who is under the age of eighteen years, of the possession of such person or to receive or harbor a child known that the child has been taken away or enticed away or detained.⁸⁹
 - To kidnap, abduct or by deceitful means lure away any person in order to have such person killed for whatever purpose.⁹⁰
 - To buy, sell, hire, let or otherwise obtain possession or dispose of any person who is under the age eighteen years with intent that such person be employed or used for immoral purposes or knowing it to be likely that such person will be employed or be used for such purpose.⁹¹
 - To require any other person or permit any place within or outside Nigeria to be used for forced labour.⁹²
 - To employ a child to work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural

⁸³ Section 18(b).

⁸⁴ Section 18(c).

⁸⁵ Section 19(1)(a).

⁸⁶ Section 19(1)(b).

⁸⁷ Section 19(1)(c).

⁸⁸ Section 19(1).

⁸⁹ Section 19(1)(d).

⁹⁰ Section 20.

⁹¹ Section 21.

⁹² Section 22(1)(a).

or domestic character.⁹³

- To employ a child in any case to lift, carry, or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual, moral or social development.⁹⁴
- To employ a child as a domestic help outside his own home or family.⁹⁵
- To employ a child in an industrial undertaking.⁹⁶
- To import, export, remove, buy, sell, dispose, traffic or deal in any person as a slave, or accept, receive, or detain a person against his will as a slave.⁹⁷
- To deal, or trade in, purchase, sell, transfer, or take any person in order or so that such person should be held or treated as slave.⁹⁸
- To place or receive any person in servitude as a pledge or security for debt whether then due and owing or to be incurred or contingent whether under the name of a pawn or by whatever name such person is called or known.⁹⁹
- To convey, or induce any person to come within the limits of Nigeria in order or so that such person should be held, possessed, dealt with or treated in, purchased, sold, or transferred as slave or be placed in servitude or a pledge or security for debt.¹⁰⁰
- To hold or possess any person as a slave.¹⁰¹
- To, as an alien resident in Nigeria, cause or encourage the seduction or prostitution of any person who is under eighteen years of age, or keep a brothel, or permit the defilement of any person who is under eighteen years of age or allow a person who is under eighteen years of age to be in a brothel or trade in prostitution, or procure use or offer the production of pornography or for pornography performance or procure a person for prostitution.¹⁰²

Some of the offences enumerated above apparently overlap with one another. Some may even appear as an unnecessary repetition of some offences

⁹³ Section 22(1)(b).

⁹⁴ Section 22(1)(c).

⁹⁵ Section 22(1)(d).

⁹⁶ Section 22(1)(e).

⁹⁷ Section 23. See section 64 wherein the term "slave" is defined as a person who is held in bondage whose life, liberty, freedom, and property are under absolute control of someone.

⁹⁸ Section 24(a).

⁹⁹ Section 24(b).

¹⁰⁰ Section 24(c).

¹⁰¹ Section 24(d).

¹⁰² Section 26.

earlier listed. This problem might have arisen as a result of non-utilization of the definition of trafficking as a basis for the criminalization of trafficking and trafficking related acts. This approach seems to be faulty in the sense that it has led to a total disconnect between the definition of trafficking as contained Section 64, and the various trafficking offences enumerated above. It is as if for the purposes of criminalization, the statutory definition of trafficking inserted in the Act is totally redundant. It is not clear whether prosecutors do utilize the statutory definition in the prosecution of traffickers for any of the specific offences listed above. Traffickers who are citizens of Nigeria or are permanent residents are criminally liable for any trafficking offence they commit outside Nigeria as long as the offence is covered by the Act¹⁰³. Moreover, citizens of Nigeria who have been convicted abroad for any offence relating to trafficking are liable to be tried, on their return to Nigeria, for the offence of bringing the name of Nigeria into disrepute.¹⁰⁴

There are at least five types of sanctions which are imposed on persons convicted for trafficking offences under the Act. These include: monetary fines, imprisonment with or without options of fine, passport forfeiture, deportation and asset forfeiture.

Monetary fines range from N50,000 for an attempt to commit the offence of trafficking; N100,000 for employing a child to work in an industrial undertaking; N200,000 for procuring the defilement of any person under the age of eighteen years by threats, fraud or administering drug, or for kidnapping a person in order to compel him to commit an offence, or as penalty on a managerial staff of a corporate body convicted of trafficking, or as penalty on travel agent, tour operator or airline for their failure to discharge their statutory responsibility of preventing trafficking; N2 Million for a corporate body or a commercial carrier convicted of trafficking.

Jail terms range from 12 months for an attempt to commit the offence of trafficking; 2 years for a commercial carrier who knowingly carries any person in contravention of the Act, or for bringing the name of Nigeria into disrepute as a result of being convicted abroad for trafficking; 3 years for a managerial staff of a corporate body convicted of a trafficking offence under the Act; 5 years for unlawful detention of a person who is under eighteen years of age for the purpose of defiling that person, or confining or detaining any person against her will or otherwise unlawfully depriving a person of his personal liberty, or using a person for forced labour, or employing a child to work in any capacity except as provided under the Act, or employing a child to carry any heavy thing thereby putting him at risk, or employing a child as a domestic help outside his own home

¹⁰³ Section 61(1).

¹⁰⁴ Section 22.

or away from his family, or employing a child in an industrial undertaking; 10 years for most of the commercial sex related offences under the Act including, procurement of a person who is under eighteen years for the purpose of illicit intercourse or gratifying the passions of another, or allowing ones child or ward to consort with or enter into employment with a prostitute, or procurement of a person who is under eighteen years to become a prostitute, or organizing foreign travels for the purpose of promoting prostitution, or detaining a person who is under eighteen years of age in a premises for the purpose of defiling her, or procuring the defilement of a person who is under eighteen years by threats, fraud, or administering drug, or commercial sex related offences committed by an alien; 14 years for procuring any person for prostitution, pornography or use in armed conflict, or kidnapping a person who is under eighteen years of age, or buying or selling a person who is under eighteen years of age for such person to be employed or used for an immoral purpose; and life imprisonment for exportation out of Nigeria or importation into Nigeria of a person who is under eighteen years for the purpose of prostitution, or kidnapping, abducting or luring away of a person in order to have such person killed for whatever purpose, or trafficking in slaves, or slave dealing.

In the context of trafficking, the word forfeiture is used to refer to “[t]he process in which the Government takes physical possession of the proceeds from, or material possessions involved in, the trafficking crime...”¹⁰⁵ Under the Act, any person who has been convicted of an offence involving trafficking shall forfeit his passport to the Federal Government and he can only have the passport restored to him if he is granted a pardon by the President of the Federal Republic of Nigeria.¹⁰⁶ It seems no distinction is drawn here between a person convicted of cross-border trafficking and one convicted of internal trafficking.

The Agency has the power to trace and attach all the assets and properties of any person arrested for an offence under the Act if that property is acquired as a result of such illegal act.¹⁰⁷ Thereafter, the Agency is required to obtain an interim order of attachment from the court. In addition to this, the person arrested for an offence under the Act is under an obligation to make full disclosure of all his assets and properties by completing a standard form on assets declaration. After

¹⁰⁵ The Trafficking in Persons (TIP) Report, 2009.

¹⁰⁶ Section 34.

¹⁰⁷ See sections 35, 36 37 38 and 39. Using the power given to it under Section 40(1) to seize any property which is, by the provisions of the Act, subject to forfeiture if such seizure is incidental to an arrest, NAPTIP recently sealed two brothels in Lagos. The brothels were allegedly being used to harbor teenage girls who were being sexually exploited. The seizure of the two brothel was effected sequel to the orders of the Federal High Court, Lagos and the Lagos State High Court which orders were given pursuant to Sections 39(c), 40(1)(b) and (2)(a) and 41 and 43 of the Act. See Godwin Morka ‘Cover HAMMER Falls on Two Brothers’ 1 NAPTIP New (Special Edition) 4, p 12.

the completion of the assets declaration form, the person is required to submit same to the Investigation Department of the Agency for full investigation.

Any Nigerian citizen who is convicted of an offence relating to trafficking, whether the conviction is within or outside Nigeria, shall forfeit to the Victims of Trafficking Trust Fund the proceeds obtained from the crime and the materials or instruments used in the commission of the offence. The Act has described in details the assets and properties, including foreign assets and properties, which are to be forfeited after a person has been convicted for trafficking. The forfeiture of the assets and properties of a convicted person normally follows an order of a court to that effect after an application has been made to the court by the Agency. But the trial Court is also mandated to, in imposing a sentence on a convicted trafficker, order that the person forfeits to the Victims of Trafficking Trust Fund his assets and properties of the nature described in the Act. An alien who is convicted of any of the trafficking offences specified in the Act is liable to be deported out Nigeria after he has served his jail term unless the provisions of the Transfer of Convicted Offenders (Enactment and Enforcement) Act apply.¹⁰⁸

Jurisdiction to try an offence under the Act lies with the Federal High Court, High Court of a State and the High Court of the Federal Capital territory.¹⁰⁹ Arrests, search and seizures relating to any offence under the Act may be effected by any police officer, customs officer, immigration officer, or any officer of the agency authorized by regulation in that behalf.¹¹⁰ As at February 2009, 56 Traffickers had been convicted¹¹¹ since the TIPPLEA Act came into force in 2003, and 60 trafficking cases were still in Court.

As mentioned earlier, the TIPPLEA Act is not a perfect piece of legislation as far as its criminal law aspect is concerned. We have already noted the disconnection between the definitional provisions and the substantive provisions on trafficking offences. The repetitive nature of the provisions on specific offences is also obvious to any casual reader of the Act. But beyond these matters of form, there is also the problem of lacunae in matters relating to substance. The Act does not seem to recognize, at least not in a systematic way, the concept of aggravating factors in imposing penalties for trafficking offences. This concept simply says that where the consequences of an act of trafficking are more devastating, the penalty to be imposed on the convicted trafficker should be more stringent. For example, child sex trafficking should

¹⁰⁸ Section 26(2).

¹⁰⁹ Section 33.

¹¹⁰ Section 49.

¹¹¹ Abdulrahim Opotu and Josiah Emcrole '32 Traffickers Jailed' INAPTIP New (Special Edition) 4 at 9-11 for a 'brief' of 32 of the cases so far disposed of.

attract a more stringent penalty than the sex trafficking of adults, for obvious reasons.

To further illustrate this point, under Section 6 of the Philippines Anti-trafficking in Persons Act 2003, seven forms of trafficking are 'qualified trafficking in persons', a term which implies that the penalties for their commission will be more stringent than those imposed for the commission of other, presumably less serious offences. Trafficking offences are considered to be qualified: (a) when the trafficked is a child; (b) when there is inter-country adoption for the purposes of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude, or debt bondage; (c) when the crime is committed by a syndicate, or in a large scale; (d) when the offender is an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offence is committed by a public officer or an employee; (e) when the trafficked person is recruited to engage in prostitution with any member of the Military or law enforcement agencies; (f) when the offender is a member of the Military or law enforcement agencies; and (g) when by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (HIV) or the Acquired Immunodeficiency Syndrome (AIDS). According to Section 10(c) of the same Act, any person found guilty of committing qualified trafficking in persons involving any of the forms of it just enumerated, such person shall suffer the penalty of life imprisonment and a fine of not less than Two Million Pesos but not less than Five Million Pesos. It should be noted that the average penalty for lesser forms of trafficking in persons is imprisonment for 20 years and a fine of not less than One Million Pesos but not more than Five Million Pesos.

It may be argued that under the TIPPLEA Act, the concept of aggravating factors is, at least indirectly, recognized since as we have seen, jails terms and fines can be, and have in fact been ranged on a pecking order of stringiness. This argument is true only to certain to a certain extent. Granted, for example, that the more serious offence of exporting out of Nigeria or importing into Nigeria, a person who is under eighteen years of age, for the purpose of sexual exploitation as provided under Section 11 of the Act, attracts the very serious penalty of life imprisonment without an option of fine, compared to say the offence of organizing or promoting foreign travels which promotes the prostitution of any person, an offence punishable with a relatively lesser jail term of ten years without an option of fine as provided under Section 16 of the Act. But take the issue of sex trafficking involving pornography for instance. Under Section 15(a) of the Act, it is an offence for any person to procure, use, or offer any person for the production of pornography or for pornographic performance. The penalty for

violation of this provision is imprisonment for fourteen years without an option of fine. This provision, like several provisions of the Act, is good and should be commended. The problem however lies in its failure to draw a distinction between child pornography, a very serious, repulsive and exploitative global problem on one hand, and adult pornography, also a predominantly exploitative but relatively less repugnant act, on the other, with regard to penalty. The point is that contrary to the approach of the Act on the issue, child pornography should attract a more stringent punishment than adult pornography because of the former's more devastating consequences.

Still on the Act's lacunae on the area of criminal law, it should be noted that on at least two important matters concerning the criminalization of all trafficking offences, the Act is in breach of the requirements of the UN Trafficking Protocol. First, it does not seem to contain any provision which is targeted at public corruption related to trafficking in persons. This omission, if real, is inexcusable, especially with the opportunity for remedying it availed by the 2005 Amendment. Almost all the nine annual the Trafficking in Persons (TIP) Reports so far released by the U.S State Department have referred to the existence of widespread corruption among Nigerian law enforcement officers, and expressed concern on how that is impacting negatively on the fight against the trafficking of human beings in the country. Yet the Act is completely devoid of any provision aimed at addressing that problem.

Second, there is no provision in the Act which clearly target trafficking by a syndicate or in large scale as for example the 2003 Act in the Philippines has done. Yet the Transnational Organized Crime Convention is all about fighting crimes that involve international criminal groups which have links across international borders.

Protection

The TIPPLEA Act mandates NAPTIP to ensure that victims of trafficking receive humane treatment, protection, and are not subjected to any forms of discrimination whatsoever. Under the Act¹¹², victims are recognized as such and are shielded from prosecution, imprisonment or detention, for offences involving the non-possession of valid visa, or the use of false travel or other documents, as long as these offences relate to their being victims of trafficking. This immunity from penalization is however only available to the victims of trafficking, where the circumstances so justify.

¹¹² Section 51 of the Act entitled 'Non-detention or prosecution of a trafficked person in certain circumstance'.

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Specifically, a trafficked person is, by the provisions of the Act¹¹³, guaranteed: access to adequate health and other social services during the period of her temporary residence in Nigeria; access to the embassy or consulate of the country of which she is a citizen; the liberty to return to her country of origin if she so wishes and when she is able to do so; temporary residence visa during the pendency of any criminal, civil or other legal actions; protection against intrusion into personal or family history during investigation, detection, gathering or interpretation of evidence; protection of identity; protection from being personally discriminated against in any form or being harmed in any way as a consequence being trafficked; and protection from intimidation, threats, and reprisals from traffickers and their associates, including protection against reprisals from persons in position of authority. Interestingly, the Act does not make trafficking victim's cooperation with NAPTIP in matters relating law to enforcement, as a condition for her to enjoy any of the rights just enumerated. The Act does not, as one would expect, require NAPTIP to, in providing these services, take into special consideration the gender or age of the victim of trafficking concerned.

As earlier indicated, there is established under the Act a Victims of Trafficking Trust Fund¹¹⁴ for the purpose of ensuring that, as much as possible, victims of trafficking receive compensation, restitution and recovery for the economic, physical and psychological damages they might have suffered as a result of being trafficked.¹¹⁵ The Victims of Trafficking Trust Fund has, as its major source of income, all proceeds from the sale of the forfeited assets and properties of convicted traffickers. The Fund may also receive donations from the general public. The Fund was launched in August 2008 in Abuja. Trafficked persons, irrespective of their immigration status, are also guaranteed the right to institute civil action against their traffickers or any persons who have exploited them, for the purpose of recovering damages.¹¹⁶ Unlike in the Philippines and Thailand where victims of trafficking are guaranteed the right to legal aid and even exempted from the payment of filing fees in cases relating to their being trafficked, in Nigeria, the Act is silent on that.

¹¹³ Section 50 of the Act entitled 'Treatment of trafficked persons'.

¹¹⁴ Section 54(3) states that "[t]here shall be established for the Agency a Victim of Trafficking Trust Fund, where all the proceeds of the sale of assets and properties of traffickers are paid into".

¹¹⁵ Section 52(b) provides that "[a] trafficked person, irrespective of his immigration status be entitled to compensation, restitution and recovery for economic, physical and psychological damages to be met from the assets, if any, of the convicted trafficker forfeited and paid to the Victims of Trafficking Trust Fund."

¹¹⁶ Section 52(b).

The provisions of the TIPPLEA Act concerning the protection of and support for victims of trafficking in persons are quite broad, flexible and generous. So NAPTIP has the liberty to take any steps it deems reasonable in order to protect and assist trafficking victims. In any case Nigeria is not known to have any restrictive immigration policies, at least in practice if not in law. This means that victims of trafficking who are non-citizens are not in any danger of instant deportation before they have the opportunity of availing themselves of the rights guaranteed to them by the Act. As for the trafficking victims who are citizens, the non-discrimination provision and the provision dealing the right to institute civil action can go a long way in providing them with the means of securing redress.

NAPTIP officials have always given assurances with regard to the Agency's capacity to fully protect trafficking victims against physical violence from the associates and friends of their traffickers in Nigeria. According to such officials, the Agency is always monitoring victims and it does provide them with shelters and counseling as mandated by law. Trafficking victims who serve as prosecution witnesses are usually assigned police officers to protect them. Currently, NAPTIP is operating seven shelters located in Lagos, Abuja, Kano, Sokoto, Enugu, Uyo and Benin City. In addition, the Ministry of Women's Affairs is operating two shelters located in Kano and Akwa Ibom. At least one NGO, WOTCLEF, is also operating a shelter for trafficking victims. NAPTIP collaborates with NGOs in providing care and support to victims of trafficking.

The 2009 Trafficking in Persons Report contains this information regarding assistance and protection of victims of trafficking in Nigeria:

Between October 2007 and September 2008 it [Nigeria] identified 887 trafficking victims, of whom NAPTIP rescued 291, the Immigration Service rescued 215, the Nigerian Police intercepted 304, the Civil Defense Corps intercepted 56, the Federal Road Safety rescued 18, the State Security Service intercepted two, and a Nigerian Embassy rescued one. NAPTIP reported that from February 2008 to February 2009 932 victims – 387 of whom were children – received care at its seven shelters. The agency's largest shelter in Lagos, with a capacity for 120 victims, housed an average of 35 to 40 victims at any given period during the year. This shelter offers victims vocational training and has 12 full-time counselors trained to treat trauma.

The Report also adds that during the same period, "NAPTIP repatriated 45 victims back to Nigeria with some assistance from IOM and repatriated 54 foreign victims back to their African countries of origin."

Prevention

In the context of human trafficking, prevention involves addressing the root causes of the phenomenon as well as raising awareness about its nature and consequences. We have already seen that in Nigeria, the prevalence of human trafficking is attributable to many factors. A NAPTIP source has mentioned poverty, illiteracy, ignorance, greed, inequality, gender-induced cultural bias, unemployment, large family size and inimical cultural practices as the main causes. These are not problems that can be addressed within a short period of time, if they can be addressed at all.

The role of NAPTIP in preventing human trafficking should be seen in the context of its statutory powers and functions as contained in Section 4 of the TIPPLEA Act. As we have already seen, it is one of the functions of the Agency to, in collaboration with other agencies and bodies, take measures that may ensure the elimination and prevention of the root causes of the problem of trafficking in persons. The Agency is, by a provision of the same Section, also mandated to take measures that will lead to the eradication of trafficking in persons, including exchange of information concerning trafficking offences, conduct of research and the strengthening international cooperation concerning trafficking.

The provisions of the Act relating to the obligations of tour operators, travel agents and airline companies, in relation to the fight against human trafficking, should also be seen in the context of prevention, especially the prevention of sex tourism and pornography. According to Section 30 of the Act, every tour operator or travel agent shall notify its clients of the existence of its statutory obligations not to aid and abet, to facilitate or to promote in any way the exploitation of any person by way of trafficking, or pornography or any act relating to tourism. The same Section also requires a tour operator or travel agent to contractually bind its suppliers in the destination countries to comply with the same statutory obligations mentioned earlier. As for airline companies, Section 31 of the Act imposes an obligation on them to promote public awareness of the guiding principles of the Act. This, they are required to do, through providing the necessary information in in-flight magazines, ticket jackets, internet units and video on long lane flights. As for awareness raising campaigns, we have already seen that the Department of Public Enlightenment is, in collaboration with the relevant agencies and bodies, mandated to conduct campaigns, seminars and workshops aimed at educating the public on the problem of trafficking in persons.

The 2009 Trafficking in Persons (TIP) Reports has highlighted the following as some of the prevention related activities carried out in Nigeria during the reporting period:

- The First Trafficking Awareness Week was organized in August 2008. The "Red Card", a leaflet containing information concerning human trafficking was launched during the Week.
- Nigeria and Benin hosted a four-day anti-trafficking Forum in November 2008. It was attended by representatives from Togo, Gabon and Congo.
- Nigeria adopted a new National Plan of Action on Trafficking in Persons in August 2008.
- In 2008, the Government provided NAPTIP with \$9.3 Million in funding. In 2007, \$7.2 Million was provided.
- NAPTIP hosted two national stakeholders' forums which were attended by government representatives, NGOs both local and international.
- Nigerian Troops received anti-trafficking training programmes before being deployed abroad for peace-keeping missions.
- In July 2008, the Government took steps to reduce the demand for commercial acts within Nigeria by closing down to commercial establishments for trafficking activities.

Preventing human trafficking in Nigeria is not a task that NAPTIP or even the Federal Government can accomplish alone. Other tiers of government, namely the States and Local Government should be actively involved. Let each State and each Local Government find out at how it can contribute in addressing the problem. For example a State may conduct research with a view of finding out the forms of internal trafficking that are most endemic in its territory and later come up with measures that will help in addressing them. A Local Government may also do the same thing. In the long run however, the solution, at least from a legal perspective, lies in a vigorous implementation of the socio-economic rights contained in Chapter II of the Constitution of the Federal Republic of Nigeria. If NAPTIP can spearhead a campaign in that regard, the reward will be enormous.

CONCLUSION

Nigeria's position among the countries that are fully and unequivocally committed to the fight against the new form of enslavement called human trafficking is for now assured. Her efforts in that regard, which efforts began in earnest in 2001, have, in 2009, been rewarded abroad through the Tier 1 placement in the Trafficking in Persons (TIP) Report. The ratification of the UN Trafficking Protocol, the creation of appropriate legislative and administrative frameworks, the investigation and apprehension of suspected traffickers, as well as the trial and the subsequent conviction of many trafficking offenders have

not gone unnoticed. Her modest efforts with regard to the prevention of human trafficking and the provision of support and assistance to trafficking victims have also been applauded. Yet a lot needs to be done if remarkable successes are to be recorded in the fight against the scourge of human trafficking. The TIPPLEA Act is, for instance, rather laconic in certain areas. The penal provisions of the Act have not addressed the critical issue of corruption by law enforcement officers. In addition, the concept of aggravating circumstance should be reflected in the penalties for specific offences under the Act.

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