AN APPRAISAL OF THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PROHIBITION OF TRAFFIC IN PERSONS IN NIGERIA

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DEPARTMENT OF PUBLIC LAW,
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DECLARATION

I, MOHAMMED, Ahmed hereby declare that the work in this dissertation titled: "*An appraisal of the Legal and Institutional Framework for the Prohibition of Traffic in Persons in Nigeria*" was performed by me in the Department of Public Law under the supervision of Prof. J.A.M. Audi and Dr. I. Shehu. The information derived from the literature has been duly acknowledged in the text and a list of references provided. No part of this work has been presented for another degree or diploma at any institution.

_____ _____

Ahmed MOHAMMED, **DATE**

CERTIFICATION

This dissertation titled: "*An appraisal of the Legal and Institutional Framework for the Prohibition of Traffic in Persons in Nigeria*" meets the regulations governing the award of the Degree of Master of Laws (LL.M) of the Ahmadu Bello University, Zaria and is approved for its contribution to knowledge and literary presentation.

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This research work is dedicated to Alhaji Abubakar Ndagi Saba

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LIST OF ABBREVIATIONS

&:	and
A.G.F:	Attorney General of the Federation
AIDS:	Acquired Immune Deficiency Syndrome
Anor:	Another
Cap:	Chapter
Ed:	Edition/Edited
Eg:	Example
Etc:	and so on
HIV:	Human Immune Deficiency Virus
Ibid:	In the same source as previously cited
ILO:	International Labour Organization
L.F.N:	Laws of the Federation of Nigeria
NAPTIP:	National Agency for the Prohibitions of Trafficking in Persons
NCR:	Nigeria Criminal Reports
No:	Number
NWLR:	Nigerian Weekly Law Report
Op.Cit:	Opere Citato (in the work already cited)
Ors:	Other
SC:	Supreme Court
Ss:	Sections
UN:	United Nations
WRNLR:	Western Region of Nigeria Law Reports

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ABSTRACT

The battle against human trafficking in Nigeria is enormous and a number of measures have been employed in ensuring that the progress in the said criminal act is brought to an end. The said criminal act had affected the liberty of many individuals as victims. Liberty as a fundamental right is an important element of an individual's life as everything and inspiring are fashioned by persons who can labour in freedom. Hence, a human trafficking free country is a wealthy country. As such, Nigeria as a nation has provided adequate safeguards for the protection of its citizens against human trafficking. The research was informed by the increasing wave of human trafficking in Nigeria and an assertion by the former Executive Secretary of NAPTIP, Mrs. Jedy-Agba Beatrice that six out of ten trafficked persons are Nigerians. This is evidenced from the high number (10,815) of rescued victims of human trafficking by NAPTIP since inception to March, 2017, although, there is absence of accurate data on human trafficking in Nigeria. Human trafficking is a criminal act and a violation of fundamental human rights of the victims. The crime had resulted in promoting corruption in Nigeria and it had undermined the efforts of government at that direction. The research appraised the national legal frameworks that prohibit human trafficking in Nigeria. It also examined institutions established for the prohibition of human trafficking and protection of victims of the said trafficking in Nigeria. The research aimed at showing the role of law in prohibiting human trafficking in Nigeria. The research adopted as methodology the doctrinal approach which entailed the use of relevant literatures including national legislations, international instruments and reports. The research finds that Nigeria is a signatory to major international treaty on trafficking in persons and the prohibition of human trafficking is not directly addressed in the Nigeria constitution. It also finds the existence of institutions and other laws in Nigeria aimed at curtailing human trafficking amid challenges. The challenges include but not limited to difficulties in identifying victims of human trafficking and lack of cooperation after identification for the purpose of further investigation and prosecution of traffickers. The research therefore, recommended the amendments of the relevant human trafficking laws to streamline the provisions including the constitution. It also recommended concerted effort at curbing the menace of corruption in Nigeria.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Research

The people of African had experienced slavery and inhuman treatment. For example an estimated 11.5 million people were taken from their ancestral homes as slaves to other parts of the world[1], using trickery, banditry, warfare, and kidnapping as modes of operation. A calamity of such magnitude has no analogous in any other part of the world. Slave capturing and exporting sapped Africa of millions of its abled, strongest and most capable youths between the ages of 15 and 25[2]. That is, between 15th and 19th centuries, the productive segments of the African society were shiped out of Africa, which permanently weakened the continent. This was followed by colonisation by Europeans. All these engendered racism and contempt of Africans[3], thereby destroying the economic life of Africa and Nigeria in particular. The slave trade took place in enormous volume between the 17th and 19th centuries, evidencing a darker historical era that saw the removal of people from Africa, and Nigeria in particular to plantations in Europe, North and South America and the Caribbean as slaves[4]. The indulgence in slave trade became a holy cause for mistreatment that had the support of church[5]. A desire for glory and profit from trade couple with missionary zeal brought Portuguese navigator to West African coast and Nigeria in the late 15 century. Portugal's lasting legacy for Nigeria is the initiation of Trans-Atlantic slave trade, as trade in slaves proved to be more money-spinning than trade in gold. Consequently, Africans who were interested in acquiring European goods such as cooking utensils, intoxicating beverages, guns, ammunition and cloths were encouraged by the European slave traders

[1] Kalu, V.E. *International Juridical Response to 21st Century Slavery: Challenges for Nigeria's Comatose Legislature.* In: Chukkol, K.S., et al. (eds.) Contemporary Issues in Nigeria Law, Ahmadu Bello University, Zaria, Law Journal (2003) p.143.
[2] Elikia, M., *The Impact of the Slave Trade on Africa-Le Monde-Diplomaque(2013)*, English Edition. p. 9
[3] Ibid.
[4] *Candice, G., et al. Commerce and Change: The Creation of a Global Economy and Expansion of Europe(2004)*p. 1
[5] Simkin, J., *Religion and Slavery*. p. 13

to acquire African captives in exchange for these goods. This ultimately discouraged internal trade and incentives for Africans to engage in supporting the Europeans in the trade of human cargo which further served as a disruptive factor in the economics life of the Nigerian society[6].

In 16th century, the Portuguese monopoly of West African trade was broken by the naval power of the Netherlands as the Dutch took over Portuguese trading stations on the coast that were the source of slaves for the Americans[7]. Dutch's position was later undermined by the French and the English competition whereas Demark, Sweden, including other European maritime countries, North American Colonies and Britain became the dominant slaving powers in the 18th century. In the 19th century, 30% of all slaves sent across the Atlantic were Nigerians, most of them were Yoruba and Igbo with significant concentration of Hausas, Ibibio and other ethnic groups[8], while Aro confederacy and Oyo polities were responsible for most of the slave exported from Nigeria[9]. The researcher submits that history of human trafficking is directly connected to transatlantic slave trade.

When one tries to gauge the consequence of European slave trading on the continent of African and Nigeria in particular, it is vital to appreciate that one is measuring the end product of social violence and capital in the export of Africans, particularly, Nigerians rather than trade in any normal common sense or sense of the word[10]. Thus, it is safe and sound to declare that the accumulation of capital, as a result of free African labour utilized in the slave trade, provided the basis for the rise of the industrial revolution, capitalist production and the export of capital to colonial territories by Europe[11].

[6] Awoyokun, D., *Nigeria: Slave Trade and the Founding Fathers*. (2014). p 41
[7] Ibid.
[8] Ibid.
[9] US. Library of Congress, *Nigeria-The Slave Trade – Country Studies.*, p. 57
[10] Awoyokun, D., op. cit. p. 33
[11] Joseph E., *Africans and the Industrial Revolution in England*. Cambridge University Press, London, (2002) p. 17.

In Nigeria, slavery existed before the coming of the Europeans and the Arabs, but the slavery then was different from the European chattel slavery that the Africans were subjected to during the 19th century. The African slaves were primarily prisoners of war who were normally not executed as the other societies, but allowed to work as a means of paying off their "debt" to the society that the slaves were originally at war against[12].

The world, having accepted the fact that slavery was a great vice, had between 1815[13] and 1975 implemented about 300 international agreements with a varying degrees of accomplishment to suppress slavery[14]. However, despite the legal abolition of slavery vide 1815 Declaration Relative to Universal Abolition of the Slave Trade, slavery being an institution which never developed itself, did not stop with its callous acts. Hence, the cause of human history in African is full and marked by dreadful crimes of removal of capable youths from the continent. The modern world, that is, 20th and 21st centuries had presented us with a new slave trade called trafficking in persons or human trafficking, which has the same features with the old slave trade except that jeeps and modern four-wheel drive vehicles and aircrafts have replaced the camels and slave ships. Present-day trafficking in persons continues as a diverse criminal enterprise that involves actors operating domestically and internationally.

In Nigeria, populations vulnerable to human trafficking are growing which has a bearing on supply of potential victims for traffickers. This shows a very active market for trafficking in persons. For instance, it is estimated that West Africa trafficking victims originate in Nigeria, hence making the country a point of origin, transit and destination. Human trafficking in Nigeria is indirectly prohibited in the Constitution under the Fundamental Objectives as objective statement on certain socio-political, economic, and cultural issues meant to guide the government in the formulation of policies. The security and welfare of the Nigerians being of paramount importance, the

[12] Awoyokun, D. op.cit. p. 33
[13] 1815 Declaration Relative to Universal Abolition of Slave Trade was adopted.
[14] BBC- *Ethics-Slavery: The Law against Slavery.* p. 3

Constitution places a duty and responsibility on all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of the fundamental objective[15]. Again, there are other legally binding legislations and regional instruments which Nigeria has domesticated that prohibit human trafficking. Nigeria has also established institutions that seek to prohibit human trafficking and protect victims of the said act. However, trafficking of Nigerians is said to be on the increase. It is against this background that this dissertation seeks to make an analysis of the legal and institutional frameworks on the prohibition of trafficking in persons Nigeria.

1.2 Statement of the Problem

One of the problems this research discovers is that of slavery. Human trafficking is a modern way of slavery. Slavery is a practice of having slaves. It is one of the gravest criminal acts confronting Nigeria as a nation and the international community at large[16]. In Nigeria, slavery is out law by the Constitution[17]. Hence, Section 34 (1) and (b), of the Constitution provides that:

> (1) Every individual is entitled to respect for dignity of his person, and accordingly-
>
> (b) no person shall be held in slavery or servitude; and

Again, the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (TIP Act), also prohibits slavery. Sections 24 and 25 of the said TIP Act provide that:

> (24) Any person who recruits, imports, exports, transfers, transports, buys, sells, disposes or in any way traffics in any person as a slave or accepts, receives, detains or harbours a person as a slave, commits an offence and liable on conviction to

[15] Chapter II, Constitution of Federal Republic of Nigeria, 1999 (as amended)
[16] Simkin, J., op. cit. p.13.
[17] Constitution of Federal Republic of Nigeria, 1999, (as amended)

> imprisonment for a term of not less than 7 years and a fine of not less than N2, 000,000.00.
>
> (25) Any person who-
> (a) deals, keeps, receives or harbours any person for the purpose of holding or treating that person as a slave,
> (b) places, receives, harbours or holds any person as a pledge, pawn, in servitude or security for debt or benefits; whether due or to be incurred,
> (c) transports, transfers or in any way induces any person to come into Nigeria in order to hold, possess, deal or treat such person as a slave or to be used as a pledge or security for debt, or
> (d) enters into any contract or agreement with or without consideration for the purpose of doing or accomplishing any of the purpose enumerated in this section,
>
> commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and to a fine of not less than N2, 000, 000.00.

Furthermore, our jurisdictional penal codes also prohibit slavery and as such stiffer penalties are melted out against the violators of such provisions. For example, Section 279 of the Penal Code provides that:

> Whoever imports, exports, removes, buys, sells, disposes, traffics or deals in any person as slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

From the above provisions of the laws, it can be established that slavery which is one of the manifestation of trafficking in persons is highly prohibited.

Violation of human rights is another problem of this research. Human trafficking is a violation of human rights, such as the right to life[18], the right to freedom from

[18] Section 33, Ibid

discrimination, the right to dignity of human person and the right to be recognized as a person before the law. For example, Section 35 of the Constitution provides:

> (1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with the procedure permitted by law.

However, the above mentioned rights of the trafficked persons are usually violated by traffickers in the course of trafficking their victims. The violations may take place at the point of recruitment, transportation or exploitation of the victims. Hence, the researcher submits that the said deprivation is not by means or procedures permitted by law.

Furthermore, human trafficking is a social vice that dehumanises the individuals who are trafficked, rewards the inhumanity of the traffickers and weakens the moral and social fabrics of the society contrary to Sections 17 (2) (f) and (h) of the Constitution of Federal Republic of Nigeria (as amended) that said:

> (2) in furtherance of the social order-
>
> (f) children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect;
>
> (h) the evolution and promotion of the family life is encouraged.

Unfortunately the above lofty provisions are violated by the traffickers as children and young persons are illegally recruited and transported from their community to another community for the purpose of exploitation thereby eroding evolution and promotion of family life. Hence making human trafficking not just an evil but also an existential threat to Nigeria.

Additionally, human trafficking is a heinous and volatile form of internationally organized crime. Nigeria has a very active market for human trafficking that cut across geographical, social, cultural and religious barriers destroying the lives of millions of

people in various communities. Criminal groups have efficiently used globalization and technology to commit crime across borders. For example, procurers vis-a-vis end users of the victims are beyond the victim's national boundary. Hence the United Nation Convention against Transnational Crime serves as a new legal tool to address the scourge of the crime by criminalization of participation in an organized crime group. Article 5 of the Convention provides that:

> 1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
>
> *(a)* Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:
>
> (i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;
>
> (ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:
>
> a. Criminal activities of the organized criminal group;
>
> b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above- described criminal aim;
>
> *(b)* Organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group.
>
> 2. The knowledge, intent, aim, purpose or agreement referred to in paragraph 1 of this

> article may be inferred from objective factual circumstances.
> 3. States Parties whose domestic law requires involvement of an organized criminal group for purposes of the offences
> established in accordance with paragraph 1 *(a)* (i) of this article shall ensure that their domestic law covers all serious crimes involving organized criminal groups.
> Such States Parties, as well as States Parties whose domestic law requires an act in furtherance of the agreement for purposes of the offences established in accordance with paragraph 1 *(a)* (i) of this article, shall so inform the Secretary-General of the United Nations at the time of their signature or of deposit of their instrument of ratification, acceptance or approval of or accession to this Convention.

The implication of the above provisions is that each State party is mandated to enact domestic laws criminalizing organized crime with the hope that it will help defeat the forces of internationally organized crime in Nigeria.

Also, human trafficking breeds corruption. Corruption acts as an environmental condition that favours human trafficking and a tactic that traffickers use to ply their trade. Hence, police, immigration and customs officials conspire with traffickers in aiding human trafficking contrary to Section 15(5) of the constitution which state that: "*The State shall abolish all corrupt practices and abuse of power"*. Thus, a public servant who engages in corrupt acts is punished under the Penal[19] and Criminal[20] Codes. For example Section 115 Penal Code created the offence of gratification by public servants and violators are liable to be imprison for a term ranging from seven to 14 years. A critical look at the provisions of the Codes on corruption shows a serious attempt by the State to arrest the incidence of corruption vis-à-vis human trafficking in Nigeria.

[19] See generally Sections 115-122
[20] See generally Sections 98-166

However, despite the various provisions of the laws against human trafficking, children and women are still trafficked yearly from Nigeria to Europe in a multimillion dollar criminal industry of an estimated value of between 152 million and 228 million annually. Significant questions from the above discussed problems, which must be addressed, are:

1. what is meant by the term human trafficking or trafficking in persons under the Nigerian laws?
2. what are the causes of human trafficking and does have any effect on the victims?
3. why human trafficking or why trafficking in persons?
4. are there legal and institutional frameworks in place to prohibit human trafficking in Nigeria?
5. are the legal and institutional frameworks helped to reduce the act of human trafficking in Nigeria?

1.3 Aim and Objectives of the Research

The aim of this research is to show the role of law in punishing offenders, reducing or eliminating trafficking in persons and rehabilitation of victims of human trafficking in Nigeria. This is with the view of realizing the following objectives:

i. to examine the legal framework on human trafficking[21].
ii. to examine the application of the laws using the institutional structures.
iii. to establish findings on the application of the laws to prohibit human trafficking in Nigeria.
iv. to make recommendations on the findings of the research.

1.4 Justification

This research is necessitated as a result of problems associated with trafficking in persons in Nigeria. It is justifiable on the ground that there should be research from

[21] Criminal Code Act, Penal Code Act, Labour Act, Immigration Act and Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015

time to time to show the role of the law in prohibiting human trafficking in Nigeria. Hence, it is our believe that this research would be of immense assistance as a source of reference material to law students, law lecturers, legal practitioners, judges and non-governmental organisation whose aim and objectives are geared towards prevention of trafficking in persons in Nigeria. It is also hoped that it will be of assistance to the institutions charged with responsibilities of combating trafficking in persons and it would provoke further research.

1.5 Scope of the Research

This research is restricted to trafficking in persons in Nigeria. Thus, emphasis is placed on Trafficking in Persons (Prohibition) Enforcement and Administration Act[22] and National Agency for the Prohibition of Trafficking in Persons. Furthermore, references are also made to other Agencies such as the Nigerian Police Force and other legislations on human trafficking such as the Police Act and the Immigration Act. The research's unavoidable limitations are time limit and sudden repeal of the principal law against human trafficking, hence lack of decided cases to test the efficacy of the new Act. Other limitation is the restriction on data. Most of the data are from NAPTIP covering year 2013, 2014 and 2015. Given the scope and the limitations, findings may not be generalised.

1.6 Research Methodology

The research adopted the doctrinal methodology. The research is library based predicated upon finding answers to research questions as raised. The methodology is easy to manage and the predictability of its outcome account for why it is the best for this research. The source of data will be both primary and the secondary sources. The primary sources consist of the Constitution of the Federal Republic of Nigeria 1999 (as amended), Trafficking in Persons (Prohibition) Enforcement and Administrative Act,

[22] The Act came into force on the 26 March, 2015.

Child Rights Act, other National and State legislations, International Instruments for the prohibition of human trafficking in Nigeria and case law that have bearing on human trafficking. The said secondary sources on the other hand was used to lay down the background and consists of the use of textbooks, scholarly articles in Journals, seminar and conference papers and literature sourced from the internet. The research also utilized secondary sources such as Data Analysis (2013, 2014 and 2015) and Publications from the National Agency for the Prohibition of Traffic in Persons.

1.7 Literature Review

The effort made so far by various nations and international community at combating human trafficking around the world especially in Nigeria has provoked much writing. It is worthy to note that the trafficking law[23] makes provisions for research and programme development within the implementation structure. The law very much encouraged research and publication in the subject area of the research.

Thus, there are available information on human trafficking and trafficking law in Nigeria. However, the available information deals with one aspect of the subject matter only. Hence, the researcher consulted various works to bring about this research. Firstly, Ladan, M. T., in his book[24] offers a comprehensive view of human trafficking in Africa couple with national and international legal frameworks and institutional structure against trafficking in persons. However, a detailed discussion on the provisions of the laws aimed at curbing trafficking in persons in Nigeria were lacking in the book.

Secondly, in a like manner, Sylvester D., in his book[25] gave a vivid account of how human beings, especially women and children are trafficked from Nigeria to Italy for sex market. Prostitution within the Nigeria borders was also discussed by the author.

[23] Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015

[24] *Migration, Trafficking, Human Rights and Refugees under International Law: A Case Study of Africa*. Ahmadu Bello University, Zaria. Press, Zaria, (2004)

[25] Bring *Back the Lost Daughters. A Fight against Trafficking of Nigerian Women and Girls for the International Sex Market.* Afab Educational Books, Jos, Nigeria, (2005).

Never the less, the author discussed not, other purposes why people are trafficked other than prostitution and efforts of the institutional structures to curb the menace.

Thirdly, Olaide G., gave account of the international perspectives on trafficking including Nigeria laws against human trafficking in his book[26], yet, no account was given as to the effort of National Agency for the Prohibition of Traffic in Persons and other similar institutions at curbing trafficking in persons in Nigeria.

Fourthly, Reuben A.[27], on his side storms us with stories and experiences of victims of human trafficking and illegal migration. Like the previous writers above, causes and effect of trafficking in persons in Nigeria were left out. Furthermore, no discussions on the achievement or otherwise of the institutional structures saddled with the responsibility of tackling the menace of trafficking in persons in Nigeria.

Fifthly, Nwawura, K. N., wrote on human trafficking in Nigeria with special attention on the history, activities, and challenges of National Agency for the Prohibition of Traffic in Persons[28]. However no discussion as to the number of victims, suspects and convictions in relation to trafficking in persons in Nigeria.

Sixthly, in an article[29], the nature of trafficking in persons was discussed in view of international legal response. Also, a sort of comparison between slavery and trafficking in person were examined but the article lacked legal exposition on internal legal response on trafficking in persons in Nigeria.

Seventhly, Dave-Odigie, C. P., in an article[30], make exposition on trend in human trafficking in Nigeria, what makes victims vulnerable and how to overcome the

[26] *International Perspectives and Nigerian Laws on Human Trafficking*. All Nations Press, Benin, (2006).
[27] *Trapped: A compendium of Issues on Illegal Migration and Human Trafficking. Society for the Enlightment of Youths on Dangers Abroad* (2004).
[28] *The Achievements, Challenges and Prospects of NAPTIP in Nigeria, since inception in year 2003*.
[29] Kalu, V.E., op. cit. p.141
[30] *Human Trafficking Trends in Nigeria and Strategies for Combating the Crime*. Peace Studies Journal, vol. 1, Issue 1, Fall, (2008), p. 53.

challenges. The said article like others mentioned above, also suffered from in-depth analysis of the penal provisions against trafficking in persons in Nigeria.

Finally, Tom E., and James, A.[31], also wrote on human trafficking in Nigeria. The writers brought out the relationship between human trafficking, human smuggling and organised crime. However, accounts were not given as to the functions and responsibilities of governmental organisations whose mandate it is to fight trafficking in persons in Nigeria.

Hence, the available literatures fall short of providing an in-depth analysis of the implementation of all the relevant trafficking laws in Nigeria using the institutions which are saddled with the responsibility of prohibiting trafficking in persons. Consequently, the need to research on legal and institutional frameworks on the prohibition of trafficking in persons in Nigeria.

1.8 Organizational Layout

This dissertation is divided into five chapters. Chapter one is an introductory chapter which deals with background of the research, research problem, aim and objectives of the research, justification and scope of the research which is Nigeria. Research methodology, literature review and organizational layout also form part of the introductory segment.

Chapter two explains the meaning and nature of trafficking in persons and various forms/types of trafficking in persons. Reasons and purposes why people are trafficked from Nigeria and its effects on the victims and the nation are contained in the chapter.

Chapter three deals with legal framework aimed at combating the act of trafficking in persons in Nigeria. Consequently, the Constitution of Federal Republic of Nigeria 1999 as amended in 2011, the Trafficking in Persons (Prohibition) Enforcement and

[31] *Making Sense of the Relationship Between Trafficking in Persons, Human Smuggling, and Organised Crime: A Case Study of Nigeria.* p. 151

Administration Act, Criminal Code, Penal Code, Child Right Act and other relevant legislations including International Instruments were extensively examined.

In chapter four the roles and efforts of the National Agency for the Prohibition of Traffic in Persons, the Nigerian Police Force and the Nigerian Immigration Service at combating trafficking in persons were appraised.

Chapter five concludes the research by way of summary, findings and recommendations to the problems identified in the research, so as to contribute to the proper and effective implementation of relevant trafficking laws in Nigeria in the quest at fighting this crime called trafficking in persons.

CHAPTER TWO

MEANING AND NATURE OF HUMAN TRAFFICKING IN NIGERIA

2.1 Introduction

Trafficking in persons is a global phenomenon and major violation of human rights. The issue of human trafficking is very complex. Thus, this chapter defines trafficking in persons and elaborated on the nature, the types, causes and effects of human trafficking on the victims in particular and the society in general.

2.2 Meaning of Trafficking in Persons

One cannot refute the fact that law is one of the disciplines that is very central, vital and essential to the very nature of man. Without law, our present society and social order would certainly not have been what it is today. Law has played and continues to play a primeval role in governing, regulating and leading human affairs[1]. The Concept of law is very broad and wide, cutting across various schools of thought. Law has been defined as the regime that orders human activities and relations through systemic application of the force of politically organized society, or through social pressure, backed by force, in such a society[2]. That is, law is concerned with the amplification and elaboration of set of laws, rules and regulations to guide human relationships and affairs in the society. It is worth saying that the growth of human civilization and superstructure has been linked with the steady growth, improvement and development of a systematic legal rules and policy together with strong institutions for their efficient regulation and effective enforcement.

The dictionary definition of "trafficking" denotes a trade in something that should not be traded in[3]. Hence, there are terms such as drug trafficking, arms trafficking and human trafficking. The concept of trafficking in persons refers to the criminal practice

[1] Cho, F.F., *The Origin, Nature and Development of International Maritime Law*. In: Chukkol, K.S., et al. (eds.), Journal of Private and Comparative Law, Ahmadu Bello University, Zaria,Vol. 1, No. 1, (2006), p.51.
[2] Black's Law Dictionary, 7th edition, West Group, St. Paul, Minn, 1999, p. 88.
[3] New Webster's Dictionary of the English Language. Deluxe Encyclopaedic Edition.p.1044

of exploitation of human beings where they are treated as commodities/merchandise for profit and after being trafficked, are subjected to long term exploitation.

So what is trafficking in persons/human trafficking? A trafficked person is somebody who is transferred across borders or within a state for the purposes of servitude or slavery[4]. Therefore, human trafficking is characterised by the recruitment, transportation, transfer, harbouring or reception of persons, accompanied by the threat or use of force, fraud, deception, or other means and the purpose is to exploit.

The first internationally agreed definition of trafficking in persons is embodied in the Palermo *Protocol*[5]. It defines trafficking in persons as:

> a) the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
> b) the consent of a victim of trafficking in persons to the intended exploitation set forth in sub paragraph (a) of this Article shall be irrelevant where any of the means set forth in sub paragraph (a) have been used;
> c) The recruitment, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered' trafficking in persons, even if it does not involve any of the above means set forth in sub paragraph (a) of this article;
> d) "Child" shall mean any person under eighteen years of age[6].

[4] Cornelius, F., Security *Sector and Counter Trafficking*. In: Cornelius Friesentdorf (ed.) Strategies Against Human Trafficking- The Role of the Security Sector, National Defence and Austrian Ministry of Defence and Sports, Rossauer Lande1, 1090, Wien, (2009). p. 22

[5] Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime (2000)

[6] Article 3, Ibid.

The above definition led credence that, trafficking in persons is an act related with purpose of exploitation, prostitution, forced labour, slavery or practices similar to slavery, servitude or organized trade. This definition also shows that threat, use of force, coercion, abduction, fraud, deception, abuse of power or position are the means through which victims are recruited. It further shows the nexus between the act of human trafficking and prostitution as well as forced labour. The establishment of the Protocol on human trafficking created a global language and legislation on the meaning of trafficking in persons. Furthermore, the above definition describes a wide range of activities for indentifying the elements/features of human trafficking. The Protocol as a whole serves as an important new tool to facilitate international engagement and cooperation on issues of human trafficking. However, the researcher views the definition as contained in the Protocol as complex in structure and it may not be easy to translate into national law. This may lead to problem of implementation and operationalisation, as it may be misinterpreted and misapplied.

The Palermo Protocol influenced the drafting of Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015. The Act defines "trafficking" as follows:

> the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in forced or bonded labour, or in slavery-like conditions, the removal of organs or generally for the exploitative purpose.[7]

The implication of the above section is that trafficking in persons occurs immediately a person is recruited, moved without his/her consent and subjected to inhuman acts for the

[7] Section 82, Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015.

purpose of gaining advantage. However, issue of consent becomes irrelevant where the means abducted are provided in the definition of human trafficking[8]. The said means in the definition are threat, force, fraud, deception, coercion, abduction, abuse of power of a position of vulnerability and giving or receiving of payments or benefits. Thus, the researcher sees human trafficking as a criminal act geared toward economic reward. Again, the researcher is also of the view that the word "exploitative purpose" as used in the definition lacks precise explanation as to what constitute exploitation[9]. This makes it easy to include any exploitative situation under human trafficking by the enforcers of the law in Nigeria.

2.3 Nature of Trafficking in Persons

Over the last 15 years, the nature of trafficking in persons faced controversies and not because the act of trafficking is a less dangerous offence, but the act has been approached from a number of angles, each representing the perceptions and interests of various parties[10]. For instance, some countries or governments view trafficking in persons as a problem of transnational organised crime. This standpoint has informed the drafters of the Protocol and Nigerian government also sees trafficking in persons in the same light. It fits trafficking in persons within the same theoretical framework as trafficking in drugs and arms and accordingly assumes that measures against that organized crime can work against trafficking in persons as well. Hence, governmental efforts are directed towards organised crime network. However, the focus on transnational organised crime networks engaged in human trafficking has been problematic. This is because trafficking is also run by small-time, disorganised, unsophisticated as well as by individuals acting alone. Furthermore, this view by the government has given rise to coercive law enforcement strategies that have been

[8] Section 13 (5), Ibid
[9] Explanation given in Section 82 merely states what exploitation include.
[10] Cornelius, F. op. cit. p. 25

detrimental to the interests of migrants and trafficked persons. The Researcher is of the view that the framework will not contribute to successful prosecution of traffickers.

Human right groups see trafficking in persons as a human rights issue[11]. According to this view, human rights violations are perpetrated in two ways. In one direction, are the acts of violence, brutality, coercion and exploitation exerted by traffickers on the victims and in the other, are the acts of states, seeking to secure their borders, may in the process violate the human rights of trafficked persons and other vulnerable groups. Again, trafficking in persons had been viewed in some quarters as a prostitution problem[12]. Thus, the abolition of prostitution and criminalisation of demand may be the solution to the problem of trafficking in persons. Countries such as Sweden have subscribed to this view and claimed to have made great strides against trafficking by criminalising demand for commercial sex[13]. The researcher is not clear or doubtful on whether criminalizing the demand for commercial sexual services will produce positive result. Furthermore, the acknowledgments of purported voluntary prostitution as a sex work by certain people have distorted the cruelty and brutality in the act of trafficking in persons for the purpose of prostitution. It is apparent that many men, women, and children are trafficked into other sectors other than the sex industry.

Trafficking in persons had also been viewed as a migration problem[14]. Economic development combined with knowledge of relative poverty, compel people to migrate. The assumption that the majority of trafficked persons are just bundled up and transported to their destinations holds no water as trafficking in persons is also driven by increasing mobility and a desire to migrate. Also, ever-tighter migration controls attempting to stop migration of people without valid travel or work documents may result in human trafficking. The reason may be the existence of criminals willing to

[11] Ibid. p.27
[12] Ibid. p.25
[13] Ibid.
[14] Ibid. p.26

exploit the paradox of migration controls in the epoch of globalisation[15]. The labour market approach championed by International Labour Organisation, conceptualised trafficking in persons as an element of forced labour. This view examines the factors that drive demand for labour and the regulatory frameworks that allow the dark side of a globalized labour market to flourish.

The researcher is of the view that controversy as to the nature of trafficking in persons is unavoidable as further or other approaches at looking at the nature of trafficking in persons are possible. However, it is the submission of the researcher that such attempt must be holistic, having in mind the consequences human trafficking and the gross violation of human rights of the victims.

2.4 Types of Trafficking in Persons

There are two major types of trafficking in persons[16]. Human trafficking may occur within the territorial boundary of a country and in such cases or instances, the trafficking is said to be internal trafficking. However, where the movement of persons is outside the territorial boundary of a nation, such illegal act is said to be international or external trafficking.

2.4.1 Internal Trafficking in Persons

In the most recent two decade, that is 19th and 20th century, there has been an increase in the internal trafficking of Nigerian women and children. Children in Nigeria are described as the future hope or leaders of tomorrow. Such attributes are frequently expressed by parents, social critics, and media commentators, who will always offer sentimental bend to the notion that children are indeed the greatest and best human asset. In consequence, it means that children are treasured, appreciated, recognized, and regarded as valuable human monument worthy of investing upon for the very survival,

[15] Ibid. p.26

[16] The International Movement Against All Forms of Discrimination and Racism , Briefing Paper for the Special Rapporteur on Trafficking in Persons in Nigeria, especially in Women and Children (October, 2015). P. 2

endurance and continuous existence and subsistence of the human race[17]. Furthermore, children are also seen as the gift of God and are well-liked, admired, ornamented and well-regarded and are often regarded as the most dear and precious possession, not only as humans in the physical, but also in their spiritual being. In this regard, children are regarded as products of divine intervention[18]. Nigerians, undoubtedly, go all-out to place high premium and accord special recognition to the status of children both in childhood and at adulthood, hence, joyousness and elaborate ceremonies usually take place when a child is to be given a name. Such a display of gratitude, admiration and appreciation of children is an indication that Nigerians have so much regard, admiration and ascribe a lot of value to the status of children. However, there is an increment in the number of children trafficked from rural communities to cities in Nigeria and such trafficking usually occurs during fiesta periods and other cultural or artistic activities.

It is estimated that about 32% of the internally trafficking acts in Nigeria is for the purpose of force labour, 31% for domestic labour and 30% for prostitution[19]. Young boys and girls are recruited from poor families with a promise of work or education in the cities. These young boys and girls are from rural areas/communities of North-Central. Some from South-West, South-South and South-Eastern part of Nigeria. They are mostly trafficked to urban centre such as Lagos, Abeokuta, Abuja, Ibadan, Kano, Kaduna, Calabar and Port Harcourt[20]. Trafficking to these regions is predominantly for exploitative domestic work, head loading, shop attendance, catering service, farm labour, child begging and prostitution[21]. These young children deployed in households are subjected to about 12-18 hours of over burdening work, without befitting clothing and nutrition. Some of the victims are exposed to sexual abuse from their mistress'

[17] Onyemachi, T.U.**,** *Children, Status and the Law in Nigeria*. In: African Research Review, An International Multi-Displinary Journal, Ethiopia, (July, 2010), Vol. 4(3a) p. 382
[18] Ibid.
[19] United States Department of Labor Report., *Findings on the Worst Form of Child Labour* (2013), p. 17
[20] Olateru-Olagbegi, B. and Ikpeme A., *Review of Legislations and Policies in Nigeria on Human Trafficking and Forced Labour.* p. 14
[21] Ovosi S., *Still on the Dangers of Human Trafficking* (2013). p. 5

husbands and in some cases the household members[22]. 83% of child victims of trafficking for domestic service are recruited from Akwa Ibom State while others are from Cross River, Rivers, Ebonyi, Kano and Kaduna State[23]. This ancient form of internal trafficking is more often than not confused with the traditional practice of child fostering within the extended family. However, such children are no longer cared for but rather exploited through placement for different forms of labour enduring, physical and psychological abuse.

Traffickers (Intermediaries) supply children who are often less than 17 years of age to different households in exchange for their travel expenses and six months of wages. Sometimes, at the expiration of six months, the employer continues to pay the victim's wages to the trafficker. The traffickers serve as a link between supply and demand. They supply through recruitment, kidnapping, deception, transportation and exploitation processes and boost demand by providing easy contact to the trafficked persons[24]. The traffickers are often part of the extended family, have links with the family nucleus, or are somebody known within the local community.

2.4.2. International or External Trafficking

Two hundred years after the abolition of the Trans-Atlantic-Slave-Trade, the trafficking of Africans particularly Nigerians continues unabated as it is estimated that about 750,000 to 1 million persons are trafficked annually in Nigeria. 23% are within states while over 75% are across the states and 2% are outside the country[25]. The exact number of people trafficked annually through the Nigerian borders is unknown[26]. This may be due to the illegal nature of the act, reluctance of victims to publicly denounce their traffickers for fear of attacks on them and their families' members. Lack of proper

[22] *United States Department of Labor Report* (2013), op. cit. p.45

[23] *United Nations Office on Drugs and Crime, Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo, p.12*

[24] Olateru-Olagbegi B. and Ikpeme A., op.cit. p.67.

[25] Policy Paper No.14.2 (E), *Human Trafficking in Nigeria: Root causes and Recommendations*., p.68

[26] Kigbu, S.K., *Challenges in Investigating and Prosecuting Trafficking in Persons' Cases in Nigeria* (2015). In Journal of Law, Policy and Globalization, Vol. 38, P. 152

data makes anti trafficking strategies difficult. Thus, need to create a database on human trafficking in Nigeria that would be accessible to all institutions. This would assist policy makers to take concrete steps to stem the tide of human trafficking International trafficking in persons involves the illegal recruitment, transportation across Nigeria borders, sale, receipt or harbouring of a person involving the use of coercion or acts of similar nature for the purpose of involuntary servitude or in slave like conditions. Internationally trafficked Nigerians come from all parts of Nigeria, however some States lean to provide more trafficked persons than others. These States includes but not limited to Edo, Delta, Cross River Akwa Ibom, Imo, Ebonyi, Ogun, Oyo, Lagos and Kano[27].

Women and Children from Nigeria are trafficked across borders to parts of West and Central Africa, East Africa, South Africa, the Middle East and Europe. African destination countries for Nigerian trafficked women and children are Republic of Benin, Togo, Mali, Côte d'Ivoire, Equatorial Guinea, Cameroon, Gabon and Guinea. The researcher is of the view that most of those trafficked into these country, may find themselves deceived into believing that their destination would be Europe[28]. Katsina and Sokoto serve as trade route for traffickers of children to the Middle East and East Africa[29]. Another destination for trafficked persons from Nigeria is the Middle East, especially Saudi Arabia. The conscription of persons trafficked to Saudi Arabia comes from Kano, Jigawa, Gombe, Zamfara, Kaduna, Niger, Borno, Taraba, Yobe, Nassarawa, Plateau, Kebbi, Kwara, Sokoto, Katsina and Adamawa States[30]. European destinations for trafficked women and children from Nigeria are Italy, Belgium, Spain, the Netherlands, Germany and the United Kingdom[31].

[27] Ibid. p.23
[28] Ibid.
[29] Olateru-Olagbegi B. and Ikpeme A., op.cit.p. 69
[30] Policy Paper No.14.2 (E), op.cit. p.23
[31] Olateru-Olagbegi B. and Ikpeme A., op.cit. p.66

In Africa, trafficked persons are destined to work mostly as domestic servants and hawkers. Other forms of child labour including begging, mining, criminal activities (participation in armed conflict)[32] also form part of the purpose of trafficking within the Africa continent. One of the worst forms of human trafficking is the use of child soldiers in conflict areas. The problem of child soldiers is a global one, however, it is particularly critical in Western and Central Africa (for example, in Nigeria), where armed group (Boko Haram) is unlawfully using children as suicide bombers.

Forced marriage is also a practice associated with human trafficking with deep historical roots in which at least one of the parties is married against his/her will and consent. Despite being recognised as a human rights violation and being condemned, the practice of forced marriage occurs in Nigeria. Often, the social pressure to marry often leads some men to resort to human trafficking services in order to purchase a bride from another country or state. It is not common in Nigeria but in some villages, some of the marriages result from human trafficking unlike India where most of marriages in the villages result from human trafficking[33]. Young girls are also trafficked for prostitution purpose. 92% of victims of trafficking for prostitution from Nigeria to Europe are from Edo State. Besides, young boys are also trafficked to Belgium for sexual purposes on the pretext of playing football and women who are trafficked to the United States of America and United Kingdom works as custodian of children[34].

As a transit country, Nigeria is the centre for distribution of trafficked persons to Europe, Middle East and West Africa Countries, including Gabon and Cameroon. There are transit camps in Cross River, Akwa Ibom, and Ondo States for trafficked persons. This shows that Border States are points of transit for those being taken

[32] U.S. State Department, The Trafficking in Persons Report, July 2001. p. 65
[33] Ibid. p.53
[34] Olateru-Olagbegi B. and Ikpeme A., op.cit. p.69

abroad. This transit may take days, months or years under difficult and deplorable conditions. E.g., trafficked persons en-route to Gabon via Nigeria stays in Cross Rivers State waiting for boats to convey them across the seas. During this waiting period, victims do lack some necessary resources and serves as prostitutes in order to survive[35]. As a destination country, Nigeria receives Tuareg women from Niger Republic, Togolese women, young girls and children from Benin, Liberia, Mali, Burkina Faso and Ghana. Benin Republic and Togo accounts for about 90% and 6% of trafficked victims in to Nigeria respectively[36].

2.5. Root Causes of Trafficking in Persons

There are many economic, fiscal, societal and physical reasons why people are trafficked. These reasons are classified into "push" and "pull" factors[37]. The push and pull factors are forces that can either induce people (traffickers) to traffic in persons or oblige people (victims) to be trafficked. It is the view of the researcher that the push and pull factors are mutually reinforcing and that some of the causes can also be the consequence of others. Many factors make children and adults vulnerable to trafficking. These factors can be political, social, environmental and cultural based. However, trafficking in persons does not exist solely because many people are vulnerable to exploitation. Just like arms and drugs trafficking, trafficking in persons is a market-driven criminal industry that is based on the principles of supply and demand. It is fuelled by a demand for cheap labour or for commercial sex acts and other related acts just as trafficking in arms and drug is fuelled by a demand for illegal economic and political activities. While armed conflict distorts and magnifies conditions of privation, hardship and insecurity creates fertile and lush conditions for trafficking in persons. It is ultimately, poverty, high unemployment and lack of opportunity, desperate search for

[35] Policy Paper No.14.2 (E), op.cit. p. 24
[36] *United Nations Office on Drugs and Crime, op. cit.p.12*
[37] Rachael, O. I., et al., Globalisation and Rising Human Trafficking in Nigeria. In: Kuwait Chapter of Arabian Journal of Business Management Review., Vol. 5, No.6 (Feb. 2016) p.21

better opportunities, the quest for a means of survival, high levels of illiteracy, a taste for adventure, family instability, the breakdown in value systems and inadequate implementation of laws and policies against trafficking in persons are the engine driving trafficking in persons[38].

Equally, unequal access to education, sex-selective migration policies, less access to information, disruption of support systems, women's perceived suitability and increasing demand for foreign workers are some of the reasons why women and girls are more vulnerable to trafficking than the men and the boys[39]. The above causes of trafficking in persons will be broadly discussed under the push and the pull factors.

2.5.1. "Push" Factors

Push factors are those facts of life that serve as the root causes of trafficking in persons. These are conditions that influence the victims of trafficking to go into it. These forceful factors are associated with the area of origin of the trafficking victims and come in many forms. Examples of push factors are as follows;

2.5.1.1 Poverty

Although Nigeria has colossal natural and human resources being the largest oil producer in Africa and the eleventh largest in the world, it is rated as one of the poorest countries in the world with a GDP per capita of about US $1,000 for a population of about 180 million people[40]. Poverty affects both men and women but women and girls experience them disproportionately, because women have less economic means than men. There is also general joblessness and lack of opportunities for trade and industry especially, in rural areas of Nigeria where the bulk of the population resides; hence,

[38] *Kathmandu School of Law., Regional Study for the Harmonization of Anti-Trafficking Legal framework in India, Bangladesh and Nepal with International Standards: Developing Rights Based Approach for Anti-Trafficking Actions in South Asia.Kathmundu:Kathmandu School of Law In Cooperation the TDH Consortium, SALS Forum Kathmandu, (2007).* p. 89

[39] Policy Paper No.14.2 (E), op.cit. p. 32

[40] Ibid

there is general migration to cities in search of better opportunities as a result of lack of infrastructure to support the inhabitants in the rural areas.

The notion of poverty has been clearly recognized as one of the causes of human trafficking and other contemporary forms of slavery in Nigeria[41]. Poverty is also said to be one of the most important factors that make persons vulnerable to trafficking. Traffickers often prey on individuals who are poor, frequently unemployed or underemployed, and who may lack access to social safety nets in the country. Women and Children predominantly fall within this group. Victims are often lured with false promises of good jobs and better lives and then forced to work under brutal and inhuman conditions. People who are living in poverty would look for any means to improve their situation and traffickers take advantage of this situation, by making promises of a better life. Hence, tempted parents send their girl-children to earn in prostitution and the girl-children in turn send their earnings for the maintenance of their families. This further shows that poverty and destitution is the cause for sending children for prostitution in expectation of regular remittance of income from the girls who have gone into brothels. Furthermore, it has been pointed out that one of the most obvious ways in which material poverty leads to exploitation and abuse is through child labour as poverty frequently forces vulnerable children to hazardous work[42]. People or children from poor family are most vulnerable to trafficking but those who are most at risk are also in close proximity to an environment where trafficking is pervasive. Also, it is not all poor children that are trafficked. Poverty thus, emerges as a primary *raison d'être* that could make women and children susceptible for trafficking.

2.5.1.2 Perversion of Cultural Traditions.

In Nigeria, child care is the duty of the extended family. This practice provides social balance and is meant to reduce the effects of poverty among the extended family

[41] Ibid *Kathmandu School of Law,* op.cit. p. 198
[42] Ibid

members[43]. To stop the cycle of poverty, the children of the poor are placed with wealthier relatives for proper care and education. The need for giving up children for fostering arises when the biological parents of a child are not able to adequately look after the child. This form of cultural or traditional fostering has been exploited by traffickers to recruit children. Sometimes, the parents or guardians plead for the help of traffickers themselves, this often happens out of ignorance as to what the conditions will be for the children and in the naive hope that they will be well-educated or will acquire other skills for future advancement[44]. Also, the belief in some culture that girls should serve their brothers, fathers and husband also increase the chances of girls being trafficked as they may not object if ask by family to go abroad to work. The practice of early, forced or temporary child marriages also makes children vulnerable to trafficking. Also some daughters of trafficked women or victims become trafficking commodities. This may occur through formal structures such as the social group system or through social stigmatization, resulting in girls being forced to work in the commercial sex trade, following their mothers' or parents' means of survival. This shows that children of trafficked victims barely have viable alternatives.

2.5.1.3 Peer Pressure

Youth associate with different type of people otherwise known as friends. Through the pressure of these friends, some are lure into trafficking. Children also fall victim to human trafficking because of peer pressure and lack of alternative opportunities within their impoverished home communities[45]. They often seek out traffickers on their own initiative and are consequently recruited. The desire for an opportunity to enjoy the good things (electricity, television and fan) of city life also forms part of the reason

[43] Policy Paper No.14.2 (E), op. cit. p.35
[44] Ibid
[45] Ibid

why some children and youths succumb to pressure. Thus, some children run away with friends to find and be recruited by traffickers so as to enjoy the big city life[46].

2.5.1.4 Weak Legal Framework

Human trafficking has flourished due to the lackluster attitude of law enforcement and a weak legal framework which mainly focuses on trafficking for sexual exploitation. Generally, law enforcement agents are ill equipped and lack the technical know-how and gender sensitivity to handle cases[47]. Again a constrained view by law enforcement agents of what constitutes human trafficking often lead to failure to recognize exploited persons as victims of human trafficking. The collaboration among civil society in the mission of prevention of cross-border trafficking is also seriously lacking. The law enforcement agencies, lawyers, rehabilitation and social integration workers are hardly aware of legal and justice systems of each other's country. Collusion between officials and traffickers in respect of forging documents to facilitate movement across borders also point to weak legal framework. Law enforcement agents are usually reluctant to investigate violent crimes, especially those against women and children who are unable to pay the costs of investigation or bribe the investigating officers[48] also signals weak legal framework. Thus, perpetrators of rape, sexual assault, domestic violence and human trafficking largely go unpunished in Nigeria.

A number of persons trafficked across the border do not possess legal travel documents, including identification passport. In such a situation, the danger of such victims being incriminated for illegal entry and travel (illegal immigrants) in those countries are imminent[49]. The possibilities of victims' double victimization looms large. A combination of corrupt officials, complicit authorities and weak laws combine to guarantee impunity for traffickers while increasing the plight of trafficked persons.

[46] Ibid
[47] *Kathmandu School of Law,* op.cit. p.97
[48] Ibid
[49] Ibid

Many non-governmental organizations and women's right organizations continue to protest against the government's inability to prosecute well-known traffickers as the conviction of traffickers is quite rare. Sometimes, convicted traffickers are typically released within a short period of time as provided under the law or where the convicts are given the option of fine, they paid immediately as the law provide for pecuniary penalty which goes to the government account and the victim receive nothing[50]. Consequently, the criminal justice system seriously fails to observe the crime from the perspective of victimology. The victim has no more role than that of the prosecutor's witness. As a matter of fact, he/she has hardly any benefit from the proceeding except the mental satisfaction of punishment to the offenders, if convicted and sentenced. The decision-making powers concerning the charge, the punishment and the decision on matter of whether to prosecute the case or not are solely placed on the State. The victim has no say at all in these regards.

2.5.1.5 HIV and AIDS (ORPHANS)

HIV and AIDS wreak havoc in Nigeria as an estimated 1.8 million Nigerian children have been orphaned by HIV/AIDS, having lost their parent to the disease[51]. Consequently, most of these orphaned children are left on their own and burdened with the responsibility of caring for their younger siblings. However, lack of means to survive and earn a living to carter for their needs make them (orphans) vulnerable to trafficking and easily recruited by traffickers.

HIV and AIDS also increase the number of children trafficked because there is an increased demand for sex with young girls[52]. Young girls are perceived to be HIV negative despite the fact that they are more vulnerable to HIV and AIDS as they lack

[50] Ibid, p.209
[51] Unicef, *Nigerian Children Devastated by HIV/AIDS* (2006)
[52] Ibid.

the power to negotiate the use of condoms. Simultaneously, trafficking increases the number of HIV infections in women and girls[53].

2.5.1.6 Restrictive Migratory Policies.

The difficulties in migrating and finding employment through legal channels create further vulnerability. Restrictive migratory policies contribute to human trafficking in Nigeria as migrants often rely on traffickers offering false hopes of future gains[54]. In addition, the strengthening of border controls in wealthier countries elevates the risks associated with illegal migration, thereby creating demand for the perceived sophistication of human traffickers. Hence, the researcher submit that, the greater the barriers to migration, the more sought after and expensive the traffickers' services and the more lucrative the trafficking business becomes. It should therefore be explored whether the creation of more open and legal channels of migration to western countries might not greatly reduce human trafficking.

The international economic inequality between the northern and southern hemispheres is another factor underlying human trafficking[55]. Because of their relative wealth, those from the North can easily migrate while those from the South, coming from relative poverty, face stronger migratory barriers. When the Nigerian Economy was thriving, Nigerians had easy access to many countries in the North. However, migration for Nigerians is much more difficult nowadays because of the trend in the Nigerian economy. This creates opportunity for exploitation by traffickers who take advantage of this misfortune.

[53] Patt, M., Human Trafficking and Modern Day Slavery. p.3
[54] Policy Paper No.14.2 (E), op.cit. p.41
[55] Ibid

2.5.1.7 Manipulation of Voodoo and Religious Rituals

In Nigeria, traffickers frequently use traditional voodoo practices to make children or their victims compliant[56]. These rituals are essentials part of indigenous or traditional religions and have significant influence over children, particularly since many of the children come from backgrounds where traditional religions and ritual oaths continue to be practiced. Juju[57] is an example of traditional religion being manipulated for the purpose of human trafficking. Once arrangements for victims' trip abroad are completed, they are subsequently taken to shrine of voodoo priest for oath taking to seal the arrangement. The victims are made to swear that they would never reveal the identities of their traffickers to any one if arrested in the course of the trip or in the country of destination. The implication of the secrecy oath by the victims in Nigeria is that when traffickers are arrested, victims often than not failed to show up in court to testify against them for fear that they would die if they violate the oaths. E.g. in 2004, one Sarah Okoya was jailed for attempting to traffic about six girls to Spain for prostitution. In the course of proceedings, the girls failed to show up in court to testify until the shrine of the priest who administered the oaths was raided[58].

Children and young women are also lured into exploitative migration and sex work via their desire to go to Saudi Arabia for pilgrimage (Hajj or Umra)[59]. This is an example of Islam being manipulated for the purpose of human trafficking. Young girls from nearly all the northern states are potentially vulnerable. In the Northern part of Nigeria, religion is used as a means to entice the innocent just as it is in the Southern part of Nigeria, where the majority of trafficked persons are Christians/Traditionalist. Traffickers and sponsors also exploit religion to ensure that trafficked victims honour agreements and pay their debts.

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[56] *Irene, P., Human Trafficking: What tools are available to Measure and Address Business' Impact*. P.8
[57] Juju is the perverted use of religious practice.
[58] Musikilu, M. How Immigration Officials and Voodoo aid Human Trafficking Business in Nigeria. P.4
[59] Policy Paper No.14.2 (E), op.cit. p.35

2.5.1.8 Lack of Information or Fraud

Illiteracy and lack of awareness on issues pertaining to trafficking is another factor that increases vulnerability to trafficking[60]. Lack of education contributes to the problem in two ways - reduction of opportunities (for employment and economic betterment) and reduction of awareness (of issues relating to human trafficking as many messages are aimed at those who can read). Traffickers usually recruit the vulnerable with promises of better conditions elsewhere. The typical inducement is prospect for job with higher wages than those available in the local community. Traffickers also use the opportunity of further education or the acquisition of skills. They promise potential marriage or guarantee jobs overseas, mostly in the informal and unregulated sectors.

In the case of children, traffickers approach the families in rural communities with promises of education, better living conditions and lucrative work. The traffickers or their agents sometimes add incentives such as a provision of money or clothing. The majority of trafficked persons are unaware of the forms of labour to which they will be subjected. Most people trafficked to Europe for prostitution did not foresee entry into the sex industry[61]. There is also an ignorance of the health dangers lying at the core of human trafficking. The general public in Nigeria lacks overall knowledge of human trafficking phenomenon.

2.5.2 "Pull" Factors

Pull factors are factors that influence both the trafficked persons and the trafficker into trafficking. These factors render human trafficking attractive to both parties and they are associated with receiving regions. The pull factors are listed as: real or perceived differences in wages, more and better employment opportunities in destination areas, demand for female migrant workers in more developed regions, an economic boom in destination areas, a growing number of women and men in destinations who relegate

[60] Ibid
[61] Ibid

domestic work to hired help and the increasing acceptance of the practice of prostitution.

2.5.2.1 Need for High Profits

Growth in the industrialized economies has been accompanied by a quantum leap in low-cost transportation and communication technologies, which facilitates all aspects of migration and human trafficking. But the major facilitating factor is the involvement of organized crime, for which human trafficking is a growing source of profits. Human trafficking thrives because of its profitability. The UN estimates it generates US $7-$10 billion annually, the third largest profits behind arms dealing and narcotics[62]. It is a lucrative trade with low investment and high monetary gains. Although the profits reaped by traffickers has been the main concern, particularly since it has been identified with organized crime, employers who hire trafficked workers and the clients of trafficked sex workers, as well as corrupt officials involved all gain significant financial benefits[63]. The researcher submit that the extent of these financial gains and the low risks involved for those who stand to make the greatest gain, make the prevention of trafficking difficult.

2.5.2.2 Need for low Skilled Labour

The global reach and scale of trafficking in humans is the underside of globalization. Globalization has created powerful market demand for cheap, low-skilled labour in sectors such as agriculture, food processing, construction, domestic service, labour-intensive manufacturing, home health care, sex work, the service sector in general and the entertainment sector . Such demand exists in both developed and developing countries. As industries continually seek to cut costs, some have relocated to low wage economies while those that cannot relocate, remain 'flexible' through worker layoffs and increased use of casual and part-time work as well as sub-contracting, thereby

[62] *Irene, P.*, op.cit. p.7
[63] Policy Paper No.14.2 (E), op.cit. p.42

reducing the power of trade unions to protect jobs, wages and basic rights. The types of work where trafficked labour is used tend to be located in sectors where it is easier to maintain highly exploitative working conditions that are gross violations of human rights and labour standards. In some instances, the locations and conditions are difficult to monitor. However, it is not the mere existence of the demand for cheap labour in other countries that generates the conditions for human trafficking. It is the lack of access to opportunities to work in home countries or communities that make the migration of workers to meet the demand for cheap labour and it is their illegal status that makes migrant workers vulnerable to human trafficking.

2.5.2.3 Low Risk

By its very nature, human trafficking is secret and dangerous. When the community is unaware of this issue, when the government and the community institutions are not train to respond, human traffickers perceive little risk or deterrence to affect their criminal operation[64]. The existence of ineffective or dormant laws to address the crime, lack of safety nets for victims and inability of the law enforcement agencies to investigate and prosecute allude to the low risk involved in the crime.

2.6 Purposes of Trafficking in Persons

The trafficking of children, men and women for purpose of prostitution, domestic service and other forms of abusive and exploitative labour is widespread and common phenomenon in Nigeria.

2.6.1 Prostitution

Currently, one of the most visible and perhaps less consensual forms of human trafficking is the trafficking in women and girls for purposes of sexual exploitation, production of pornography and prostitution. Prostitution is the act of engaging in sexual activity for money. One of the most common reasons for the trafficking of women and

[64] *Kathmandu School of Law,* op.cit.

children is for the purpose of commercial sexual exploitation which constitutes a significant portion of human trafficking activities. It would not be possible for this type of human trafficking to exist without demand for commercial sex around the world. Though commercial sexual exploitation has been criminalised, human trafficking for the purpose of sexual trafficking continues to take place in almost every country of the world. Nigerian women and children are trafficked both internally and externally for sex. Thousands of women and young girls are trafficked into the sex industry, especially into Europe, thereby, making many people in Nigeria to equate trafficking with prostitution alone and not with other forms of labour exploitation. However, prostitution in Nigeria is perceived as an aberrant and immoral act and is considered a sin, especially according to the religious teachings of Islam and Christianity prevalent in the country[65].

However, the degree of tolerance of prostitution differs from community to community. For example, many communities in Edo State trivialize the issue. Trafficking for prostitution is only publicly recognized as an external phenomenon while internal trafficking for prostitution, which has been going on for decades, is not publicly recognized.

Traffickers recruit girls from countryside markets, salons and other public places. With the help of corrupt immigration officers, traffickers switch pages from stolen passports having valid visas with those of the trafficked persons. This act makes transportation by air less difficult for the criminal act. Upon arriving at destinations, the victims are deprived of their travel documents and made to sign agreements to pay back their Madams[66]. In many cases, victims are locked in apartments, with their passports confiscated by traffickers who coerce them to work in prostitution through threats, use of force, rape, abuse and violence. Very often, the victims are promised their freedom

[65] Policy Paper No.14.2 (E), op.cit. p.28
[66] Ibid

only after earning their purchase price, as well as their travel and visa costs, through prostitution. Many of the girls are also coerced with threats to kill their parents and other relatives if they do not cooperate[67].

For recruitment, traffickers resort to deception, in particular through false promises of well-paid jobs or opportunities to study abroad. Traffickers often create fake model agencies and film production studios for the purposes of recruitment and to cover the crime.

2.6.2 Baby Harvesting and Illegal Adoption

The increasing incidences of young pregnant girls being lured into giving away their babies to be sold have presented Nigeria as a country with another reason why people are trafficked. Baby harvesting in Nigeria has taken a more dangerous and complex form involving human trafficking alongside other illegal activities[68]. Victims are traded from conception and price paid for them in their few days on earth. In states like Abia, Enugu, Ebonyi and Lagos, many cases have been reported of clinics, doctors, nurses and orphanages that help pregnant teenagers and other women who do not want to keep their babies after birth. They care for these women during pregnancy and provide money and shelter. Upon delivery the babies are sold to couples who pay a premium for the babies of their choice. The young mothers are paid off after having signed papers repudiating their claims on the babies or swearing oaths of secrecy.

Again, closely related to incidence of baby factory is human trafficking for the purpose of organ removal or removal of human tissues. This would appear to mostly concern the trafficking of kidneys, since removing other organs would require the donor to be killed, which occurs very rarely. Although the link between human trafficking and

[67] Ibid

[68] Onuha, F. C., New Wares of Trade: Understanding Evolving Baby Factory and Trafficking in Nigeria. A paper Presented at 5th International Conference on National and International Perspectives on Crime Reduction and Criminal Justice, Organised by the Institute of Security Studies, held at Radisson Biu, Johannesburg, from August 14-15, 2014 at page 2.

organ trafficking has not been clearly established in Nigeria, some similarities are evident as the root causes are the same, namely poverty and lack of employment opportunities, among others. Sometimes organ removal happens by means of total deception or coercion. There have been reported cases of children trafficked, within and from Africa, in order to use their organs during rituals. Victims of human trafficking for organ removal, ritual killings and mystic practices were recorded in Chad, Egypt, Israel, Liberia and Malawi[69].

Illegal adoption of children is another purpose why traffickers traffic in persons in Nigeria. It is highly profitable activity for organised criminal groups, private child adoption firms and state officials around the world[70]. Sometimes, midwives often persuade poor mothers to sell their children, or deceive them by telling them that their babies have an illness or have died. Sometimes they even drug mothers and steal their babies in order to sell them to human traffickers. With regard to lawyers and others they have better access to forged documents, as well as the relative freedom found in private adoption procedures and from virtually inexistent state control.

Through various means, such as abduction and falsification of adoption permits, criminals take advantage of shortcomings in legislation, law enforcement, birth registration and social welfare systems. In Nigeria, due to an inefficient system of birth registration, it is almost impossible for local authorities to track the numbers and the locations of children that have been illegally adopted. Many individuals are involved in illegal adoption, from midwives to registry officials, lawyers and doctors.

2.6.3 Begging and Crime

A large number of children, men and women are trafficked for the purpose of begging. In trafficking for begging, persons with physical disabilities are in the most vulnerable

[69] Ibid. p. 10
[70] Francesca, B., op.cit., p. 54

position. Poverty and physical disability are the ideal combination for victims to be trafficked. As disabled victims induce sympathy among alms givers, any child and women beggar are at serious risk of being deliberately maimed in order to increase his or her earning potential. At times, a beggar uses a drugged and sleeping child to evoke compassion and seek alms[71]. The physically challenged are often carried on back, in a wheel burrow or wheel chair and taken around town from sunrise to sunset, often under dangerous traffic and harsh weather conditions to seek alms. Some poor parents who cannot feed their children earn money by renting out their children on a daily basis to these beggars. Also victims of human trafficking are found in begging rings, where they work long hours each day soliciting money. The trafficker confiscates all or most of the victim's earning and victims may be dependent on the trafficker for transportation and housing. Physically challenged or disabled persons, such as the blind and crippled, are lured and hired into the begging business in major Nigerian cities, such as Kano, Kaduna, Lagos and Ibadan. The victims are hired on a daily basis for begging assignments with a token fee of no more than N500.00. Trafficking for the purpose of begging has spread beyond the country's borders to the Middle East, in particular to Saudi Arabia[72]. These trafficked children who lead beggars across the major cities of Nigeria are denied access to formal education and proper social upbringing.

Another purpose of human trafficking involves the use of trafficked victims in criminal activities. Human traffickers and criminal groups prefer minors to adults as children are easier to control, and their relatively small stature gives them an advantage in committing crimes such as burglary or shoplifting.

[71] *Kathmandu School of Law*, op.cit. p.160
[72] Policy Paper No.14.2 (E), op.cit. p.30

2.6.4 Domestic Help

Domestic servitude usually involves the use of coercion which may be physical and emotional. Children are particularly vulnerable to trafficking for the purpose of domestic servitude. Millions of children toil in Nigeria as virtual slaves, unable to escape the work that will leave them impoverished, illiterate and often crippled by the time they reach adulthood. These are Nigeria's child labourers. Urban migration and poverty have flooded the labour market, especially the informal labour market and led to the systematic reduction of the cost of labour. As a result, cheap labour in the informal sector, particularly domestic labour, grew as the economic crisis obliged or forced every member of the family to work outside their homes to sustain family finances. The procurement of child domestic workers is commercialized and highly exploitative as children are recruited with a promise to their parents[73] that they will be trained or will work. Thus, children, some as young as seven years old, are brought to places like Lagos, Abuja, Kano, Kaduna and Ibadan and given out as domestic servants, beggars or street traders. The use of under aged domestic servants in the homes of upper class and middle class families is a widespread form of child labour. Children employed as domestic helps live within the confines of private homes and thus remain invisible. Most of the trafficked children are school dropouts or have never been to school. As domestic servants, they perform work within their employer's household, such as cleaning, cooking, child-care and other household work[74]. They are subjected to horrendous working conditions with no holidays and little time for leisure and rest. They are usually paid N5, 000 a month, half of which goes to the traffickers as a "fee". Forced labour takes place because unscrupulous employers exploit gaps in national legislation. Trafficked victims and particularly immigrants are particularly

[73] Parent most of whom are farmers and domestic wage earners who because of grinding poverty are unable to feed their children

[74] *Kathmandu School of Law*, op.cit. p. 199

vulnerable, although even individuals can suffer from forced labour exploitation within their own countries[75].

2.6.5 *Diya* or Blood Money

A form of trafficking currently in Northern part of Nigeria, where trafficker lure young children into Saudi Arabia to be killed for blood money known as "*diya*"[76]. The method is: the trafficker, commonly female, will take a kid/child to Saudi Arabia and go "shopping", while the women looks for a fast moving car. She pushes the child/kid in the path of the car to get run over and possibly killed[77]. There are two types of penalties for anyone who kills another human being in Saudi Arabia. They are death penalty and offering compensation to the relatives of the dead victim, if the relatives accept *("diya").* The trafficker opts for the second option and obtains an equivalent of about N3, 500,000. 00. The trafficker returns to Nigeria and informs the parents of the trafficked child that the child died of natural causes. The trafficker pays the parents about N100, 000. 00 as the wages of the child while in Saudi Arabia. Parents do not typically or usually probe the trafficker's story, often accepting the death of the child as the will of *Allah.*

2.7 Effects of Trafficking in Persons

The effects of trafficking are enormous, diverse and wide. It affects the victims of trafficking, countries of origin, transit and destination. It is obvious that the principal losers in human trafficking are the victims. Human trafficking, as manifested in Nigeria, exploits and perpetuates attitudes and behaviour that in turn undermine efforts to promote rule of law and counter trafficking. This is because trafficking is related to organised crime and corruption. The continued tolerance for human rights abuses

[75] Francesca, B., op.cit. p. 49
[76] Jungudu, M. M., Gender and Human Rights Implications of Women Trafficking in Northern Nigeria. In: Mediterranean Journal of Social Science, Vol. 5, No.26, (Nov. 2014), p.5
[77] Policy Paper No.14.2 (E), op. cit. p.30

against victims of trafficking especially women and children also hinders efforts to address these concerns.

2.7.1 Human Rights Violations

According to the former United Nations High Commissioner for human rights, Mary Robison, trafficking in human beings, is a cause of human rights violations as it violates basic human rights, such as the right to life, the right to dignity and security, the right to just and favourable conditions of work, the right to health, the right to equality and the right to be recognized as a person before the law. Human rights according to United Nations are those rights which are inherent in nature and without which we cannot function as human being. The idea of human rights is that, there are certain rights attached to individual that should not be taken away from him except in circumstances considered reasonable and allowed by law. Thus, Section 46 (1) of the Constitution provides that:

> Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress[78].

The implication of the above section of the Constitution is that individuals in Nigeria are empowered by law to approach any High court if their rights are or about to be breach.

Human trafficking is also one of the greatest deprivations of human rights of an individual under international law and the Constitution[79]. The violation denies the victims of the opportunity of developing into contributing global citizens. For instance, Section 34 (1) provides that: "*Every individual is entitled to respect for the dignity of his person ...".* This right includes no subjection of a person to torture or inhuman treatment. However, in the process of trafficking, this right is violated as victims are

[78] See generally, Chapter 4, Constitution of Federal Republic of Nigeria.
[79] Chapter iv, Ibid.

subjected to inhuman treatment. The right to freedom of movement, the right to private and family life are also violated in the cause of trafficking[80]. Many victims of human trafficking are physically and sexually abused and are held in conditions of actual and psychological captivity against the spirit of the Constitution of Federal Republic of Nigeria.

Human rights are also violated in process of prosecuting traffickers as traffic victims cannot effectively participate in the justice system due to fear, threats of reprisal against them or their families or intimidation by the organized criminal network of traffickers, thereby denying the victim the right to fear hearing.

2.7.2 Crime

In ordinary language, the term crime denotes an unlawful act punishable by State. The term crime does not, in modern criminal law, have any simple and universally accepted definition, though statutory definitions have been provided for certain purposes. Thus, a crime may be seen as an act or a forbidden act to the State and punishable by law. The criminal nature of human trafficking is explicitly recognized and established by the Protocol[81]. Article 5 of the said Protocol provides that:

> 1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
> *(a)* Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:
> (i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;

[80] Ibid
[81] Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime (2000)

(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:
a. Criminal activities of the organized criminal group;
b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;
(b) Organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group.
2. The knowledge, intent, aim, purpose or agreement referred to in paragraph 1 of this article may be inferred from objective factual circumstances.
3. States Parties whose domestic law requires involvement of an organized criminal group for purposes of the offences established in accordance with paragraph 1 *(a)* (i) of this article shall ensure that their domestic law covers all serious crimes involving organized criminal groups. Such States Parties, as well as States Parties whose domestic law requires an act in furtherance of the agreement for purposes of the offences established in accordance with paragraph 1 *(a)* (i) of this article, shall so inform the Secretary-General of the United Nations at the time of their signature or of deposit of their instrument of ratification, acceptance or approval of or accession to this Convention.

The Protocol having recognized human trafficking as a serious social crime, criminalised same and urged the State to put in place all necessary machinery for the prosecution of offenders. In Nigeria, human trafficking is a criminal offence under the Trafficking in Persons (Prohibition) Enforcement and Administrative Act. Section 13 (1) of the said Act provides that: "*All acts of human trafficking are prohibited in Nigeria"*. The punishment for any person who engages in human trafficking is provided in Section 13 (2) and (4) of the said Act. The said sections provide that:

> 13 (2) Any person who recruits, transports, transfers, harbour or receives another person by means of-
>
> a. threat or use of force or other forms of coercion,
> b. abduction, fraud, deception, abuse of power or position of vulnerability, or
> c. giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation of that person,
>
> commits an offence and is liable on conviction to imprisonment for a term of not less than 2 years and a fine of not less than N250,000.00.

The above provision serves as a general punishment for any act that constitutes human trafficking. The researcher is of the view that the sanction is adequate enough to denude persons from engaging in human trafficking as additional charges can be brought under other sections for specific human trafficking offences.

Again, aiding of the offence of human trafficking is also punishable under the Act. Hence, the Act provides that:

> 13(4) A person who in or outside Nigeria directly or indirectly-
>
> a. does or threatens any act preparatory to or in furtherance of an act of trafficking in persons,
> b. omits to do anything that is reasonably necessary to prevent an act of trafficking in persons,
> c. assists or facilitates the activities of persons engaged in acts of trafficking in persons or is an accessory to any offence under this Act,
> d. procures any other person by any means to commit an offence under this Act,
> e. participates as an accomplice in the commission of an offence under this Act, or
> f. promises or induces any other person by any means to commit any of the offences referred to in this Act,
>
> commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than 5 years and a fine of not less than N1,000,000.00

The stiff punishment for abettors as stated above is to prevent persons from aiding the illegal act of human trafficking as the act is capable of giving raise to other criminal activities as profits from it can be channelled to such other criminal activities.

2.7.3 Threat to Public Health

Although largely framed as a legal issue, a social issue and sometimes geo-political issue, human trafficking is also a public health issue. Victims of human trafficking are exposed to various health risks and abuse. Trafficked women and children can suffer from a multitude of physical and psychological health problems. Communicable diseases such as tuberculosis, pelvic inflammatory disease, hepatitis, sexually transmitted infections and skin infestations are common[82]. In particular, women suffer from reproductive and other gender-specific health problems, such as unwanted pregnancy, forced abortion; abortion related complications, sexual exploitation and increased risk of sexually transmitted diseases, including HIV. They are often not in a position to negotiate safe sex or lack access to education about HIV/AIDS, thereby exposing them to the risk of contracting sexually transmitted diseases. In addition, a commonly held belief in some culture, that sex with a virgin is a potential cure for AIDS and other sexually transmitted diseases had increased the demand for children (virgins) for sexual exploitation. The victims become infected and can transmit the diseases to another person. Mental health is perhaps the most important co-morbidity among the survivors of trafficking, who often suffer from post-traumatic stress disorder, depression, anxiety, substance abuse and cognitive disorders, among others. Victims are also exposed to violence, dangerous working condition, alcoholism, life of crime and drug addiction.

[82] Pinghua Sun and Yan Xie, *Human Trafficking and Sex Slavery in the Modern World (2014) p6*

2.7.4 Breakdown of Social Structure

Social Structure is the institutionalized relationships built up by persons living within a group such as family or community especially with regard to the hierarchical organization of status and the rules and principles regulating behaviour.[83] That is, the patterned social planning in society that is both developing from and determinant of the actions of the individuals. Human trafficking undermines society and it has cause outrage and frustration in the country. Thus, human trafficking promotes social breakdown of social structure by removing women and girls from their families and communities. Indeed human trafficking breaks down the society generally by creating a sub-culture that is largely resistant to external control. This leads to generation of limitless possibilities in law-breaking. Loss of family support network and breakdown of social structure makes human trafficking easier. It also undermines interaction, weakens ties of family affection, care and influence. It further interrupts passage of cultural values and knowledge from one generation to the next, thus weakening the core of African society.

2.7.5 Irretrievable Diminution of Human Capital

Trafficking in persons is a global scourge from which Nigeria is not immune. Indeed, Nigeria has been identified to be a source, transit and destination country for women and children trafficked for the purposes of forced labour and commercial sexual exploitation. Human capital is said to be the measure of the economic value of an employee's skill set. It could be invested in through education, training and enhanced benefits that will lead to an improvement in the quality and level of production and thereby leading to economic development. However, a couple of valuable human resources in Nigeria had been lost to trafficking in persons which negatively impacts local and international labour markets. The lost is most regrettable as it is an undue

[83] Merriam Webster Dictionary

waste of productivity and development. Human trafficking is a multi dimensional threat. It deprives people and countries of their human inhibiting development. It also destabilised populations by leaving fewer people to mind for elder and the sick. Human trafficking creates social demographic imbalances, national labour force ill equipped to compete in global economy where success is based on skilled workers. It also served as a denial of access to education necessary to break the cycle of poverty and illiteracy that creates trafficking conditions.

2.7.6 Undermining Government Authority

Governments are the primary responsible actors in the global effort to combat human trafficking through prevention, protection and prosecution measures. However, human trafficking erodes government authority. The existence of trafficking gangs within the larger society erodes government authority, encourages wide spread corruption and threatens the security of the vulnerable population due to weak institution which offer weak protection. Pay-offs to police and other public sector officials result in state institutions willing to turn a blind eye to human trafficking gangs or even to participate in them. Also, a ready supply of cash also undermined the counter-trafficking efforts within the criminal justice system. The researcher submits that the failure of the government to meet its primary responsibility of protecting life and property undermines its ability to combat human trafficking. It also undermines its power to fight corruption in law enforcement and judiciary and thereby declining public confidence on government.

CHAPTER THREE

LEGAL INSTRUMENTS ON TRAFFICKING IN PERSONS IN NIGERIA

3.1 Appraisal of the Legal Instruments on Trafficking in Nigeria

This chapter provides for the appraisal of the legal instruments on human trafficking in Nigeria. The instruments serve as the focal point with which the institutional structures implement or fight the problems of trafficking in persons and other related matters. The trafficking of women, men and children is a matter of international concern as it involves the violation of fundamental human rights. Although numerous separate abuses that contravene both national and international law are committed during the course of trafficking, it is the combination of the victims' displacement from their community and their commercialized exploitation that make human trafficking distinct and unique. In Nigeria, there is a large body of national and international instruments prohibiting human trafficking as it is the states' legal responsibility and function to introduce and institute measures to combat human trafficking and to ensure strict implementation of the laws.

The legal instruments on human trafficking in Nigeria have been stimulated and inspired by developments at the international level. This is reflected in the tremendous bearing of international legal instruments on Nigeria laws as it relates to trafficking in persons. The implication of the said bearing gives credence to the fact that law is an instrument of social change and lens through which society may be changed, understood and reformed.

3.2 Constitution of the Federal Republic of Nigeria

Nigeria has a fairly wide framework of laws enacted by the National Assembly as well as some State Assembly, apart from provisions of the Constitution of Federal Republic of Nigeria, which forms the basic laws that address issues of human trafficking. Thus, the legal framework for combating trafficking in persons in Nigeria consists of

Constitutional provisions, substantive and procedural laws enacted by competent legislative authorities and international treaties, covenants, conventions and declarations that have been signed, ratified and domesticated. The said legal framework consists of the following provisions of the constitution, among others;

1. **Section 12, Constitution of Federal Republic of Nigeria, 1999 (as amended).** Nigeria has ratified a good number of Conventions but the Constitution[1] stipulates that all treaties ratified by Nigeria have to be passed into law by the National Assembly before they can have force of law in Nigeria. This is called domestication of treaties. The said section is couched as follows:

> 12 (1) No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly[2]

The inference from the above section is that international instruments that are yet to be domesticated do not have the force of law in Nigeria. The enforcement is also restricted to the extent of its provisions that are translated into the law. For this reason, the available statute that gives validity to other laws or conventions with direct implication to human trafficking in Nigeria is the Constitution. The Constitution constitutes the supreme law of the land and the solemn expression of the will of the people. Thus, if any other law is inconsistent with it, that other law shall to the extent of the inconsistency, be void[3].

2. **Section 14, Constitution of Federal Republic of Nigeria, 1999 (as amended).** Although none of the constitutional provisions has defined the term human trafficking, the Constitution provides in section 14 (2) (b) that, "*the security and welfare of the people shall be the primary purpose of government"*. Hence, the fundamental purpose,

[1] Section 12, Constitution of Federal Republic of Nigeria, 1999.
[2] Ibid.
[3] Preamble and Section 1, Ibid.

which stands out clearly in the Nigerian Constitution is that the protection and advancement of the rights, security, dignity and welfare of the Nigerian people shall be the paramount consideration of the government. Therefore, by undertaking the responsibility to provide security and welfare, the Constitution has identified human trafficking as an anti-social act and a violation of the fundamental human rights of the victims as enunciated in the Constitution.

3. **Fundamental Rights (Chapter iv), Constitution of Federal Republic of Nigeria, 1999 (as amended)**

Fundamental human rights are rights contained in chapter iv of Constitution of Federal Republic of Nigeria, 1999 as amended. They are rights derived from and out of the wider concepts of natural rights and which every civilized society including Nigeria must accept as belonging to each person as a human being[4]. Fundamental human rights guarantee civil liberties such that all Nigerians can lead their lives in peace and harmony as citizens of Nigeria. The idea of human rights is that, there are certain rights attached to individuals that should not be taken away from them except in circumstances considered reasonable and allowed by law. These rights include individual rights common to most liberal democracies. E.g. equality before the law and the constitutional remedies for the protection of civil rights by means of writ of *habeas corpus*. Fundamental rights were probably in-corporate into the constitution because they were considered essential for the development of personality of every individual and to preserve human dignity.

Trafficking in persons involve a number of human right abuses such as right to life[5], dignity[6], personal liberty[7], freedom of movement[8], freedom from discrimination[9] and

[4] Uzoukwu & Ors vs. Ezeonu II & Ors (2000) FWLR (PE.4) 557
[5] Section 33 (1), Constitution of Federal Republic of Nigeria, 1999, (as amended)
[6] Section 34, Ibid
[7] Section 35, Ibid
[8] Section 41, Ibid
[9] Section 42, Ibid

other rights[10] which had been guaranteed by the Constitution. E.g. Section 33 (1) of the Constitution provides that:

> Every person has a right to life, and no one shall be deprive intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.

Therefore, by incorporating the provision on protection of life and liberty of every person, the Constitution has provided a basis for legal framework to combat human trafficking as life within the meaning of the Constitution means something more than mere animal existence. It includes the right to live consistently with human dignity and decency and also includes the right to freely move about and mixing and co-mingling with fellow human beings. Liberty, on the other hand, encompasses a wide range of things. It means the right of an individual to be free in the enjoyment of all his/her faculties. The term liberty under law extends to all those conducts which an individual is free to pursue and which cannot be restricted except for a proper governmental purpose. The act of trafficking in persons for any purpose deprives the victim of personal liberty to make decisions, thereby establishing a condition of slavery and servitude. Trafficking in persons is one of the most despicable forms of violation of human dignity and decency. Individuals in Nigeria are empowered by law to approach any High Court if their rights are or about to be breached, thereby providing victims of trafficking automatic right to seek redress against traffickers.

3.3 Trafficking in Persons (Prohibition) Enforcement and Administration Act.

In July 2003, the Federal Government of Nigeria enacted a specific law against human trafficking titled Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (NAPTIP Act), thereby, strengthening the legislative framework against human trafficking in the country. The NAPTIP Act was amended in 2005, an

[10] Chapter IV, Ibid

attempt to make it truly comprehensive, effective and to address the various issues and manifestations of human trafficking in Nigeria. It is the first attempt to develop a national legal framework to combat the menace of human trafficking in Nigeria through legislation. The NAPTIP Act is supplemented by other National legislations, State laws, Regional and International Instruments and agreements. It also restates some of the offences in the Criminal Code Act and Penal Code Act couple with the fact that in some cases prescribes stiffer penalties for the offences. The three laws (NAPTIP Act, Criminal Code Act and Penal Code Act) exist alongside and are equally applicable. Although the NAPTIP Act is specific to human trafficking and seeks to address the issue in a comprehensive and all inclusive manner. Nonetheless, it is not a model, but rather a sundry of novel provisions in some areas and *lacunae* in others. For instance, the NAPTIP Act takes a ground-breaking step in criminalizing commercial carriers who transport potential trafficked victims with the knowledge of the human trafficking transaction. However, the researcher is not aware of any commercial carrier charged. Nevertheless, the element of "guilt due to knowledge" may also be difficult to prove in order to obtain conviction of a commercial carrier who may claim ignorance of the transaction. Again, the inclusion of the phrase "… attempted acts…" in the definition of trafficking, makes it easier to put on trial suspects who are caught in the act of trafficking but have not completed the transaction. The researcher observed that the said phrase is unique as it is not found in the Palermo Protocol. In addition, the definition of trafficking includes trafficking transactions involving "…transportation within and across the Nigerian borders…." hence, recognizing international trafficking in Nigeria. However, the researcher observed that the NAPTIP Act deals more extensively with trafficking for prostitution and sexual exploitation than with trafficking for other forms of labour or purposes. Also, trafficking for the purpose of "removal of body organs" as stated in the UN Protocol is omitted in the definition of

trafficking. These have limited the scope and the application of the law to the extent that people are trafficked for the purpose of organs removal. In addition, no sanction has been prescribed for the whole act of trafficking in person but rather for various acts like exportation and importation of persons, harbouring, transportation, etc.

Furthermore, it is observed that the NAPTIP Act lacks adequate measures for the protection of trafficked persons and witnesses. These deficiencies, the researcher observed may result in difficulty and intricacy at effectively and successfully prosecuting offenders.

Following the impediments and lapses observed in the implementation of NAPTIP Act in the last or about 10 years ago, it was repealed on 26 March, 2015 as a result of coming into force of the new legal regime or law tagged Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (TIP Act). However, the repealing of the NAPTIP Act does not affect anything done under it. Section 80 (1, 2 & 3) of the TIP Act provides that:

> 1. The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 as amended is hereby repealed.
> 2. Without prejudice to section 6 of the Interpretation Act, the repeal of the Act specified in subsection (1) of this section, shall not affect anything done under the Act.
> 3.Every regulation, order, requirement, certificate, notice, direction, decision, authorisation, consent, application, request or thing made, issued, given or done under the repealed Act shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.

The researcher is of the view that the above provision will allow for continuity of good programmes and policies geared towards eradication of human trafficking in Nigeria.

3.3.1 Objective of Trafficking in Persons (Prohibition) Enforcement and Administration Act.

The new Act, Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (TIP Act) primarily intends to reflect recent developments in human trafficking that were not covered under the previous Act. For example, adequate penalties are now in place for violating the provisions of the TIP Act. The penalties are in terms with the spirit of the Palermo Protocol. The researcher observed that, the sanctions under the repealed Act were inadequate for the purposes of dissuasion and deterrence. The TIP Act is made up of 83 sections and divided into 12 parts with 2 schedules. Part I (section 1) deal with the objectives of the Act. According to the said section, the objectives are:

> (1) The objectives of this Act are to-
> (a) provide an effective and comprehensive legal and institutional framework for the prohibition, prevention, prosecution, and punishment of human trafficking and related offences in Nigeria;
> (b) protect victims of human trafficking; and
> (c) promote and facilitate national and international cooperation in order to meet the objectives set out in paragraphs (a) and (b) of this section.

The above section clearly set out the end result of all the activities of the institutional structure against human trafficking. Part II (sections 2-12) of the TIP Act provides for the establishment, functions, powers and duties of the special department of the National Agency for the Prohibition of Trafficking in Persons. It is through these special departments that the said objectives of the Act are achievable. The functions of the special departments includes among others, investigation of all cases of human trafficking, sale and purchase of persons and illegal smuggling of migrants.

3.3.2 Definition of Trafficking in Persons under the Trafficking in Persons (Prohibition) Enforcement and Administration Act (TIP Act).

The TIP Act in Section 82 defines trafficking or traffic in persons as:

> The recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in forced or bonded labour, or in slavery-like conditions, the removal of organs or generally for exploitative purposes.

The researcher is of the view that the act of trafficking in persons is made up of three elements. The said elements are;

1. The "action" which consist of recruitment, transportation, transfer, harbouring or receipt of persons.
2. The "means" through which the actions are achieved. It is made up of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another or debt bondage.
3. The "purpose" which is exploitation

Therefore, the establishment of the above three elements will give rise to a crime of human trafficking in Nigeria. However, where a child is involved, the presence of the above three elements are not necessary as provided under section 13 (6) of the TIP Act. The said section provides that:

> 6. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if this does not involve any of the means set forth in the definition of trafficking in persons in this Act.

3.3.3 Offences under the Trafficking in Persons (Prohibition) Enforcement and Administration Act.

The TIP Act created many offences and provided adequate sanctions for same to dissuade the commission of trafficking in persons offences. Some of these offences are;

1. **Prohibition of Human Trafficking**: Part III (section 13) provides for general prohibition and punishment for a whole act of trafficking in persons. The said section provides that:

> (1) All acts of human trafficking are prohibited in Nigeria.
>
> (2) Any person who recruits, transports, transfers, harbour or receives another person by means of-
>
> a. threat or use of force or other forms of coercion,
> b. abduction, fraud, deception, abuse of power or position of vulnerability, or
> c. giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation of that person,
>
> commits an offence and is liable on conviction to imprisonment for a term of not less than 2 years and a fine of not less than N250,000.00.

The term abuse of position as used in sub-section 2 (c) means;

> (3) For the purpose of sub-section (2) (c), abuse of position of vulnerability includes intentionally using or otherwise taking advantage of an individual's personal, situational or circumstantial vulnerability to recruit, transport, transfer, harbour or receive that person for the purpose of exploiting him or her, such that the person believes that submitting to the will of the abuser is the only real or acceptable option available to him or her and that this belief is reasonable in the light of the victim's situation.

Who may commit the offence of trafficking in persons? The offenders are;

> (4) A person who in or outside Nigeria directly or indirectly-
> a. does or threatens any act preparatory to or in furtherance of an act of trafficking in persons,
> b. omits to do anything that is reasonably necessary to prevent an act of trafficking in persons,
> c. assists or facilitates the activities of persons engaged in acts of trafficking in persons or is an accessory to any offence under this Act,
> d. procures any other person by any means to commit an offence under this Act,
> e. participates as an accomplice in the commission of an offence under this Act, or
> f. promises or induces any other person by any means to commit any of the offences referred to in this Act,
>
> commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than 5 years and a fine of not less than N1,000,000.00
>
> (5) The consent of a victim of trafficking in persons to the intended exploitation set forth in the definition of trafficking in persons in this Act shall be irrelevant where any of the means set forth in the definition has been used.
> (6) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if this does not involve any of the means set forth in the definition of trafficking in persons in this Act.

The above provisions criminalised and punished human trafficking as a whole. It also stipulates irrelevancy of consent where any of the means as stated in the definition of trafficking is used. Child trafficking is also prohibited in its entirety. This is a departure from the old norm where the act of human trafficking as a whole was not sanctioned.

Part IV (sections 14-35) of the TIP Act provide for other offences and penalties such as importation and exportation of person, procurement of person for sexual exploitation among other offences. It has about 27 penal provisions dealing with different offences on human trafficking. About five of the 27 penal provisions specifically dealt with child trafficking. It prescribes different punishment against child trafficking ranging from 12 months for an attempt to commit any of the offences to seven years imprisonment for serious offences such as abuse, procurement of a child for prostitution or other forms of sexual exploitation. The TIP Act also provides for other penalties including the option of fines and confiscation of the properties of convicted traffickers and accomplices.

2. Importations and Exportation of Persons: Under the TIP Act, importation and exportation of person are prohibited. Section 14 of the Act provides that:

> Any person who-
>
> a. imports another person into Nigeria, knowing or having reason to know that the person will be forced or induced into prostitution or other forms of sexual exploitation in Nigeria or while in transit, or
> b. exports another person from Nigeria, knowing or having reason to know that the person will be forced or induced into prostitution or other forms of sexual exploitation in the country to which the person is exported or while in transit,
>
> commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years and a fine of not less than N1,000,000.00.

Thus, the minimum punishment for exportation and importation of person as provided is adequate to restrained human trafficking. The Court can also sentence convicts to more than five years imprisonment as there is no maximum punishment.

3. Procurement of Persons for Sexual Exploitation: Procurement of persons for sexual exploitation attracts five years imprisonment and a fine of N500, 000.00. Section

15 of the TIP Act is silent about the minimum or maximum punishment. The said section provides thus:

> Any person-
>
> a. by the use of deception, coercion, debt bondage or any means, induces any person under the age of 18 years to go from one place to another to do any act with intent that such person may be, or knowing that it is likely that the person will be forced or seduced into illicit intercourse with another person, or
> b. keeps, detains or harbours any person with intent, knowing or having reason to know that such a person is likely to be forced or induced in to prostitution or other forms of sexual exploitation with or by any person or animal,
>
> commits an offence and liable on conviction to imprisonment for 5 years and a fine of N500,000.00

The researcher is of the view that the court is not mandated to impose the maximum punishment under this section. Hence, the term "not less than" as used in section 14 was not used. Again, section 16 of the TIP Act provides that:

> 1. Any person who procures or recruits any person under the age of 18 years to be subjected to prostitution or other forms of sexual exploitation with himself, any other person or persons, either in Nigeria or anywhere else, commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and a fine of not less than N1, 000, 000 .00.
> 2. Any person who procures or recruits any person under the age of 18 years to be conveyed from his usual place of abode, knowing or having reasons to know that such a person may be subjected or induced into prostitution or other forms of sexual exploitation in place outside Nigeria, commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and a fine of not less than N1, 000, 000 .00.

The above section specifically address issues of abuse, procurement of children for prostitution or other forms of sexual exploitation. This means a charge cannot be sustained under this section for victims that are above 18 years. Courts cannot also sentence convicts for terms not less than seven years and a fine of N1, 000, 000.00

4. Procurement for Pornography and Trafficking for Prostitution: Section 17 of the TIP Act frowns at procurement of children for pornography or brothel and provide an additional punishment for convicts where victims are stupefied with drug substances. There is no similar provision for victims above 18 years. The section said:

> 1. Any person who-
> a. procures, recruits, uses or offers any person under the age of 18 years for the production of pornography or for pornographic performances,
> b. allows a person under the age of 18 years to be harboured in brothel,
> commits an offence and commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and a fine of not less than N1, 000, 000 .00.
>
> 2. Notwithstanding the punishment prescribed in subsection (1) of this section, a convicted person under this section, shall, in addition to the prescribe punishment, be liable to a term of not less than 1 year imprisonment where he administered or stupefied the victim with any drug substance.

Traffickers who organises or any person that facilitates foreign travel which promotes prostitution or sexual exploitation are liable to a term of not less than seven years imprisonment and also a fine of not less than N1, 000, 000. 00. This is provided in section 18 of the TIP Act as follows:

> Any Person, who organizes, facilitates or promotes foreign travels which promote prostitution or other forms of exploitation of any person or encourages such activity, commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and a fine of not less than N1, 000, 000. 00.

The researcher is of the view that other forms of exploitation as mentioned in the section must be related to prostitution or sexual exploitation.

5. Armed Conflicts and Organ Harvesting: The TIP Act criminalised recruitment of persons including children for use in armed conflicts[11]. The offence attracts imprisonment for a term of not less than seven years and a fine of not less than N1, 000, 000. 00. The researcher is of the view that the punishment is not adequate enough looking at the intended recruitment purpose. Hence, life imprisonment may suffice, to promote peace.

The act of trafficking for the purpose of organ harvesting is also sanctioned in section 20 of the TIP Act as follows:

> 1. Any person who-
> a. through force, deception, threat, debt bondage or any form of coercion-
> i. abuses a position of power or situation of dominance or authority arising from a given circumstance, or
> ii. abuses a vulnerable situation, or
> b. through the giving or receiving of payments or benefits in order to induce or obtain the consent of a person directly or through another person who has control over him; enlists, transports, delivers, accommodates or takes in another person for the purpose of removing the person's organs,
> commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and a fine of not less than N5, 000, 000. 00.

Where a child is involved, section 20 (3) of the TIP Act applies. The above provisions show the extent at which the TIP Act frowns at procurement of persons for organ harvesting. It provides for a fine of not less than N5, 000,000.00, the second highest in the TIP Act. Same punishment is also available for those who procures, offers any person, assist or is involved in any way in the removal, selling and buying of human

[11] Section 19, Ibid.

organ[12]. The researcher frowns at why a similar punishment was not provided for procurement of persons for armed conflicts. The acts of human trafficking for organ harvesting and armed conflicts involved issues of life and death.

6. Buying and Selling of Human Beings: Prohibition of buying, selling, hiring and letting of human beings for any purpose is contained in section 21 of the TIP Act. It said:

> Any person who buys, sells, hires, lets or otherwise obtains the possession or disposal of any person with intent, knowing it to be likely or having reasons to know that such a person will be subjected to exploitation, commits an offence and liable on conviction to imprisonment for a term of not less than 5 years a fine of not less than N2, 000, 000.00

The above provision prohibits acts of trading in human beings, wholly. The section is silent about those who aid or serve as agents in the transaction.

7. Forced Labour: Trafficking for the purpose of forced labour within or outside Nigeria earned a sanction in section 22 of the TIP Act as follows:

> Any person who-
> a. requires, recruits, transports, harbours, receives or hires out a person to be used for forced labour within or outside Nigeria, or
> b. permits any place or premises to be used for the purpose of forced labour,
>
> commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years and a fine of not less than N1, 000, 000. 00.

The above provision can sustained a charge in court against recruiters, receivers and end users of trafficked victims for the purpose of forced labour. The researcher is of the view that a person who unknowingly permits his place to be used for forced labour cannot be prosecuted under this section.

[12] Section 20 (2), Ibid

8. Employment of Children: Employment of children as domestic workers attracts a minimum term of six months imprisonment. Where there is evidence of infliction of grievous bodily harm on the child, an additional term of three years[13] is prescribed and a further term of two years is applicable where the child is denied payment or reasonable compensation for services rendered[14]. The section provide thus:

> 1. Any person who-
> a. employs, requires, recruits, transports, harbours, receives or hires out a child under the age of 12 years as a domestic worker, commits an offence and liable on conviction to imprisonment for a minimum term of 6 months and not exceeding 7 years,
> b. employs, requires, recruits, transports, harbours, receives or hires out a child to do any work that is exploitative, injurious or hazardous to the physical , social and psychological development of the child, commits an offence and liable on conviction to imprisonment for a minimum term of 2 years but not exceeding 7 years without the option of fine.

The researcher is of the view that a minimum of six months imprisonment for engaging a child under the age of 12 years is not in the best interest of the child and the society. The discretion given to the courts can be abused. However, section 23(1) (b) provides for a minimum of two years where the development of the child is affected. Again, a convict under section 23 (1) (b) cannot be fined as there is no provision in that regard.

9. Slavery: Trafficking in slaves or for the purpose of slavery is generally prohibited under section 24 of the TIP Act. It attracts imprisonment for a term of not less than seven years and a fine of not less than N2, 000,000. 00. Section 25 of the TIP Act provides a broader view of acts that translate to slave dealing. It also provide for imprisonment for a term of not less than seven years and a fine of not less than N2,

[13] Section 23 (2) (b), Ibid
[14] Section 23 (2) (a), Ibid

000,000. 00. The said terms of imprisonment and fine are adequate enough to eliminate or reduce trafficking and dealing in slaves.

10. Illegal Entry: Crossing Nigeria borders without complying with the necessary requirements for legal entry is now prohibited and an offence under the TIP Act. Section 26 provides that:

> 1. Any person who knowingly, in order to obtain, directly or indirectly, a financial or material benefit, procures the illegal entry of a person into a country of which the person is not a citizen or a permanent resident, commits an offence, and is liable on conviction to imprisonment for a term of not less than 5 years without an option of fine.
> 2. Any person who, intentionally in order to obtain a financial or material benefit from another person, engages in fraudulent acts or conducts purportedly for the purpose of procuring, facilitating or promoting the actual or intended entry into, transit across or stay in a country in which that other person is not a national or a permanent resident, commits an offence, and is liable on conviction to imprisonment for a term of not less than 5 years without an option of fine and shall refund all monies fraudulently obtained from the victims

The above provision is wide enough to accommodate all illegal entry and exit from Nigeria. However, the researcher is of the view that where the entry or the exit is not to obtain financial or material gains, the above section may not apply.

11. Tampering with Evidence: Tampering with evidence and witness is prohibited under the TIP Act. Section 34 provides that:

> A person who tampers with-
> a. a witness by intimidation, threats, blackmail, inducement or similar acts, or
> b. evidence or exhibit by falsification, conversion, destruction or forgery,
>
> commits an offence under this Act and is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine not less than N250, 000. 00 or both.

The above provision is an attempt to protect witnesses in matters pending in courts against traffickers. However, the sanction is not adequate to deter traffickers from intimidating witnesses through their proxy who can go to any length to achieve their aim.

12. Offence by Corporate Bodies: Offences by body corporate are created under section 31 of the TIP Act. Hence, where it is proved that a body corporate committed or aided an offence, the directors, managers or the secretary shall be liable on conviction for the same punishment provided for individuals committing the same offence[15]. It shall also be liable to a fine of N10, 000, 000. 00 and may be wind up by the Court[16]. However, lack of knowledge of the commission of the offence and exercise of all due diligence to prevent the commission of such offence is a defence[17]. The researcher is of the view that the defence as provided is unfortunate. It shall serve as an escape route to body corporate that engages in the acts of human trafficking. It may also encourage private individuals to traffic in persons under the cover of a corporate entity.

13. Conspiracy and Attempt: Conspiracy[18] and attempt[19] to commit an offence constitute an offence and punishable under the TIP Act. Any person who in lawful custody escapes or any person who aids or facilitates the escape of a person in lawful custody commits an offence and is liable on conviction to imprisonment for a term of five years[20].

14 Obstruction of Officers: Obstruction of authorized officers of NAPTIP attracts imprisonment for a term not exceeding five years or a fine of N250, 000. 00. The punishment may be both[21]. Impersonation or assumption of character of an officer of

[15] Section 33(1), Ibid
[16] Section 33 (2), Ibid
[17] Section 33(3), Ibid
[18] Section 27, Ibid
[19] Section 29, Ibid
[20] Section 28, Ibid
[21] Section 32, Ibid

NAPTIP is also an offence and offenders are liable to imprisonment for a term not exceeding five years without an option of fine[22].

The offences and punishments in the TIP Act are quite comprehensive in its coverage of the various dimensions of human trafficking in Nigeria, especially in providing for terms of imprisonment and fines. However, it is the view of the researcher that the TIP Act fails to make provisions as to what will happen to a convict who failed to pay fines imposed by the Court as provided under Act. Part V (sections 36-37) of the TIP Act shades light on the Court that has power to try the various offences as contained therein. Part IV (sections 38- 42) makes provisions for financial issues. The High Court (Federal High Court, the High Court of a State or the High Court of Federal Capital Territory) were saddled with responsibility to trying offences, hearing and determining proceedings arising under the TIP Act. Issues of search, arrest and seizure are contained in part VII (sections 43-47). Attachment and forfeiture of asset are covered under part VIII (sections 48-60) as part IX (sections 61-66) provides for treatment of trafficked persons. The sections made ample provisions for non-detention or prosecution of a trafficked person in certain circumstances, right of victim to information, establishment of Transit Shelter and right to compensation or restitution. Victims of Trafficking Trust Fund, mutual legal assistance, exchange of information and extradiction are provided for in Parts X (sections 67-68) and XI (69-74) respectively. Part XII (sections 75-83) provides for miscellaneous matters such as pre action notice among other things.

Globally, the fundamental policy in the operation of a legal system is that *ignoratia juris non excusat* (ignorance of the law is not excuse). The doctrine assumes that the law in question has been properly published and distributed, hence in a base line survey conducted by NAPTIP, it was gathered that about 135 respondents out of 250 representing 63% know of the polices and legislation against human trafficking while

[22] Section 33, Ibid

33% said they do not know of the existence of any law against human trafficking in Nigeria[23]. It therefore, shows that a reasonable number of people are aware of the existence of a legislation that prohibits human trafficking in Nigeria.

3.4 Criminal Code Act

Prior to the promulgation of anti-trafficking legislation in 2003, provisions relating to human trafficking and other related matters could be found scattered in the Criminal Code, Penal Codes, Labour Laws and other laws. The Criminal Code Act is a jurisdictional legislation dealing with criminal offences and applicable in the Southern part of Nigeria. The Criminal Code Act, promulgated in June 1916 does not define what constitutes human trafficking nor does it deal with the various forms of human trafficking. However, it deals and contains provisions which may constitute external trafficking for prostitution and slavery. For example;

1. Procurement for Prostitution: The Criminal Code Act makes it an offence to procure women and girls for prostitution in or outside Nigeria. Section 232 provides that[24]:

> Any person who-
> 1. procures a girl or woman who is under the age of eighteen years to have unlawful carnal connection with any other person or persons, either in Nigeria or elsewhere; or
> 2. procures a woman or girl to become a common prostitute, either in Nigeria, or elsewhere; or
> 3. procures a woman or girl to leave Nigeria with intent that she may become an inmate of a brothel elsewhere; or
> 4. procures a woman or girl to leave her usual place of abode in Nigeria, with intent that she may, for the purpose of prostitution, become an inmate of a brothel, either in Nigeria or elsewhere;
>
> is guilty of a misdemeanor, and is liable to imprisonment for two years. A person cannot be convicted of any of the offences defined in

[23] UNDOC, Country Office Nigeria., Knowledge, Attitudes and Perceptions on Trafficking in Persons and Smuggling of Migrants in Nigeria – A Base line Survey

[24] Criminal Code Act

this section upon the uncorroborated testimony of one witness.

The researcher is of the view that imprisonment for a term of two years is grossly inadequate and not capable of preventing external and internal human trafficking for the purpose of prostitution.

2. Dealing in Slaves and Using a Person for Security for Debt: The Criminal Code Act also prohibits slave dealing and using a person for security for debt[25]. The prohibition is contained in section 369 and it state that:

> Any person who-
> 1. deal or trades in purchases, sells, transfers or takes any slave;
> 2. deals or trades in purchases, sells, transfers or takes any person in order or so that such person should be held or treated as a slave;
> 3. places or receives any person in servitude as a pledge or a security for debt whether then due and owing, or to be incurred or contingent, whether under the name of a pawn or by whatever other name such person may be called or known;
> 4. conveys or induces any person to come within the limits of Nigeria in order or so that such a person should be held, possessed, dealt or traded in, purchased, sold, or transferred as a slave, or be placed in servitude as a pledge or security for debt;
> 5. conveys or sends or induces any person to go out of the limits of Nigeria in order or so that such should be possessed, dealt or traded in, purchased, sold, or transferred as a slave, or be placed in servitude as a pledge or security for debt;
> 6. whether or not a citizen of Nigeria holds or possesses in Nigeria any person as a slave;
> 7. enters into any contract or agreement with or without consideration for doing any of the acts or accomplishing any of the purposes herein above enumerated;
>
> is guilty of slave dealing and liable to imprisonment for fourteen years.

[25] Section, 369, Ibid.

The above provision is similar to the provision of section 25 of the TIP Act. However, on conviction, there is no provision for fine as stated under the TIP Act.

3. Confinement: The Criminal Code Act criminalized unlawful deprivation of liberty by confinement or detention. It states that:

> Any person who unlawfully confines or detains another in any place against his will, or otherwise unlawfully deprives another of his personal liberty, is guilty of a misdemeanor, and is liable to imprisonment for two years[26].

The above section supplements the constitutional provision against breach of right to liberty. The researcher is of the view that the two years imprisonment is inadequate having regards to the importance placed on liberty by the constitution.

4. Defilement of Women: Furthermore, the Criminal Code Act seeks to punish any person who procures defilement of woman by threats or fraud or by administering drugs. Section 224 provides that:

> Any person who-
> 1. by threats or intimidation of any kind procures a woman or a girl, to have unlawful carnal connection with a man, either in Nigeria or elsewhere; or
> 2. by any false pretence procures a woman or a girl, to have unlawful carnal connection with a man, either in Nigeria or elsewhere; or
> 3. administer to a woman or a girl, or causes a woman or a girl to take, any drug or other thing with intent to stupefy or over power her in order to enable any man, whether a particular man or not, to have unlawful carnal knowledge of her,
>
> is guilty of a misdemeanor, and is liable to imprisonment for two years.

The above provisions covers offences committed in Nigeria and outside Nigeria. It is an attempt to curtailed unlawful carnal knowledge of children and women in Nigeria and elsewhere.

[26] Section 365, Ibid

5. Living on Earning of Prostitution: Living on the earnings of prostitutes is also regarded as an offence under the Criminal Code Act. Hence, traffickers can be prosecuted under this section as most of them live on the profit from human trafficking. But the researcher also doubt sustenance of a charge under this provision as the victims of the said trafficking never consented to the said prostitution.

Section 225A of the Criminal Code Act states that:

> 1. Every male person who-
> a. knowingly lives wholly or in part on the earning of prostitution; or
> b. in any public place persistently solicits or importunes for immoral purposes, shall be liable to imprisonment for two years, and, in the case of a second or subsequent conviction, shall, in addition to any term of imprisonment awarded, be liable to canning

There are further other several provisions dealing with sexual offences in the Criminal Code Act. However, ironically most of the offences that constitute manifestation of human trafficking are regarded as misdemeanours and penalties range from fines and imprisonment of between two to seven years that are not adequate enough to deter traffickers[27].

Nevertheless, prosecution of human trafficking related offences under the Criminal Code Act has reduces as a result of coming into force of TIP Act, hence all human trafficking related offences are directed at NAPTIP for full scale investigation and possible prosecution.

3.5 Penal Code Act

The Penal Code (Northern States) Federal Provisions Act (Penal Code Act), promulgated on 30th September, 1960, is also a jurisdictional legislation dealing with criminal offences and applicable in the Northern part of Nigeria. It was shaped and fashioned after the Sudan Criminal Code, which in turn was based on the Indian Penal

[27] Edo State had amended its Criminal Code Law to provide for more adequate penalties.

Code. Manifestation of acts of trafficking in women and girls has been recognized as an offence in the Penal Code Act with special provisions, according to the age of the victim. In general, there are stronger provisions against human trafficking related offences in the Penal Code Act when compared with Criminal Code Act. Such offences in Penal Code Act are categorized as felonies and stricter punishments provided. For instance:

1. Encouraging Prostitution: Under the Penal Code Act, a maximum penalty of 10 years imprisonment and a fine exists for anyone convicted of encouraging the prostitution of women and children. Section 275 provides that:

> Whoever by any means whatsoever, induces any girl under the age of eighteen years to go from one place or to do any act with intent that such girl may be, or knowing that it is likely that she will be forced or seduced to illicit intercourse with another person shall be punished with imprisonment which may extend to ten years and shall also be liable to fine.

The researcher is of the view that the word "may extend" as used in the section gives the court the discretion to impose a less term of imprisonment. This may defeat the objective of the provision.

2. Importation of Girls into Northern Nigeria for Prostitution: It is also an offence to import into Northern Nigeria a girl under the age of 21 for prostitution[28]. Section 276 of the Penal Code Act put it thus:

> Whoever imports into Northern Nigeria from any country outside Nigeria any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punished with imprisonment which may extend to ten years and shall also be liable to fine.

[28] See also, Section 275, Penal Code Act

The section above prescribes the maximum penalty in addition to a fine but no minimum penalty. This is a shortcoming as it left to the discretion of the judge to impose any minimum penalty, which may prove to be inadequate considering the gravity and seriousness of the offence. Section 14 of the TIP Act provides a stiffer penalty for exportation and importation of any person for prostitution[29]. The researcher also observed that the Penal Code Act does not criminalized trafficking of women from Nigeria to abroad.

3. **Force Labour:** Furthermore, the Penal Code Act prohibits forced labour and imposes a penalty of imprisonment or a fine or both. Section 280 provides that:

> Whoever unlawfully compels any person to labour against the will of that person shall be punished with imprisonment for a term which may extend to one year or with a fine or both.

Clearly, this penalty is too small and the restraint and deterrent value is lost especially where the traffickers are offered the option of a fine. Human trafficking being a lucrative business, human traffickers will find it much easier and a relief to pay the fines and continue with their trade.

4. Offence of Trafficking for Immoral Purpose: Interestingly, before the enactment of TIP Act, it was only the Penal Code Act that provides for the offence of "traffic in persons" though the provision also relates to slavery[30]. It states that:

> Whoever imports, exports, removes, buys, sells, disposes, traffics or deals in any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

Section 281 prohibits traffic in women for immoral purpose in the following language:

> Whoever, in order to gratify the passions of another persons, procures, entices or leads

[29] Conviction attracts imprisonment for a term of not less than 5 years and a fine of not less than N1,000,000.00
[30] Section 279, Ibid.

> away, even with her consent, any woman or girl for immoral purpose shall be punished with imprisonment which may extend to seven years and shall also be liable to fine.

The researcher is of the view that the provision of section 279 above may exclude persons or victims who are not slave while section 281 is restricted to immoral purpose which may exclude force labour. However, the TIP Act prohibits all act of human trafficking in Nigeria[31].

5. Buying and Selling of Minor for Immoral Purpose: It is an offence under the Penal Code Act to buy or sell a minor for an immoral purpose. The prohibition is contained in section 278 as follows:

> Whoever buys, sells, hires, lets to hire or otherwise obtains possession or disposes of any person under the age of eighteen years with intent that such person shall be employed or used for the purpose of prostitution or for any unlawful or immoral purpose or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

The term of imprisonment as stated above may be less. The omission as to the minimum term of imprisonment and amount of fine is regretted. Courts may in their wisdom decide to sentence a convict to even three months imprisonment.

6. Inducement of Children into Prostitution: Again, the Penal Code Act provides stiff penalties for offences relating to enticement, deceit and inducement of children[32] into prostitution without the consent of their guardian[33], although, in reality the consent of lawful guardians are sought and obtained to induce children into trafficking situations. However, the consent of the guardian should not make it any less offence, as

[31] Section 13, Trafficking in Persons (Prohibition), Enforcement and Administration, Act, 2015

[32] Under 14 years of age if a male or under 16 years of age if a female.

[33] Section 271 and 273, Penal Code Act. The provision of section 271 of the Penal Code is inconsistent with International law that prohibits the prostitution of minors 18 years under any circumstances.

such, the notion of "consent" should be deleted or it should not be taken into consideration, unless to punish the lawful guardian as well.

As far as the sanctions are concerned, the Penal Code Act prescribes up to a maximum of 14 years imprisonment for slave dealing, and punishes the offence of procurement with imprisonment of up to seven years.

3.6 Child Right Act.

The Child Right Act (CRA) is one of the specific laws and the most comprehensive law in Nigeria today for the protection of the rights of the child. It incorporates all the rights, privileges and responsibilities of children and consolidates all laws relating to children, as well as specifying the duties and obligation of parents, government and other authorities[34]. It is the domestication of Convention on the Rights of the Child[35] and International Labour Organization Convention on the Elimination of the Worst Forms of Child Labour that led to the promulgation of Child Rights Act in 2003[36]. The rationale behind the enactment of the CRA may probably be that, the lofty provisions of the Constitution on fundamental rights are not child rights specific and not aimed at combating human trafficking. Couple with the fact that various State Children and Young Persons Laws are largely Juvenile Justice Administration based and not essentially child's rights and responsibilities specific. The said state laws are also not friendly in terms of modern ideology of Juvenile Justice Administration[37]. It must be noted, that the provisions of the Act surpass all other legislations that have a bearing on the rights of the child[38]. Having been enacted at the national level, the states are expected to officially adopt, adapt and adjust the Act for domestication as state laws.

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[34] Ikpeme, A., et al. *Access to Justice for Trafficked Persons. A Handbook for Legal Actors and Assistance Providers., p.21*

[35] The Convention was ratified by Nigeria Government on the 19th April, 1991.

[36] Olateru-Olagbegi B. and Ikpeme A., op.cit. p.37

[37] Ladan, M.T., *The Child Rights Act, 2003, the Challenges of its Adoption by States Government in the 19 Northern States.* A Paper Presented at a one day interactive forum for Sokoto State House of Assembly Legislators, Organised by Sokoto State Ministry of Women Affairs and UNICEF, held at the Sokoto State House of Assembly, Sokoto on the 23rd July, 2007. p. 2

[38] Akinwumi, O. S, *Legal Impediments on the Practical Implementation of the Child Right Act 2003*. In International Journal of Legal Information, Vol. 37, p. 387

This is because issues of child rights protection are on the residual list of the constitution, giving the states exclusives responsibilities, task and jurisdiction to make laws relevant to their specific situations. State laws which are inimical to the rights of the child are also to be amended to conform to the Act and the Child Rights Convention[39]. Presently, the Act has been promulgated into law in about 20 States.

The Act is made up of 278 sections and divided into 24 parts with 11 schedules. The various parts address generally rights and responsibilities, protection and welfare of children, duties and responsibilities of government and institutions for children, as well as other miscellaneous matters. The schedules deal with rules, regulations, procedures and specified forms for applications or for decisions or both[40]. Hence, the 278 sections are basically on child survival, development and participation.

An examination of the CRA clearly shows that human trafficking or child trafficking is not clearly defined and criminalized but exploitative situations as well as other illegal activities which are manifestation of child trafficking, such as forced domestic labour, hawking, begging were criminalized. Examples are;

1. Buying and Selling of Children: The Child Right Act prohibit the act of buying, selling, hiring or otherwise dealing in children for the purpose of hawking of goods, guiding beggars, prostitution, domestic or sexual labour or the use of a child as slave or practices similar to slavery. Thus, Section 30 of the CRA provides that:

> **30.** (1) No person shall buy, sell, hire, let on hire, dispose of or obtain possession of or otherwise deal in a child.
> (2) A child shall not be used
> (*a*) for the purpose of begging for alms, guiding beggars, prostitution, domestic or sexual labour or for any unlawful or immoral purpose ; or

[39] Ibid.
[40] Ladan, M.T., op. cit. p. 4

(*b*) as a slave or for practices similar to slavery such as scale or trafficking of the child, debt bondage or serfdom and forced or compulsory labour;

(*c*) for hawking of goods or services on main city streets, brothels or highways;

(*d*) for any purpose that deprives the child of the opportunity to attend and remain in school as provided for under the compulsory, Free Universal Basic Education Act;

(*e*) procured or offered for prostitution or for the production of pornography or for any pornographic performance; and

(*f*) procured or offered for any activity in the production or trafficking of illegal drugs and any other activity relating to illicit drugs as specified in the National Drug Law Enforcement Agency Act.

(3) A person who contravenes the provisions of Subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of ten years.

This section is wide enough to cover the abuse and distorted *almajiri* system of semi-formal Quranic education which has, in some cases, come to rely on "forced begging by *Quranic* pupils to support their Islamic teachers". The distortion is as a result of total neglect of *almajiri* system by the Nigeria government, particularly, the government of Northern States. This act is becoming a dangerous trend in many parts of the cities of Northern Nigeria, showing luck warm attitude of the government toward the system. These children are migrant scholars from within and outside Nigeria and can be seen in hundreds around the cities begging and "committing nefarious and despicable acts of violence and drug peddling"[41]. The practice of using children to assist adults with disabilities to engage in begging on the streets of major cities in Nigeria is also very common and widespread[42].

[41] Ibid.
[42] Ibid.

2. Hiring of Children: The CRA also frown at hiring, giving or acquiring custody of a child for the purpose of dealing in the child and punishes the said act with imprisonment for one year or a fine or both. The relevant sections in the CRA are as follows:

> **80.** (1) No person shall hire, give or acquire the custody, possession, control or guardianship of a child whether or not for pecuniary or other benefit in circumstances that it may reasonably be inferred that the child has been hired, sold or bartered, or that by reason of the hiring, giving or acquiring, the child may reasonably be inferred to be placed in any danger, whatsoever.
> (2) In any prosecution for the contravention of Subsection (1) of this section, where it is proved that the custody, possession, control or guardianship of a child has been given to or acquired by a person other than a person who is a member of the family of the child, it shall be presumed by the Court that the child has been given or acquired in contravention of the provisions of Subsection (1) of this section.
> (3) It shall be a defence to this section to prove that the child concerned was given or acquired in accordance with customary law, provided that the customary law is not repugnant to natural justice, morality or humanity or inconsistent with any written law.
> **81.** A person who contravenes the provisions of Sections 79 and 80 of this Act or of any rules made under those sections commits an offence and is liable on conviction to a fine of ten thousand Naira or imprisonment for a term of one year or to both such fine and imprisonment.

The punishment as provided is a well deserved and adequate measure against offenders. However, the defence as provided may be subjected to abuse as what is repugnant to natural justice, morality or humanity lack concise definition in the CRA.

3. Sexual Abuse of a Child: Unlawful sexual intercourse with a child attracts imprisonment for life[43]. The CRA provides that:

> **31.** (1) No person shall have sexual intercourse with a child.
> (2) A person who contravenes the provision of Subsection (1) of this section commits an offence of rape and is liable on conviction to imprisonment for life.
> (3) Where a person is charged with an offence under this section, it is immaterial that
> (*a*) the offender believed the person to be of or above the age of eighteen years ; or
> *(b*) the sexual intercourse was with the consent of the child.

Unlike the TIP Act that failed to provide for imprisonment for life, the sanction as provided above is adequate and will serve as a measure of deterrence to offenders. Other forms of sexual abuse and exploitation are also punishable under the CRA. It provide for 14 years imprisonment for convicts[44].

> **32** (1) A person who sexually abuses or sexually exploits a child in any manner not already mentioned under this Part of this Act commits an offence.
> (2) A person who commits an offence under Subsection (1) of this section is liable on conviction to imprisonment for a term of fourteen years.

The researcher is of the view that section 32 (2) is not too clear as to the minimum term of imprisonment. Hence, the court may act on its discretional power to impose any term of imprisonment as the said provision is not mandatory.

4. **Child Marriage and Betrothal:** The offence of child marriage and child betrothal is punishable under Section 23 of the CRA. It provides thus:

[43] Section 31 (2) Ibid
[44] Section 31 and 32, Ibid

> **23.** A person
> (*a*) who marries a child; or
> (*b*) to whom a child is betrothed; or
> (*c*) who promotes the marriage of a child; or
> (*d*) who betroths a child commits an offence and is liable on conviction to a fine of N500,000 (five hundred thousand Naira) or imprisonment for a term of five years or to both such fine and imprisonment.

Nevertheless, betrothal of children is rooted and still a regular practice in the Northern Nigeria and to a less extent in other part of the country. The fine of N500, 000 is appropriate. However, offenders may fall within the class of Nigerian that cannot afford the said fine. Hence, term of imprisonment of more than five years may be more appropriate.

5. Child Labour: Child labour or exploitative labour is also prohibited and punishable under the CRA Act. It provides under section 28 that:

> **28.** (1) Subject to this Act, no child shall be
> (*a*) subjected to any forced or exploitative labour ; or
> (*b*) employed to work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character ; or
> (*c*) required, in any case, to life, carry or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual, moral or social development ; or
> (*d*) employed as a domestic help outside his own home or family environment.
> (2) No child shall be employed or work in an industrial undertaking and nothing in this subsection shall apply to work done by children in technical schools or similar approved institutions if the work is supervised by the appropriate authority.
> (3) Any person who contravenes any provision of Subsection (1) or (2) of this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand Naira or imprisonment for a term of five years or to both such fine and imprisonment.

> (4) Where an offence under this section is committed by a body corporate, any person who at the time of the commission of the offence was a proprietor, a director, general manager or other similar officer, servant or agent of the body corporate shall be deemed to have jointly and severally committed the offence and may be produced against and liable on conviction to a fine of two hundred and fifty thousand Naira.

The fine of Fifty Thousand Naira and Two Hundred and Fifty Thousand Naira against individuals and corporate bodies respectively is not punitive. The researcher is of the view that a corporate body that violates the said provision should be wind up compulsorily by the court. For individuals, a minimum term of 10 years imprisonment may be adequate.

6. **Trafficking of Drugs:** Exposing or involving a child in the production or trafficking of narcotic drugs attracts life imprisonment. CRA provides;

> **25.** (1) No person shall, expose or involve a child in the use of narcotic drugs and psycho tropic substances.
> (2) No person shall, expose or involve a child in the production or trafficking of narcotic drugs or psycho tropic substances.
> (3) A person who contravenes the provisions of Subsection (1) or (2) of this section commits an offence and is liable on conviction to imprisonment for life.

The above section may be use in prosecution of offenders that are found in engaging children in exploitative labour for the purpose of drug production. The imprisonment for life is a testimony that narcotic drugs are inimical to the society.

7. **General Criminal Activities and Adduction of Children:** In order to curb the act of using children in criminal activities, the CRA provides in section 26 that:

> **26.** (1) No person shall employ, use or involve a child in any activity involving or leading to the commission of any other offence not already specified in this Part of the Act.

> (2) A person who contravenes the provisions of Subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of fourteen years.

The prohibition and the punishment may reduce the incidence of using children or traffic children for the purpose of aiding commission of crimes. Abduction from lawful custody as a means of recruiting children for human trafficking is also seen as an offence under the CRA as it provides that:

> **27.** (1) No person shall remove or take a child out of the custody or protection of his father or mother, guardian or such other person having lawful care or charge of the child against the will of the father, mother, guardian or other person.
> (2) A person who contravenes the provisions of Subsection (1) of this section commits an offence and is liable on conviction—
> (*a*) where the child is unlawfully removed to taken out of Federal Republic of Nigeria—
> (*i*) with intention to return the child to Nigeria, to imprisonment for a term of fifteen years, or
> (*ii*) with no intention to return the child to Nigeria, to imprisonment for a term of twenty years ‘
> (*b*) where the child is unlawfully removed or taken out of the State in which the father, mother, guardian or such other person who has lawful care of the child is ordinarily resident, to imprisonment for a term of ten years
> (*c*) in any case, to imprisonment for a term of seven years.

The researcher is of the view that the various sanctions as provided against abduction may reduce the trend of removal of children from lawful custody.

3.6.1 The Family Court

The CRA also established a family court which has jurisdiction to hear all matters in respect of a claim of which a child is in issue and any criminal proceeding thereto[45].

[45] Section 149, Ibid

149. There shall be established for each State of the Federation and the Federal Capital Territory, Abuja, a Court to be known as the Family Court (in this Act referred to as "the Court") for the purposes of hearing and determining matters relating to children.

150. The Court shall be at two levels—
(*a*) the Court as a Division of the High Court at the High Court Level: and
(*b*) the Court as a Magistrate Court, at the Magistrate level.

151. (1) Subject to the provisions of this Act and in addition to such other jurisdiction as may be conferred on it by any other law, the Court shall have unlimited jurisdiction to hear and determine-
(*a*) any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim in respect of a child is in issue ; and
(*b*) any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by a child, against a child or against the interest of a child.
(2) The reference to civil or criminal proceedings in this section includes a reference to a proceeding which originates in the Court and that which is brought by the Court at the High Court level to be dealt with by the Court in the exercise of its appellate or supervisory jurisdiction.
(3) The Court shall, in any matter relating to or affecting a child or a family and at all stages of any proceedings before it-
(*a*) be guided by the principle of conciliation of the parties involved or likely to be affected by the result of the proceedings, including-
(*i*) the child,
(*ii*) the parents or guardian of the child, and
(*iii*) any other person having parental or other responsibility for the child; and
(*b*) encourage and facilitate the settlement of the matter before it in an amicable manner.

There is no evidence of the existence of the said Family Court pursuant to the above provision. This goes to show that the implementation of the provisions of CRA is still elusive.

3.7 Labour Act

The Labour Act applies to all workers and to all employers except the armed forces, the Police, Prisons and Intelligence Agencies. It is designed to regulate labour and industrial relation in Nigeria. The Labour Act is a reflection of the British law and as such issues of force labour and child labour are of concern and therefore punishable. The Labour Act like the Nigerian Constitution prohibits forced or compulsory labour[46] which formed part of manifestation/elements/acts of human trafficking. The Act stipulates that:

> 1. Any person who requires any other person, or permits any other person to be required, to perform forced labour contrary to section 34 (1) c of the Constitution of Federal Republic of Nigeria 1999, shall be liable to a fine not exceeding N1,000 or to imprisonment for a term not exceeding two years, or to both.
>
> 2. Any person who, being a public officer, puts any constraint upon the population under his charge or upon any members thereof to work for any private individual, association or company shall be liable to a fine not exceeding N200 or to imprisonment for term not exceeding six months, or to both.

The penalty against force labour in the Labour Act is two years imprisonment or N1, 000 fine for private individuals and six months imprisonment or N200 fine for public officers. However, the penalty provided is largely inadequate to deter the commission of the offence of forced labour. Again, there is no rational why a public officer occupying a position of trust should be sanctioned for only six months imprisonment for breaching public trust. Public officers deserve more term of imprisonment than what is provided.

[46] Section 73, Labour Act and Section 31(1) (c), Constitution of the Federal Republic of Nigeria, 1999, (as amended)

3.8 Immigration Act

The new Immigration Act (Act) was signed into law sometimes in May, 2015. The Act repealed the Immigration Act, 1963. The 1963 Act had failed to address current immigration needs, hence, the repeal. The new Act seeks to reposition the Nigerian Immigration Service and its policies to meet international accepted practices.

As with other jurisdictions seeking to tackle issues of human trafficking, the Act prohibited certain trends that are associated with human trafficking. For instance Section 44 of the Act provides that:

> 1. A person within any of the following categories shall be deemed to be prohibited immigrant and liable to be refused admission or to be deported from Nigeria as the case may be-
> a. a person who is without ...
> b. mentally ill or mentally ...
> c. a person trafficking in persons or smuggling migrants:
> d. a person convicted of any crime ...
> e. a person whose admission ...
> f. a person against whom ...
> g. a person who-
> i. has not in his possession a valid passport, or
> ii. being a person under the age of eighteen years, has not in his possession a valid passport or visa, and is unaccompanied by an adult on whose valid passport, his particulars are appearing:
> h. a person who-
> (i) is a prostitute
> (ii) is a person who ...
> iii. is a brothel keeper or a person permitting the defilement, or seduction of a child or young person on his premises or on any other premises under his control:
> iv. encourages the seduction of a child or young person: or
> v. is trading in prostitution, or is a procurer:
>
> is deemed to have committed an offence and is liable on conviction to imprisonment for ten years.

It seems the above provisions apply to non Nigerians whose acts are detrimental to the well being of children and humanity in general through the act of human trafficking. The convict is also expected to be deported after serving jail term[47].

Furthermore, Nigeria's immigration laws do not satisfy or suit the demand for labour in areas like agriculture, industry and domestic work[48]. Immigration Act gives conditions under which an immigrant can seek employment in the country. It states:

> Where any person in Nigeria is desirous of employing a person who is a national of any other country, he shall, unless exempted under this section, make application to the Comptroller-General of Immigration in such manner as may be prescribed and shall give such information as to the provision to be made for repatriation of that national and his dependants as the Comptroller-General may reasonably require and no such person shall be employed without the permission of the Comptroller-General given on such terms as he thinks fit.[49]

A term of five years imprisonment or fine of One Million Naira or both awaits any person found guilty under the above section[50]. Hence, those who employ trafficked victims can be prosecuted under this section. On the other hand, the Nigeria legal system permits the institution of civil proceedings to claim damages against convicts under the TIP Act. Victims of human trafficking can institute civil actions to claim recovery of lost wages, compensation for unpaid work, and restitution and damage claims for human rights abuses. Section 65 of the TIP Act provides that:

> 1. A trafficked person, irrespective of his immigration status is entitled to compensation, restitution and recovery for economic, physical and psychological damages which shall be assessed and paid out

[47] Section 44 (2), Immigration Act, 2015.
[48] Olateru-Olagbegi B. and Ikpeme A., op.cit., p.30
[49] Section 38 (1), Immigration Act, 2015
[50] Section 38 (5), Ibid.

of the forfeited assets of the convicted trafficker.

The situation conversely does not always work favourably for victims. The Tip Act is silent on what happen where the convict has no property. This is an obvious lacuna from the drafters of the law.

3.9 Rules of Evidence

The evidential rules to secure convictions for offences including those relating to human trafficking have been a major hurdle for the administration of criminal justice in Nigeria. The bulk of Nigerian general laws relating to evidence is contain in the Evidence Act as amended in 2011[51]. It is applicable all over Nigeria and particularly to almost all courts of criminal jurisdiction in both Northern and Southern Nigeria. Since women and girls are more vulnerable to human trafficking, the aspects of the Evidence Act, which are discriminatory against women and which make it more difficult for women to seek redress will be specifically examined.

The burden and standard of proof for some particular crimes, especially sexual offences in which women and girls are victims, prevent women from obtaining justice and also prevent the successful prosecution of cases relating to human trafficking.

Under the Nigerian Rules of evidence, the general rule is that no particular number of witnesses is required for the general proof of any fact. Hence, Section 200 of the Evidence Act, states that *"Except as provided in sections 201- 204 of this Act, no particular number of witnesses, shall, in any case, be required for the proof of any fact"*. A person can therefore be convicted of any offence including culpable homicide punishable with death or murder on the evidence of a single credible witness. However, our courts as a matter of practice have over time determined that it is unsafe to convict on the evidence of a single witness without corroboration[52]. This rule is so strictly

[51] Cap. E14, LFN, 2004.
[52] Sunmonu vs Police (1957) W.R.N.L.R. 23

followed that if a court fails to follow it, any conviction will be quashed on appeal. The affected offences under the Criminal Code Act are: defilement of girls under 13 years of age[53]; defilement of girls between ages 13 and 16 and idiots[54]; procurement of a girl under 18 years of age to have unlawful carnal connection with any other person or persons[55]; and procurement and defilement of women by threats, or fraud or administering drugs[56]. Under the Penal Code Act, the affected offences are procurement of a minor girl[57] and having sexual intercourse with a girl less than 14 years of age[58]. It will appear that victims of all the offences that need corroboration as a matter of practice before conviction are female.

As a matter of law, the Evidence Act[59] has effectively, bowdlerized sexual offences from the corroboration requirement while corroboration is still enforce as matter of law under the Criminal Code Act.

3.10 A RANGE OF INTERNATIONAL LEGAL INSTRUMENTS FOR COMBATING TRAFFICKING IN PERSONS

Apart from the National legislation on human trafficking and other criminal acts, Nigeria has signed and ratified many Regional and International instruments which relate to human trafficking. These include;

3.10.1 Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa

This Protocol applies to all African nations. It came into being as a result of commitment of State Parties to fully eliminate all forms of discrimination and harmful practices against women in Africa. The Protocol was signed and ratified by Nigeria on 16th December, 2003 and 16th December, 2004 respectively. The Protocol seeks to eliminate practices that hinder the normal growth, physical and psychological

[53] Section 218, Criminal Code, Act
[54] Section 221, Ibid
[55] Section 223, Ibid
[56] Section 224, Ibid
[57] Section275, Penal Code Act
[58] Section 282 (1) (e), Ibid.
[59] Section 200, Evidence Act, 2011.

development of women and girls. Thus Article 4 (2) (g) of the Protocol provides that state parties shall take appropriate and effective measures to*: "prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk"*[60]. The implication of the above Article is that government of Nigeria is duty bound to implement the provision of the said Article. However, the researcher doubts its implementation due to lack of domestication. The Protocol also guarantees women effective access to judicial and legal services[61] including legal aid[62].

3.10.2 African Charter on the Rights and Welfare of the Child

The African Charter on the Rights and Welfare of the Child (The Charter) is a comprehensive instrument that sets out the rights and defines universal principles and norms for the status of children. Nigerian government signed the Charter on the 13th day of July, 1999 and ratified same on the 23rd July, 2001. The Charter provides for wide range of children rights including the right to survival and development[63]. It recognized the child's unique and privileged place in Africa society and that African children need protection and care. The Charter aims to protect the private life of a child and safeguard the child against all forms of exploitation. Consequently, Article 15 (1) of the Charter frowns at child labour in the following term:

> Every child shall be protected from all form of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.

The Charter also encourages State parties to promote the dissemination of information on the hazards of child labour to all sector of the community[64]. State parties are also mandated to take specific legislative and other measures to protect children against

[60] Article 4(g), Protocol to African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)
[61] Article 8, Ibid
[62] Ikpeme, A., et al., op.cit. p.22
[63] Article 5, African Charter on the Rights and Welfare of the Child
[64] Article 15 (2) (d), Ibid

child abuse and torture.[65] Protection of children against harmful social and cultural practices such as child marriage and betrothal is provided for in the Charter[66].

Again, the Charter frowns at sexual exploitation and mandate States to take measures to prevent:

> a. The inducement, coercion or encouragement of a child to engage in any sexual activity;
> b. The use of children in prostitution or other sexual practices;
> c. The use of children in pornographic activities, performances and materials[67].

Finally, sale, trafficking and adduction of children were dealt with in Article 29 of the Charter. It states that states parties are to take measures to prevent:

> a. The adduction, the sale of, or traffic in children for any purpose or in any form, by any person including parents or legal guardians of the child;
> b. The use of children in all forms of begging.

The above provisions imply that trafficking in persons is a heinous crime that needed to be curtailed.

3.10.3 African Charter on Human and People's Rights.

The African human rights system embodied in African Charter on Human and Peoples' Rights is the youngest regional system after the Arab Charter of Human Rights which was adopted in May, 2004 by the League of Arab States but came into force on 15th March, 2008. 31st August, 1982 was the year the African Charter was signed by Nigeria and same was ratified on 22 June, 1983[68]. The African Charter prohibits slavery which is one of the manifestations of trafficking in the following terms:

> Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation

[65] Article 16, Ibid
[66] Article 21, Ibid
[67] Article 27, Ibid.
[68] Policy Paper No.14.2 (E), op.cit.p.45

> and degradation of man particularly slavery, slave trade, torture, cruel, inhuman degrading punishment and treatment shall be prohibited[69].

Victims of trafficking can seek redress under this African Charter in Nigeria, since it had been domesticated.

3.10.4 The Palermo Protocol

A major step that was taken by the comity of nations under the support and auspices of the United Nations to address the issue of human trafficking is the adoption of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Trans-national Organized Crime signed in Palermo. Nigeria signed and ratified the Palermo Protocol and the Convention on 13th December, 2000 and 28th June, 2001, respectively. The prevention of trafficking in persons especially women and children, protection of and assistance to victims of trafficking and promoting cooperation among States Parties is the core purpose of the Protocol[70]. The Palermo Protocol also focuses on law enforcement that assumes the commission of crimes by crime syndicates. The domestication of the Palermo Protocol strengthens the national legal framework in combating human trafficking and forced labour[71]. The definition in the Protocol has enabled the inclusion within the ambit of trafficking of acts committed by parents or guardians who gave out their children to intermediaries who place them in exploitative labour or slavery-like conditions. It is also notable that the Palermo Protocol provides for the recovery of properties from the traffickers to redress the injustices suffered by the trafficked person[72].

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[69] Article 5, Africa Charter on Human and peoples' Right

[70] Article 2, Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Conventions against Trans-national Organized Crime.

[71] Article 3, Ibid

[72] This provision is replicated in Section 49 and 65 of the TIP Act.

However, the non mandatory nature of some of the provisions of the Palermo Protocol suggests some weakness in the Protocol, particularly in the provisions for the protection and assistance to trafficked persons. The language of the Protocol gives discretional powers to State parties through the use of words like "Each State Party shall consider taking measures..."[73] "appropriate cases and to the extent possible…"[74]. Such wording gives room to State parties to manoeuvre and legally escape their obligations under the Protocol. Most of the purposes of trafficking in persons listed in Article three of the Trafficking in Persons Protocol are the subject of specific legal instruments that Nigeria had signed and ratified[75].

[73] Article 11 (5), Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Conventions against Trans-national Organized Crime

[74] Article 6 (1), Ibid

[75] E.g The Convention on the Elimination of All Forms of Discrimination Against Women

CHAPTER FOUR

INSTITUTIONAL STRUCTURES AND THEIR EFFORTS AT COMBATING TRAFFICKING IN PERSONS IN NIGERIA

4.1 Introduction

Having discussed trafficking in persons and a brief overview of the legal instruments for combating human trafficking in Nigeria in the previous chapters, the focus of this chapter is the institutional structures saddle with the responsibility of combating the scourge of trafficking in persons in the country and their efforts so far at combating the said trafficking. Nigeria has a population of over 150 million[1] persons with children and women constituting the vast majority of the population. Nigeria as a nation is the largest single source of trafficked persons in Africa to Europe and Asia. Hence, analysis of the efforts at combating human trafficking by the National Agency for the Prohibition of Trafficking in Persons, the Nigeria Immigration Service, the Nigeria Police Force, the Legal Aid Council, Office of the Attorney General for the Federation and the Judiciary will be our focus. However, lack of coordination among these institutions may lead to inadequate protection of the rights of victims of human trafficking. The problems, hardships and controversies created by the implementation of the laws against trafficking in persons will also be analysed.

4.2 National Agency for the Prohibition of Trafficking in Persons

The fight against human trafficking in Nigeria has remained a priority assignment of the Government. The Government has also committed resources in this regards with a firm resolution to win the battle against human trafficking as it is not longer news that six out of ten trafficked persons are Nigerians[2]. Hence, in 2003, the government of Nigeria established a specialised agency called National Agency for the Prohibition of

[1] Nigeria Demographic & Health Survey, 2013, p. 1

[2] Danish Immigration Service and Home Office, Protection of Victims of Trafficking in Person Nigeria (2007), p.6

Traffic in Persons and Other Related Matters[3](NAPTIP/Agency) to fight the bane and scourge of trafficking in persons and its attendant human right abuses in all its ramification.

4.2.1 Establishment of National Agency for the Prohibition of Trafficking in Persons

The National Agency for the Prohibition of Trafficking in Persons is a multi-disciplinary crime fighting agency and a creation of the TIP Act. The said TIP Act provides that:

> There is established the National Agency for the Prohibition of Trafficking in Persons (in this Act referred to as "the Agency") [4]

The TIP Act also clothes NAPTIP with a corporate personality capable of perpetual succession and a common seal[5]. Thus, it can sue and be sued in its corporate name[6]. It may also deal howsoever with property, movable or immovable, real or personal properties[7]. The Agency is headed by a Director-General in compliance with the provision of the TIP Act. The said TIP Act provide thus:

> There shall be for the Agency, a Director-General who shall be from the Directorate Cardre in the Public Service of the Federation or its equivalent in any law enforcement service and shall be appointed by the President on the recommendation of the Minister[8]

It is the view of the researcher that the above provision provides a clear procedure for the appointment of the head of the Agency, whose appointment is limited to a term of four years in the first instance and may be eligible for re-appointment for another term

[3] The Agency is now known as National Agency for the Prohibition of Trafficking in Persons.
[4] Section 2 (1), Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015.
[5] Section 2 (2) (a), Ibid
[6] Section 2 (2) (b), Ibid.
[7] Section 2 (2) (c), Ibid
[8] Section 8 (1). Ibid

of four years and no more[9]. It is also the view of the researcher that eligibility to re-appointment may be subject to credible performance, as the TIP Act does not provide any condition or conditions precedent for re-appointment. In addition it is also the view of the researcher that the power to recommendation of the Minister is limited to persons within the Public Service of the Federation or Law Enforcement Service. Hence, qualified individuals with knowledge and experience in matters related to counter trafficking who are not public Servant cannot be appointed as the head of the Agency. In the same vain, qualified Public Servants but without knowledge and experience in counter trafficking may be appointed as the head of the Agency. The head of the Agency act as the chief executive and accounting officer. The head is also responsible for the day to day administration of the Agency, keeping the books and records of the Agency and act as the Secretary to the Governing Board of the Agency[10].

4.2.2 The Governing Board of National Agency for the Prohibition of Trafficking in Persons

In order to provide NAPTIP with a sound policy direction, the TIP Act provides for a part time Governing Board of 10 members[11]. The said Board consist of:

a) a chairman who shall be a person with knowledge and experience in matters related to counter-trafficking in persons;
b) two representatives of the civil society-based organisations involved in matters relating to trafficking in persons;
c) a representative each of the following institutions or agencies who shall be within the Directorate cadre-

i. Federal Ministry of Justice,
ii. Federal Ministry of Women Affairs,
iii. Federal Ministry of Labour and Productivity,
iv. Nigeria Police Force,
v. National Intelligence Agency,
vi. Nigeria Immigration Service, and

[9] Section 8 (3), Ibid
[10] Section 8 (2), Ibid
[11] Section 3 (1), Ibid

vii. National Planning Commission[12]

The chairman and members of the Board are appointed by the President on the recommendation of the Attorney General of the Federation and Minister of Justice[13]. The appointment is for four years and another term of four years and no more. However, the no inclusion of traditional rulers in the membership of the Board is a lacuna as traditional rulers are closer to the people who are prone to be trafficked than above listed representatives. Thus, the researcher is of the view that at least a tradition ruler each from the six geo-political zones be included in the Board. Again, in view of some of the functions[14] of NAPTIP, the researcher is of the view that the Economic and Financial Crimes Commission and Ministry of Foreign Affairs ought to be included in the Board.

The Board is saddle with the following functions:

a. formulate and provide general policy guidelines for the discharge of the functions of the Agency;
b. monitor and ensure the implementation of the policies and programmes of the Agency; and
c. carry out such other functions as are necessary or expedient to ensure the efficient performance of the functions of the Agency under this Act[15].

Furthermore, the TIP Act provides that the Board shall have the power to-

a. approve rules and regulations relating to the appointment, promotion and disciplinary measures for the employees of the Agency;
b. fix the remuneration, allowances and benefits of the employees of the Agency subject to the approval of the Salaries and Wages Commission

[12] Section 3 (2), Ibid
[13] Section 3(3), Ibid
[14] Tracing and freezing of funds and extradition matters
[15] Section 7(1), Ibid

c. regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given, keeping of minutes of its proceedings and such other matters as the Board may, from time to time determine[16].

The fixing of remuneration, allowances and benefits of the employees of the Agency by the Board and subject to the approval of Salaries and Wages Commission is commendable as it will guide against bogus remuneration. Again, the Board is not subjected to any supervision under the TIP Act by its appointers. Hence, it is the view of the researchers that a definite relationship be created by the TIP Act to guide against undue interference by the appointers and sharp mal-practices within and outside the Board.

4.2.3 Powers of the National Agency for the Prohibition of Trafficking in Persons

There are various components of the power of the National Agency for the Prohibition of Trafficking in Persons. The Agency has unique power to investigate, arrest, detain among others. The statutory powers of the Agency are found in section 6 of the TIP Act. Section 6 states:

The Agency shall have the power to –

a) investigate whether any person, body or entity has committed an office under this Act or the offence of trafficking under any other law;
b) enter into any premises, property or conveyance for the purpose of conducting searches in furtherance of its functions under this Act or under any other law;
c) arrest, detain and prosecute offenders under this Act or any other law on trafficking in persons in Nigeria;
d) trace, seize, detain or retain the custody, for the purpose of investigation and prosecution, of any property which the Agency reasonably

[16] Section 7 (2), Ibid

believes to have been involved in or used in the commission of offences under this Act or any other law;

e) seal up premises upon reasonable suspicion of such premises being involved with or used in connection with offences under this Act; and
f) seek and receive information from any person, authority, corporation or company without hindrance in respect of enforcement of any of the provisions of this Act.

The above powers of the Agency are to enable them take an aggressive stance on eradication of human trafficking in Nigeria, thereby making Nigeria a leader in the fight against human trafficking in Africa.

4.2.4 Functions of National Agency for the Prohibition of Trafficking in Persons

The National Agency for the Prohibition of Trafficking in Persons is the central and focal point for the fighting against human trafficking and rehabilitation of the victims of trafficking in Nigeria. Its responsibility includes investigation of all cases of trafficking in persons, coordinating laws related to the trafficking of persons and enforcement of the TIP Act. It leads supervising. It controls and coordinates efforts for rehabilitation of trafficked persons. The function of the Agency includes prevention, prosecution and protection. Furthermore, partnership is one of the strategic tools which the Agency is using and anchoring its programme on to promote a less free human trafficking society in Nigeria. Thus, Section 5 of the TIP Act provides that:

The functions of the Agency shall be to-

a) enforce and administer the provisions of this Act;
b) co-ordinate and enforce all other laws on trafficking in persons and related offences;
c) adopt effective measures for the prevention and eradication of trafficking in persons and related offences

d) establish co-ordinated preventive, regulatory and investigatory machinery geared towards the eradication of trafficking in persons;
e) investigate all cases of trafficking in persons including forced labour, child labour, forced prostitution, exploitative labour and other forms of exploitation, slavery and slavery-like activities, bonded labour, removal of organs, illegal smuggling of migrants, sale and purchase of persons;

Other functions include;

f) encourage and facilitate the availability and participation of persons who voluntarily, consent to assist in investigations or proceedings relating to trafficking in persons and related offences;
g) enhance the effectiveness of law enforcement agents and other partners in the suppression of trafficking in persons;
h) create public enlightenment and awareness through seminars, workshops, publications, radio and television programmes and other means aimed at educating the public on the dangers of trafficking in persons;
i) establish and maintain communications to facilitates rapid exchange of information concerning offences under this Act;
j) conduct research and strengthen effective legal means of international co-operation in suppressing trafficking in persons;

Some further other functions of NAPTIP are;

k) implement all bilateral and multilateral treaties and conventions on trafficking in persons adopted by Nigeria;
l) strengthen co-operation and conduct joint operations with relevant law enforcement and security agencies, international authorities and other relevant partners in the eradication of trafficking in persons
m) co-ordinate, supervise and control-

i. the protection, assistance and rehabilitation of trafficked persons; and
ii. all functions and activities relation to investigation and prosecution of all offences

connected with or relating to trafficking in persons;

n) adopt measures to identify, trace, freeze, confiscate or seize proceeds, property, funds or other assets derived from trafficking in persons or related offences;

o) conduct research on factors responsible for internal and external trafficking in persons and initiate programmes and strategies aimed at the prevention and elimination of the problem;

p) facilitate rapid exchange of scientific and technical information concerning or relating to trafficking in persons;

Finally, the other functions of NAPTIP include;

q) collaborate with government bodies both within and outside Nigeria whose functions are similar to those of the Agency in the area of the-

i. movement of proceeds or properties derived from trafficking in persons and other related offences;

ii. identities, location and activities of persons suspected of being involved in trafficking in persons and other related offences, and

iii. exchange of personnel and other experts;

r) establish and maintain a system for monitoring trans-border activities relating to trafficking in persons in order to identify suspicious movements and persons involved;

s) deal with matters connected with the extradition and deportation of persons involved in trafficking in persons and other mutual legal assistance between Nigeria and any other country in trafficking in persons, subject to the supervision of the Minister;

t) initiate, develop and improve special training programmes for personnel of the Agency and relevant law enforcement agents charged with the responsibility of detecting offences created under this Act; and

u) carry out such other activities as are necessary for the efficient discharge of the functions conferred on it under this Act.

The above functions are encompassing to tackle the problem associated with human trafficking. Thus, dedicated special departments are established in order to effectively tackle the problem of human trafficking in Nigeria and implement the mandate of the Agency. The said departments[17] are;

a. Investigation and Monitoring Department;
b. Legal and Prosecution Department;
c. Public enlightenment Department;
d. Counselling and Rehabilitation Department;
e. Research and Programme Development Department;
f. Training and Manpower Development Department

The Agency is also empowered to create other departments, set up units, working groups and to change the structures of the Agency with the consent of the Board[18]. Hence, it is the view of the researcher that Public Enlightenment Department be merged with Counselling and Rehabilitation Department for administrative connivances. Again, the vast majority of staffs in the department are presumed to be social workers, hence the view. The departments are fully pledge directorates headed by directors. The efforts of the various departments at combating trafficking are aptly captured below;

a. The Investigation and Monitoring Department

Human trafficking cases are complex in nature and difficult to detect and investigate. The problem is exacerbated by the growing involvement of organised crime groups worldwide. Despite numerous efforts in recent years, there are still many challenges remaining with regards to the effective investigation, measurement, monitoring, and prevention of trafficking in persons worldwide. For instance, language barriers, lack of cooperation and victim's inability to talk about their traumatic experiences is likely to hamper investigation and prosecution. The researcher is of the view that investigators who are fluent in the language of the victim and have cultural affinity with the victim

[17] Section 11, Ibid
[18] Ibid

be use for investigation of a given case. Also, investigators and prosecutors can gain the trust and cooperation of victims and witnesses by showing empathy. Criminal investigation involves the investigation of violation of criminal law. It may also be an undertaking that seeks, collects and gathers evidence for a case. The function of the department is aptly captured in Section 12 of the TIP Act as follows:

> The Investigation and Monitoring Department shall-
> a. be responsible for the prosecution and detection of offences under this Act;
> b. collaborate with the Nigeria Immigration Service and other relevant law enforcement agencies in charge of entry and exist for the purpose of detecting offences under this Act;
> c. investigate, trace and identify the proceeds, assets and properties of persons derived from acts which constitute an offence under this Act; and
> d. effect the confiscation or forfeiture of such proceeds, assets and properties in collaboration with the Legal and Prosecution Department.

Therefore, the Investigation and Monitoring Department deal with general investigation of all cases of human trafficking including the confiscation of proceeds therefrom. The department seeks efficiency through the creation of units and sub-units such as Surveillance, Incident Duty Interrogation, Exhibit, Financial Investigation, Forensic, Detention and Release and National Monitoring Centre and Security Units[19]. The Investigation and Monitoring Department in order to uncover information about a crime undertake the following investigation techniques to find necessary and needed evidence for a case. The techniques[20] are;

i. reaction to complains;

ii. intelligence directed operations;

iii. background check; and

[19] www.naptip.ng.com. Accessed on 12/08/2016
[20] Ibid

iv. joint operation-intelligence gathering/sharing

v. disruptive investigation

(i) Reactive Investigation

Reactive investigation is a victim-led investigation and also known as reaction to complain. It does not for all time lead to successful prosecution of offenders. It is a quick intervention strategy to protect victims and affords little time for a proactive investigation aimed at obtaining additional evidence. Hence, there may be no result or evidence upon which to prosecute. Also, there is likelihood of victims withdrawing their cooperation to testify in courts as a result of interference from the suspect.

(ii) Intelligence Directed Operation

An intelligence directed operation or proactive investigation is an intelligence-generated and led investigation which often leads to successful prosecution of suspects or traffickers.

(iii) Background Check

A background check or investigation is a comprehensive search of publicly available documents and on-site searches in the relevant areas to unravel human trafficking. This method of investigation provides thorough and comprehensive pictures of persons or acts that constitute human trafficking. Hence, the result of this method of investigation provides an in-depth analysis and facts that may not be obvious on the surface. It also helps in making an informed decision about a person or group who is the subject of the investigation.

(iv) Joint Operation-Intelligence Gathering/Sharing

Joint operation with relevant agencies provides a means to respond to emerging human trafficking situations through rapid co-ordinated agility to quickly identify the problems. Thus, joint operations-intelligence gathering is responsible for providing and producing the intelligence needed to support prosecution. However, the most common

problem in joint operation is that of intelligence. The researcher suggest establishment of a Joint Intelligence Center where information on human trafficking from all the relevant agencies will be fed into central collecting point for collation, evaluation and dissemination.

(v) Disruptive Investigation

Disruptive investigation is another technique of investigation adopted by the Investigation and Monitoring Department. It is used when neither the reactive nor the proactive approach is possible. It aimed at disrupting human trafficking operations and force traffickers to reveal themselves. However, the technique does not provide long-term solutions as it may only displace the crime or the criminals to another location. The above discussed techniques of investigation had been used to investigate and effect arrest of human traffickers in Nigeria. Below are the analyses of complaints received, investigated and arrested traffickers:

(i) Analysis of Received and Investigated Cases

Since inception to December, 2015, a total of 3,899 cases of human trafficking were reported to the Agency[21], while 2, 987 cases representing 76.6% were fully investigated by the Investigation and Monitoring Department[22]. We humbly submit that the department had performed above average. However, the magnitude and the volume of human trafficking and other related offence calls for more efforts at ensuring total eradication of human trafficking in Nigeria.

A total of 407 cases were reported in the year 2013 of which 266 representing 65.4% were successfully investigated[23] by the Investigation and Monitoring Department while in the year 2014, a total of 603 cases were reported of which 298 representing 49.4%

[21] Research and Programme Development Department., Data Analysis (2015), p.28
[22] Ibid.
[23] Research and Programme Development Department., Data Analysis (2013), p.1

were fully investigated[24]. Furthermore, 570 cases were reported in the year 2015 of which 203 representing 35.6% were investigated[25]. It is obvious that, there was a slight increase of about 196 reported cases in 2014 when compared with that of 2013. The differences between 2014 and 2015 reported cases are 33 cases as 603 cases were reported in 2014 and 570 in 2015. The researcher is of the view that the fluctuation in the number of reported cases may likely be linked with the level of awareness of existence of NAPTIP and its functions by Nigerians. Hence, suspected traffickers are more wary of their actions.

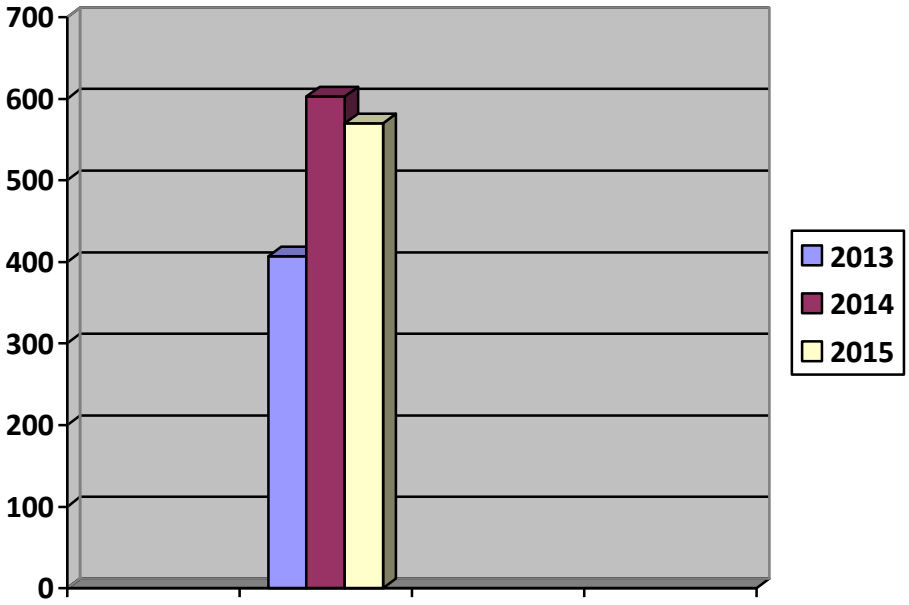


Figure 1.Reported Cases

[24] Research and Programme Development Department., Data Analysis (2014), p.2
[25] Research and Programme Development Department., op. cit., p.2

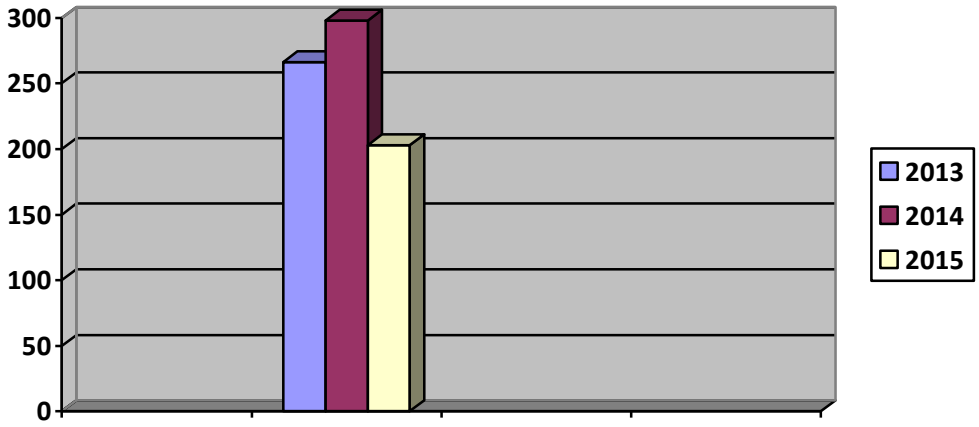


Figure 2. Investigated Cases

a. Analysis of Investigated Cases on Trafficking for the Purpose of Sexual Exploitations

In the year 2013, about 75 cases of external trafficking for sexual exploitation were investigated[26] against 101 cases in 2014[27] and 85 cases[28] in 2015 by the department. The increase of about 26 cases in 2014 against 2013 and decrease of about 16 cases in 2015 against 2014 though not minding the total number of reported cases shows the level of human trafficking acts associated with sexual activities outside the shore of Nigeria. Thus, we submit, that more efforts be geared to dissuade people, especially females to seek for better means of living off shore and say no to sweet talk of resettlement abroad.

Five (5) and Six (6) cases of internal trafficking for sexual exploitation were also investigated in the year 2013[29] and 2014[30] respectively. Year 2015 recorded six (6) investigated cases of internal trafficking for sexual exploitation[31]. This shows that the probability of a victim been trafficked from Nigeria to Europe for sexual exploitation is higher than the probability of same happening within the country.

[26] Research and Programme Development Department., op. cit., p. 1
[27] Research and Programme Development Department,. op. cit., p. 2
[28] Research and Programme Development Department., op. cit., p. 28
[29] Research and Programme Development Department., op. cit., p. 1
[30] Research and Programme Development Department., op. cit., p. 2
[31] Research and Programme Development Department., op. cit., p. 28

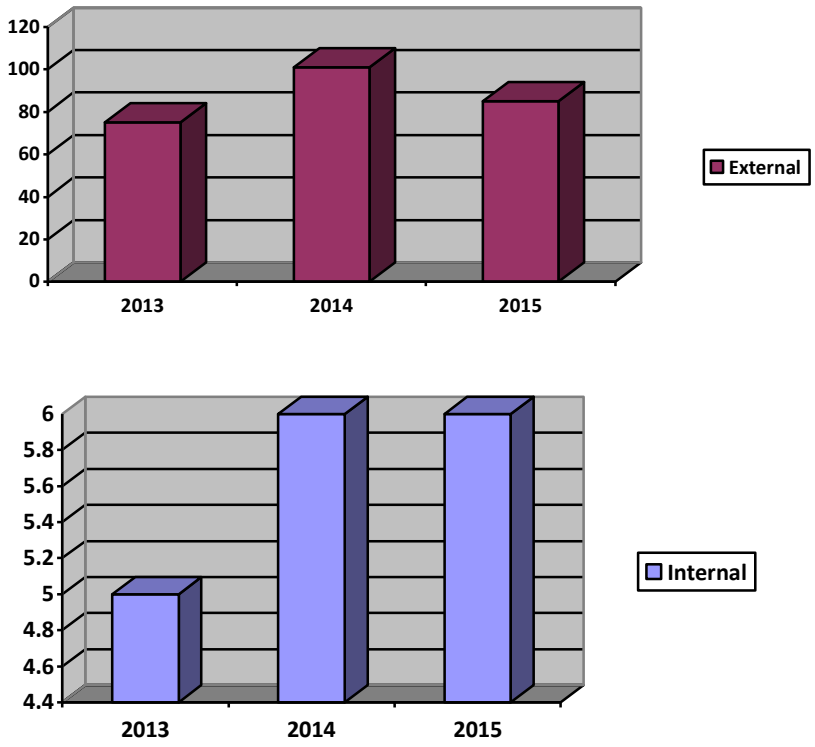


Figure 3. External and Internal Trafficking

b. Analysis of Investigated Cases on Trafficking for the Purpose of Labour Exploitations

In the year 2013, eight (8) cases and 15 cases of external and internal trafficking for labour exploitation respectively were investigated[32]. Whereas, in the year 2014, about 13 cases of external trafficking for labour exploitation were investigated while 15 cases of internal trafficking for labour exploitation was investigated[33]. Thus, there was an increase of about five (5) cases bordering on external trafficking investigated by the department without a corresponding change in investigated matters relation to internal trafficking for labour exploitation. Nine (9) cases of external trafficking for labour exploitation were investigated against one (1) internal trafficking for labour exploitation (forced labour)[34] in the year 2015. A vivid comparison between investigated cases in 2014 and 2015 shows a reduction in number of cases investigated

[32] Research and Programme Development Department., op. cit., p. 1
[33] Research and Programme Development Department., op. cit., p. 2
[34] Research and Programme Development Department., op. cit., p. 28

in the year 2015. In all, more cases of external and internal trafficking for labour exploitation were investigated in 2014 than 2015 and 2013.

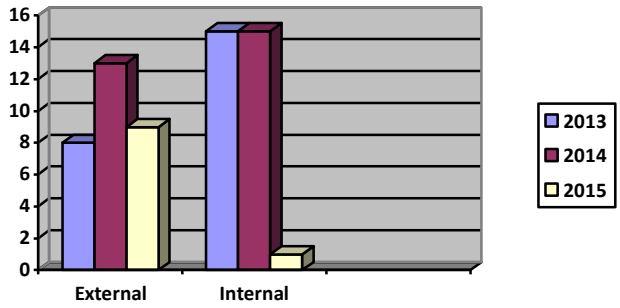


Fig. 4 labour ex.

c. Analysis of Investigated Cases on Child Labour

About 41 cases of trafficking for child labour were fully investigated in the year 2013[35] and the figure rose to about 70 cases in 2014, thereby showing the alarming rate at which a Nigerian child is been trafficked for child labour[36]. Year 2015 recorded 42 cases of investigated cases of child labour[37], a number higher than what was obtainable in 2013 and with lower cases of about 28. This figures signifies the high rate of vulnerability of a Nigerian child been trafficked for the purpose of child labour, thus showing the wickedness of the traffickers and the unlawfulness of act of human trafficking.

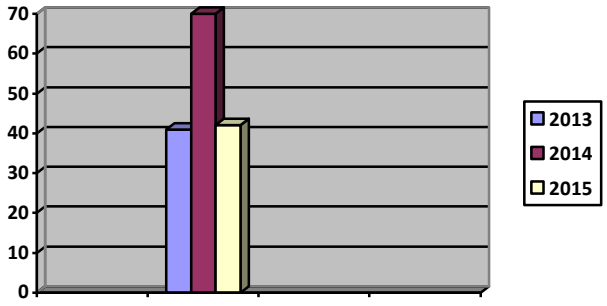


Figure. 5 Child labour

[35] Research and Programme Development Department., op. cit., p. 1
[36] Research and Programme Development Department., op. cit., p. 2
[37] Research and Programme Development Department., op. cit., p. 28

d. Analysis of Investigated Cases on Child Abuse

Year 2015 recorded 27 investigated cases that are child abuse related[38] against 54 cases[39] recorded in 2013 and 31 cases[40] in 2014. The researcher views the systematic reduction in the number of investigated cases as a result of societal reproach on child abuse.

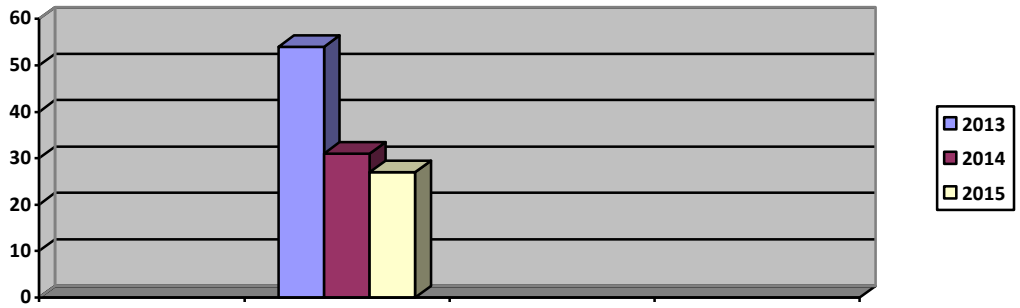


Figure 6. Child Abuse

e. Analysis of Investigated Cases on Child Abduction from Guardianship

Six (6) cases of child abduction from guardianship[41] were fully investigated in 2015. This evidenced a sharp reduction in the number of cases that were treated in 2013 and 2014. In 2014, about 31 cases[42] were investigated while 32 cases[43] were investigated in 2013. The reduction may be attributed to increased level of awareness of parent in guarding against abduction and increase in upholding parental responsibilities.

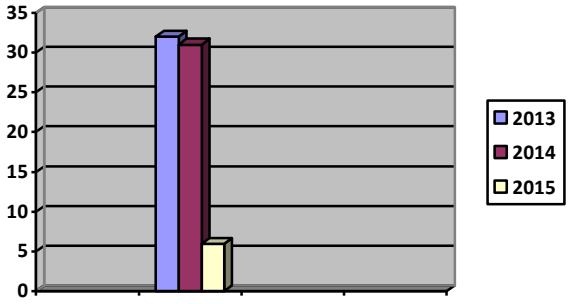


Figure 7. Abduction

[38] Ibid.
[39] Research and Programme Development Department., op. cit., p. 1
[40] Research and Programme Development Department., op. cit., p. 2
[41] Research and Programme Development Department., op. cit., p. 28
[42] Research and Programme Development Department., op. cit., p. 2
[43] Research and Programme Development Department., op. cit., p.1

f. Analysis of Investigated Cases on Forced Marriage

Four (4) cases of forced marriages[44] were recorded in 2014 while two (2) cases were investigated[45] in 2015 against a case in 2013[46]. Thus, despite the negative repercussion of forced marriage, it is still practiced in Nigeria.

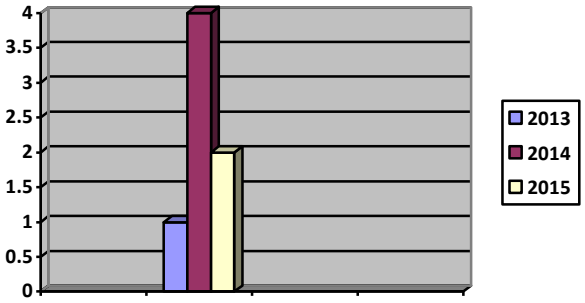


Figure 8. Forced Marriage

g. Analysis of Investigated Cases on Sexual Abuses/Rape and other Cases

In 2013 about nine (9) cases of sexual abuse/rape were investigated by the Investigation and Monitoring Department[47] while 10[48] and eight (8) cases of sexual abuse/rape were investigated in 2014 and 2015[49] respectively. This shows relative existence of sexual abuse cases as one of the manifestation of human trafficking in Nigeria.

Finally about 26 other cases on missing child, baby sale, illegal adoption, abandon children, illegal migration were investigated[50] in 2013 just as about 17 cases[51] each were investigated in 2014 and 2015[52]. This goes to show that issue of human trafficking in Nigeria manifest its self in different ways, thus, different solutions are needed to curtail the trend.

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[44] Research and Programme Development Department., op. cit., p. 2
[45] Research and Programme Development Department., op. cit., p. 1
[46] Research and Programme Development Department., op. cit., p. 28
[47] Ibid.
[48] Research and Programme Development Department., op. cit., p. 2
[49] Research and Programme Development Department., op. cit., p. 28
[50] Research and Programme Development Department., op. cit., p. 1
[51] Research and Programme Development Department., op. cit., p. 2
[52] Research and Programme Development Department., op. cit., p. 28

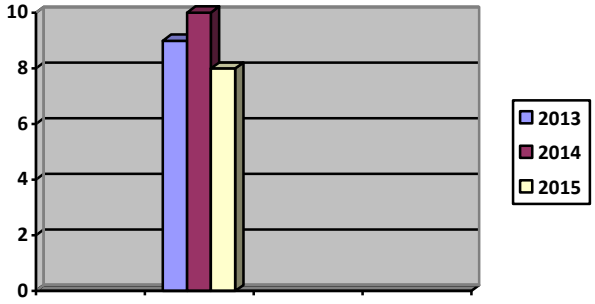


Figure 9. Rape

(ii) Analysis of Arrested Traffickers

The number of suspected traffickers apprehended/detained in the year 2013 was 293 of which 134 were males and 159 were females[53] against 276 suspected traffickers made up of 152 females and 124 males apprehended in the year 2014[54], thereby showing a decrease in the number of suspects arrested in connection with human trafficking offences in 2014. The decrease may be as a result of the vigorous various activities of NAPTIP aimed at informing people of the dangers associated with human trafficking and their determination to stamp it out in Nigeria. However, there was an upsurge in the year 2015 as about 432 suspected traffickers comprising of 219 males and 213 females were arrested[55]. The rise in the number of arrest may be attributed to rigorous effort by NAPTIP at eradicating the scourge of human trafficking in Nigeria and the increasing trend of people wanting to benefit from the crime of human trafficking.

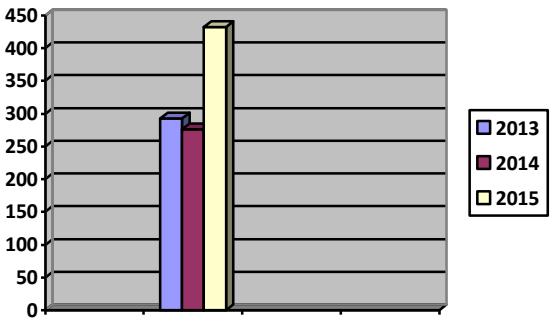


Figure 10. Arrested Traffickers

[53] Research and Programme Development Department., op. cit.p.5
[54] Research and Programme Development Department., op. cit. p.6
[55] Research and Programme Development Department., op. cit. p.7

a. Analysis of Arrested Traffickers for Child Abuse

A total number of about 66 suspected traffickers[56] of 19 males and 47 females were arrested for child abuse in 2013 while about 31 suspects comprising of seven (7) males and 24 females[57] were nabbed in 2014. Whereas, 58 suspects of 24 males and 34 females were detained[58] in 2015. There was more arrest in 2013 compared to arrests made in 2014 and 2015. However, more arrest was made in 2015 compared to arrest made in 2014. The researcher submits that the fluctuation in the number of arrest may be attributed to traffickers using new method at circumventing the techniques of investigation adopted by the department.

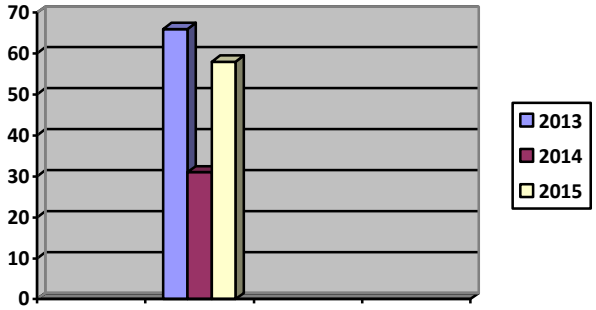


Figure 11. Child Abuse

b. Analysis of Arrested Traffickers for Child Labour

Child labour had a total of 47 arrested suspects[59] of 21 males and 26 females in 2013 against 59 suspects nabbed in 2014 of which 13 are males and 46 females[60]. 109 suspects[61] of 40 male and 69 female were detained in 2015. The rising profile in the number of arrested traffickers since 2013 to 2015 shows the extent at which children are exploited and abuse in Nigeria for pecuniary reasons. The level of poverty and depravation cannot also be isolated with the rising profile of arrest.

[56] Research and Programme Development Department., op. cit., p. 5
[57] Research and Programme Development Department., op. cit., p. 6
[58] Research and Programme Development Department., op. cit., p. 7
[59] Research and Programme Development Department., op. cit., p. 5
[60] Research and Programme Development Department., op. cit., p. 6
[61] Research and Programme Development Department., op. cit., p. 7

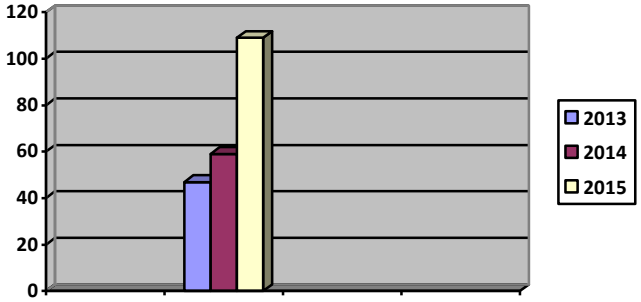


Figure 12. Child Labour

c. Analysis of Arrested Traffickers for Forced Marriage

In the year 2013, 11 suspects[62] of three (3) males and eight (8) females were arrested while in the year 2014 only two (2) males suspects were nabbed[63]. A male and two (2) females[64] were arrested in 2015. The drop in the number of arrested trafficker from 11 in 2013 to three (3) in 2015 shows a gradual shift from trafficking for forced marriage to other forms of trafficking.

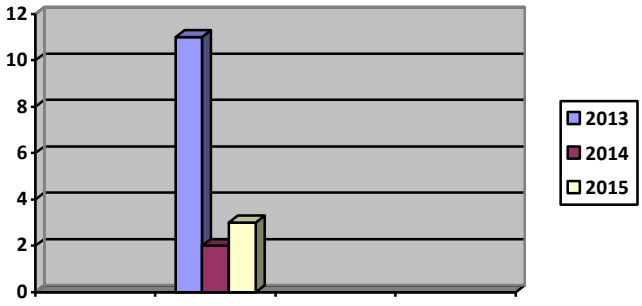


Figure 13. Forced Marriage

d. Analysis of Arrested Traffickers for Sexual Abuse

Six (6) suspected traffickers[65] of five males and a female were arrested in 2013 and 15 male suspected traffickers[66] were nabbed in 2014. Year 2015 recorded the arrest of 16 males and 9 females' traffickers[67]. We submit that despite the fact that sexual abuse

[62] Research and Programme Development Department., op. cit., p. 5
[63] Research and Programme Development Department., op. cit., p. 6
[64] Research and Programme Development Department., op. cit., p. 7
[65] Research and Programme Development Department., op. cit., p. 5
[66] Research and Programme Development Department., op. cit., p. 6
[67] Research and Programme Development Department., op. cit., p. 7

destroys the future of the victims; more traffickers are inclined at trafficking for sexual abuse, thus, increase in the number of arrest from six in 2013 and 25 in 2015.

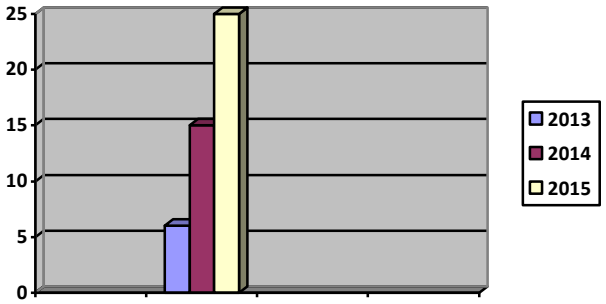


Figure 14. Sexual Abuse

e. Analysis of Arrested Traffickers for Abduction

About 29 suspects[68] of 17 males and 12 female traffickers were arrested in 2013 against 38 traffickers[69] of 16 males and 22 females that were nabbed in 2014. Year 2015 witness the arrest of 32 suspected traffickers[70] of 21 males and 11 females. This shows that about 54 male suspected traffickers were arrested between 2013 and 2015 against 45 female suspected traffickers arrested within the same period.

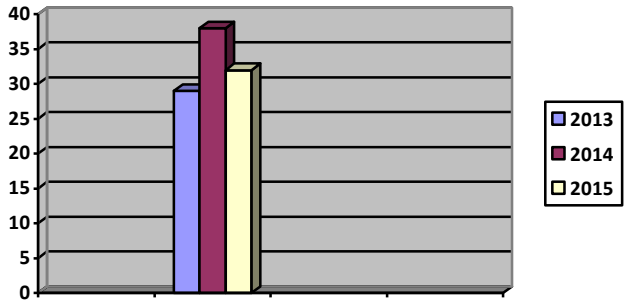


Figure 15. Abduction

f. Analysis of Arrested Traffickers for Sexual Exploitation

It is on record that about 55 suspected traffickers[71] of 25 males and 30 females were arrested in 2013 for external sexual exploitation against 27 male suspected traffickers

[68] Research and Programme Development Department., op. cit., p. 5
[69] Research and Programme Development Department., op. cit., p. 6
[70] Research and Programme Development Department., op. cit., p. 7
[71] Research and Programme Development Department., op. cit., p. 5

and 19 female suspected traffickers that were nabbed in 2014[72]. This means more male traffickers were arrested in 2014 than the year 2013. About 52 males and 37 female suspected traffickers[73] were arrested in 2015 for external sexual exploitation. More suspected traffickers were arrested in 2015 compared to arrests made in 2014 and 2013. Eight (8) suspected traffickers of seven (7) males and a female were arrested in the year 2013[74] while four (4) males and eight (8) female traffickers[75] were arrested in 2014 for internal sexual exploitation. This shows an increase in the number of arrest made in 2014. However, six (6) males and female suspected traffickers were detained in 2015 for internal sexual exploitation[76]. Thus, between 2013 and 2015 more suspected male traffickers were arrested for internal sexual exploitation than the female suspected traffickers.

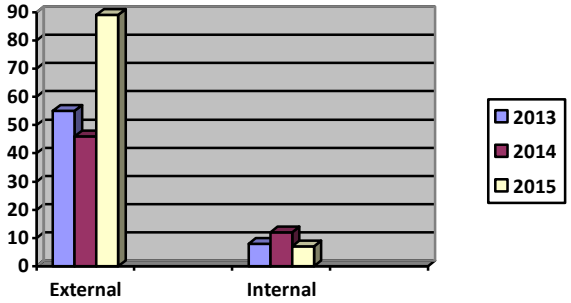


Figure 16. Sexual exploitation

g. Analysis of Arrested Traffickers for Labour Exploitation

Records shows that 19 males and 14 female suspected traffickers[77] were arrested in 2015 for external labour trafficking against five (5) males and two (2) female suspected traffickers[78] arrested in 2014. Five (5) males and six (6) females suspected trafficker for

[72] Research and Programme Development Department., op. cit., p. 6
[73] Research and Programme Development Department., op. cit., p. 7
[74] Research and Programme Development Department., op. cit., p. 5
[75] Research and Programme Development Department., op. cit., p. 6
[76] Research and Programme Development Department., op. cit., p. 7
[77] Research and Programme Development Department., op. cit., p. 5
[78] Research and Programme Development Department., op. cit., p. 6

external labour exploitation were arrested in 2013[79]. The number of arrest made in 2015 outweighs that of 2013 and 2014 combined. Six (6) males and two (2) female suspected traffickers were arrested in 2015 for internal labour exploitation[80], a figure lower than what was recorded under the same period in respect of trafficking for external labour exploitation. In 2014, 24 males and 24 female suspected traffickers were arrested for internal labour exploitation[81], a figure higher than what was recorded in respect of trafficking for external labour exploitation. The number of arrested suspected traffickers in 2013 in respect of internal labour exploitation was 17 males and 14 females[82]. Again, this figure outweighs the arrest made during the same period in respect of trafficking for external labour exploitation.

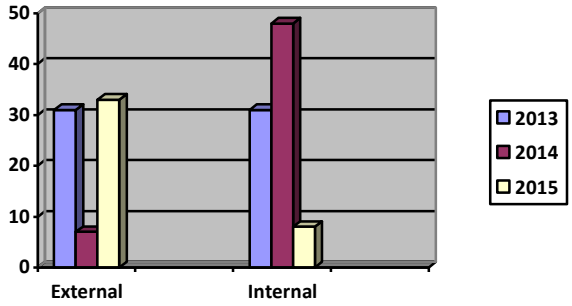


Figure 17. Labour exploitation

h. Analysis of Arrested Traffickers for Other Offences

A total of 27 suspected traffickers[83] of 13 males and 14 females were arrested in the year 2013 while a lower number of 18 suspected traffickers[84] of 11 males and seven females were arrested in 2014. More male traffickers were arrested in 2013 and 2014. In the year 2015, about 68 suspected traffickers[85] of 34 males and 34 females were arrested. Year 2015 recorded more number of arrests than 2013 and 2014 combined.

[79] Research and Programme Development Department., op. cit., p. 5
[80] Research and Programme Development Department., op. cit., p. 6
[81] Research and Programme Development Department., op. cit., p. 7
[82] Research and Programme Development Department., op. cit.., p. 5
[83] Ibid
[84] Research and Programme Development Department., op. cit., p. 6
[85] Research and Programme Development Department., op. cit., p. 7

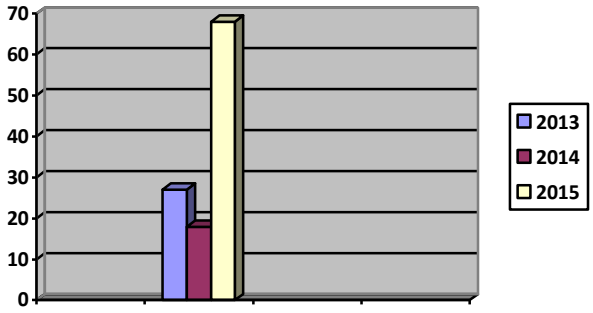


Figure 18. Other offences

The department had also set up machinery in motion at investigating human trafficking story by Premium Times detailing the existence of a ruthless human trafficking syndicate operating from Lagos[86]. Furthermore, the Agency and the Dutch National Prosecution Service undertook an evaluation of projects and programmes in capacity building for law enforcement officers in the Agency in furtherance of the Memorandum of Understanding signed by Netherlands Government's National / Prosecution Service and the Nigeria Law Enforcement Agencies/Services from 2011- 2014[87]. Programmes evaluated include training on phone forensic, digital evidencing and training on basic investigation skills[88].

b. The Legal and Prosecution Department

The legal department is one of the operational departments of the Agency meant to address the issue of trafficking in persons. The department is saddled with the responsibility of prosecuting offenders, supporting the investigation department with legal advice and other legal duties as the Agency may refer to it from time to time. Prosecution is the process of carrying on of legal proceedings. It is the institution and carry on of legal proceedings[89]. Therefore, the prosecution of offenders or traffickers include the institution of a criminal charge in a court of law against an offender who

[86] NAPTIP News, p. 22, Vol. 4, 1 April-June, 2014.
[87] Ibid. p.16
[88] Ibid
[89] New Webster's Dictionary of the English Language, Deluxe Encyclopedic Edition, p.767.

had violated any of the provisions of the TIP Act. The duties of the department is captured in section 12 (2) of the TIP Act. The said section said:

> The Legal and Prosecution Department shall-
> a. be responsible for the prosecution of offenders under this Act;
> b. support the Agency and other Department with legal advice and assistance whenever it is required;
> c. conduct the proceedings as may be necessary towards the recovery of any asset or property confiscated, frozen or forfeited under this Act;
> d. deal with matters connected with extradition and mutual assistance in criminal matters; and
> e. perform such other duties as the Agency may refer to it from time to time.

However, the power of the Agency to prosecute is subject to that of the Attorney General of the Federation. Thus, the Agency prosecutes human trafficker on behalf of the Chief Law Officer of the Federation, that is, the Attorney General of the Federation. Prosecution has been used and is been used by the Agency as a strategy to fight the war against human trafficking. For example, a top media executive, in the person of former General Manager of Nigeria Television Authority, Ado Ekiti, Folasade Olufunke Bankole, was consumed by the fight against human trafficking[90]. Folasade Olufunke Bankole was convicted at the Federal High Court, Ibadan for requiring a person to be used for forced labour and employing a child as domestic help outside her home contrary to NAPTIP Act[91]. The Accused person was sentenced to pay a fine N80, 000.00. The researcher is of the opinion that the punishment is not enough to deter other potential traffickers. The said fine is too small and will be made available easily by the convict having regard to her position in life.

[90] *233 Persons Convicted for Trafficking Offences*. In: NAPTIP News, p. 12, Vol. 4, 1 April-June, 2014.
[91] Section 22 (1) (a) and (d) Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 as amended in 2005.

The NAPTIP/TIP Act had since 2004 to December, 2015, been used to secure 236 convictions made up of 280 convicts[92]. In 2013 a total of 37 cases were won by NAPTIP and it resulted in 44 convictions of 22 males and 22 females. A careful analysis of the number of convictions between 2011/12 and 2013 shows a slight reduction in the numbers of convictions. Of the 22 male convicts, in 2013, three were convicted for external trafficking for sexual exploitation while four female traffickers were convicted for same offence. Also, seven female traffickers and four male traffickers were convicted of internal trafficking for sexual exploitation. Furthermore, four convictions were recorded under internal trafficking for labour of which two of the convicts were males. Child abduction from guardianship and sexual abuse recorded eight and nine convictions respectively. Child labour accounted for five convictions. Four males and four females, seven males and two female were convicted in respect of child abduction from guardianship and sexual abuse respectively. Three females and two males were convicted for child labour.

In the year 2014, 39 human traffickers (22 males and 17 females) were convicted for various human trafficking offences[93]. This implied a reduction in the number of persons convicted in 2014 compared to 2013. External trafficking for sexual exploitation recorded 12 convicts of which eight are females and four are males. Three males and a female were convicted for external trafficking for labour exploitation while six females and six males were also convicted for the offence of child labour. A male was convicted for abusing a child, four persons convicted for rape as four male and two females were convicted for kidnapping children from guardianship. No conviction against internal trafficking for sexual and labour exploitation. A total number of 23 persons of 15 males and 8 females were convicted for various human trafficking

[92] Research and Programme Development Department., op.cit.
[93] "Details of Convictions 2014." In: NAPTIP News, p. 15, Vol. 4, 1 April-June, 2014.

offences[94] in the year 2015. This implied a reduction in the number of persons convicted in 2015 compared to the number of convictions recorded in 2014. There was no conviction of any female member of the society in the area of external and internal trafficking for sexual exploitation, child abuse, sexual abuse, abduction from guardianship and fraudulent entry of persons into Nigeria. Mean while five female traffickers and a female trafficker were convicted of the offence of external trafficking for labour exploitation and child labour respectively. In the same vain two male traffickers were convicted for the offence of internal trafficking for labour exploitation. On the other side, two convictions (two male convicts) were recorded in respect of external trafficking for sexual exploitation and the same was also secured in respect of rape cases. No male convict in the year under review for the offence of child abuse and internal trafficking for sexual exploitation. However, there were five male convicts for the offence of external trafficking for labour exploitation and three male convicts for the offence of abduction from lawful guardianship. Internal labour exploitation, child labour and fraudulent entry of person in the country has one convict to its credit.

Convicted Traffickers	Females	Males	Total
Child labour	1	1	2
Child abuse	0	0	0
Internal trafficking for the purpose of sexual exploitation	0	0	0
External trafficking for the purpose of sexual exploitation	0	2	2
Internal trafficking for the purpose of forced labour	2	1	3
External trafficking for the purpose of forced labour	5	5	10
Rape/Sexual abuse	0	2	2

[94] Research and Programme Development Department., op.cit

Abduction from guardianship	0	3	3
Fraudulent entry of persons	0	1	1
Total	8	15	23

Table 1. Convicted Traffickers in the year 2015.

The department had succeeded in successfully securing the conviction of 23 offenders in 2015[95], comprising 15 males and eight females thereby sending warnings to would be traffickers. Below are summary of some cases won by the Agency;

S/No.	Name of Parties	Charge	Sentence	Date
1.	AGF Vs Aremu Adisa & Another	Forced labour of a Chid	Two years imprisonment or N5,000.00 fine	29/1/2014
2.	AGF VS Ekwe Benneth Chukwuemeka & Another	Procurement and inducement for prostitution	Two years imprisonment	10/02/2014
3.	AGF VS Bilya Ado	Sexual exploitation and carnal knowledge of under age	Five years imprisonment	10/02/2014
4.	AGF VS Hassan Kabiru	Taking a child out of lawful guardianship	Three years imprisonment	19/03/2014
5.	AGF VS Jarome Akasang	Forced labour of children	Three months imprisonment or N5,000.00 fine	10/04/2014
6.	AGF VS Obioma Emendu	Organising foreign travel, procurement and inducement for prostitution	Two years imprisonment	18/11/2014
7.	AGF VS Henry Balogun	Organising foreign travel which promote prostitution	One year imprisonment or N15, 000.00 fine.	13/05/2014

Table 2.

[95] Research and Programme Development Department., op. cit.

The researcher is of the view that two years imprisonment, one year imprisonment or the option of fine of N5, 000.00 are not enough to serve as deterrence to others who might contemplate to engage in the criminal acts of human trafficking. Although, the sentence is commendable, it is still not enough to serve as a means of incapacitation. Thus, longer incarceration means less opportunity for committing new crimes and protection for potential victims. Hence, stiffer penalty including a longer incarceration may spur self rehabilitation.

c. The Public Enlightenment Department

Enlightenment is said to be the process of understanding something or making somebody understand it[96]. The Public Enlightenment Department, educate the public on, the dangers of trafficking in persons particularly to sectors and group that are vulnerable to human trafficking. The antics of human traffickers and ways to resist the allurements offer by traffickers are also made known to the public by the department. These activities stimulate interest in awareness about the problem and dangers inherent in trafficking in persons. The action of the department is aptly captured in section 12 (3) of the TIP Act as follows:

> The Public Enlightenment Department shall be responsible for-
>
> a. carrying out information and awareness-raising campaigns, seminars and workshops, radio and television programmes aimed at educating the public on the dangers of trafficking in persons, especially to sectors and group that are vulnerable to trafficking in persons, in co-operation with media, non-governmental organisations, labour, market organisations, migrants' organisation and other segment of civil society;
> b. developing educational programmes, in particular for young people, to
>
> i. address gender discrimination and promote gender equality and respect for the dignity of every human being,

[96] Oxford Advance Learner's Dictionary, 8th Edition. p.487

> ii. include trafficking in persons in human rights curricula in schools and universities, and
>
> iii. address the underlying causes of trafficking, such as poverty, under-development, unemployment, lack of equal opportunities and discrimination in all its forms, and improve the social and economic conditions of the groups at risk.

The department in this regard employed many tools such as public campaigns[97], rallies, mass media, information, education and communication materials advocacy, NAPTIP Vanguards, clubs in schools, National Youth Service Corps Community Development Groups, networking with Civil Society Organisation, community, stakeholder dialogues[98] and town hall meetings. In its operation, any particular tool employed at any point in time depend on several factors such as the level of literacy of the targeted audience, age bracket, location, predominant language spoken and other relevant factors. It is also believed that only aggressive sensitization and awareness programs through the media especially radio and television that can effectively publicise issues of trafficking in persons in Nigeria. However, the researcher is of the view that any aggressive awareness that is not taken to the grass root is a futility. This is because a larger part of the victims of human trafficking are from the grass root, where there is no access to television.

The department is further mandated to work in collaboration with the media, non-governmental organisation, labour, market organisation, migrants' organisation and other segment of civil society[99]. Development of educational programmes for young people aimed at addressing the causes of human trafficking and improving the social and economic conditions of the groups at risk also formed part of the mandate of the

[97] Grass roots Campaign were held at Udunudund Uko LGA of Akwa Ibom State, Imo State and other States. Furthermore, the "I am Priceless" campaign is the rallying slogan aimed giving dignity to individual and empowering people to reject offers made by would be traffickers.

[98] The First National Stakeholders' consultative Conference on Human Trafficking took place at Shehu Yar'adua Centre, Abuja, between 2nd and 3rd July, 2013.

[99] Section 12 (3) (a) Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015

department, including inclusion of trafficking in persons in human rights curricula in schools and universities[100]. This, the researcher believed had not been achieved as there is no evidence of such inclusion in Nigeria universities curricula.

The Agency through the department had sponsored the airing of various jingles on television and radio stations across the country. It has also organised in collaboration with United Nations Office on Drugs and Crime, town hall meetings and workshop in a bid to sensitize opinion and community leaders in selected epidemic communities in Lagos, Abeokuta and Kano.

Furthermore, the Agency, is partnering the government of Osun State in order to provide information that would engender evidence based developmental polices in the State. We submit that the partnership will in the long run eliminate or curtail human trafficking in the State. The Agency and the Dutch Government had also undertook an evaluation of projects and programmes in capacity building for law enforcement officers in the Agency in furtherance of the Memorandum of Understanding entered into by the two governments. However, such capacity building must be tailored towards addressing the welfare and challenges of the officers. The International Federation of Women Lawyers and the Agency are also partnering in the area of public enlightenment at schools and through capacity building by providing legal literacy through advocacy. The department also partnered Wale Adenuga Production to produce ITOHAN-A call to action on the superstory platform to spread the message against human trafficking, prostitution and child labour to million household across Nigeria and the sub-Saharan Region through its popular TV drama series, the superstory[101]. The researcher is of the view that the said TV drama series be reciprocated at selected village squares and cinemas to afford the rural women and children the message against human trafficking.

[100] Section 12 (3) (b), Ibid
[101] NAPTIP News, p. 28, Vol. 4, 1 April-June, 2014

The Agency also carried a campaign for strategic alliance with partners to Nigeria Television Authority to further the Agency's awareness and public enlightenment drive towards tackling the twin causative issues of ignorance and illiteracy[102]. It is the view of the researcher that the proper way to address the said twin causative issues is through door to door campaign at the rural areas where most of the victims emanates. The wife of Indian Military Chief also visited the Agency on study tour while Ministry of Education, Ogun State, join forces with the Agency on ways at educating the public on the danger of trafficking in persons[103]. The Agency also stormed the six Area Councils in Federal Capital Territory, Abuja holding community dialogue and sensitization programmes to create awareness about the rising cases of human trafficking within the communities and armed them with counter trafficking information[104].

d. The Counselling and Rehabilitation Department

In line with the Palermo Protocol, the department is entrusted with the counselling and rehabilitation of victims of human trafficking. This is stated in section 12(4) of the TIP Act. The section said:

> The Counselling and Rehabilitation Department shall have responsibility for-
> a) counselling, after care rehabilitation, social re-integration and education of trafficked persons;
> b) the promotion of the welfare of victims of trafficking in persons; and
> c) supporting, advising and facilitating access to legal aid services by victims.

In carrying out the above functions, the department collaborate with Federal Ministries of Women Affairs, Sport and Youth Development, Employment, Labour and Productivity, Information, Culture and Tourism and Nigeria Prison Service. The Agency having adopted the strategy and plan of protection, had put in place a holistic

[102] Ibid., p.31
[103] Ibid., p.34
[104] Ibid., p .37

activities of ensuring successful counselling, rehabilitation and reintegration of victims into the society as well as restoring their dignity. However, any strategic plan of protection and reintegration devoid of eliminating poverty, illiteracy and those other factors that causes human trafficking is not worthy. Again, a dearth of trained psychotherapists and counsellors in Nigeria will greatly affect the ability of the Agency to ensure a comprehensive rehabilitation of human trafficking victims[105].

As counselling of trafficked persons involve social workers interacting with the victims to establish the circumstances surrounding their trafficking, it also affords the counsellors the opportunity to penetrate the psychological state of mind of the victims in order to build rapport, confidence and reassurance, and to determine the necessary intervention programmes, to prevent the victims from being re-trafficked. The process of rehabilitation includes all activities undertaken by counsellors to assess the physical, medical and medical conditions of the trafficked persons and to provide them with professional assistance and support to facilitate their integration into the society and prevent re-trafficking.

The department had since inception of the Agency rescued and rehabilitated 9, 453 victims of trafficking[106] as at December, 2015. In 2015, the Agency rescued a total number of 894 victims of human trafficking of which 138 were boys, 75 were men, 288 were girls and 393 were women[107]. About 100 of the rescued victims are also not Nigeria[108]. 46 victims are from Benin Republic and 22 were from Togo[109]. This shows that victims of human trafficking cut across all segment of Africa Society and the crime is transnational in nature. 166 victims, 77 victims and 59 victims that were rescued were from Edo, Kebbi and Benue States respectively while non victims were identified from Bauchi, Katsina,

[105] Kigbu, S.K., op. cit. p. 151
[106] Research and Programme Development Department., op. cit.
[107] Ibid
[108] Ibid
[109] Ibid

Taraba, Yobe States and Federal Capital Territory, Abuja[110]. Hence, the need for the Agency to sustain its effort in these States where there was no record of rescued victims while doubling its effort in other States.

The Agency rescued a total of 1030 victims of human trafficking in 2014 of which 969 were Nigerians and a total number of 54 victims, with origins from other countries[111]. Edo, Sokoto and Kaduna States had the highest number of rescued victims, with 155, 139 and 113 respectively[112]. Benin Republic accounted for a total number of 23 victims, Burkina Faso and Togo with seven (7) and six (6) victims, respectively[113]. Out of the total number of victims rescued, 708 representing 68.7% were children under 17 years of age. Also, a total of 458 rescued victims were boys, while the number of girls rescued stood at 250. Women were 261 against 61 men rescued.

About 539 of the rescued victims had been empowered as at December, 2013[114].No available evidence of empowerment in 2014 and 2015. Between August, 2011 and July, 2012, 961 victims were rescued of which 203 were male and 758 were female[115]. Furthermore, 375 rescued victims fall below the age 18 years as 490 victims are between the ages of 18 – 27 years, 74 victims are above the age of 27 years and 22 victims rescued were not classified. This evidenced the rate at which children and youths are trafficked in Nigeria. In the year 2013, the department rescued a total of 964 victims of human trafficking. Child labour had the highest number of rescued victims with a total number of 212 representing 22.0% of the total number of victims rescued. External trafficking for sexual exploitation had 186 which is 19.3% and internal trafficking for labour exploitation had 96 which represent 10.0% of the total victims

[110] Ibid
[111] Research and Programme Development Department., op. cit.
[112] Ibid
[113] Ibid
[114] Research and Programme Development Department., op. cit.
[115] NAPTIP., Annual Report., (2011/12) p. 50.

rescued. A total number of 460 victims rescued are male while 504 others are female, evidencing the rate at which females are being trafficked.

The Nigeria Security and Civil Defence Corps rescued four victims of human trafficking, various State Governments rescued 28 victims[116], the State Security Service rescued a victim and National Drug Law Enforcement Agency rescued 20 victims of human trafficking[117]. The Federal Ministry of Women Affairs in their effort rescued two victims, as Embassies in their own little effort also rescued five victims and the National Human Rights Commission on their part rescued six victims of human trafficking[118]. The Nigeria Army rescued a victim, Non Governmental Organisations rescued 16 victims, Good Samaritans rescued 16 victims and unclassified organisations recued nine victims of human trafficking. All the above were achieved between August, 2011and July, 2012[119].

The victims are most a time housed at the Agency's shelter and shelters belonging to Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) and Daughters of Abraham Foundation[120]. The Agency operate eight (8) shelters located at Benin, Enugu, Lagos, Uyo, Sokoto, Maiduguri, Kano and Abuja, which offer protection and provides conducive environment to trafficked persons, thereby, affording them the opportunity to regain their self-esteem. However, these shelters exist in State capitals and not in the communities where most of the victims are trafficked from. It is pertinent to know that the department had put in place vocational training such as catering, hair dressing, bead making, fashion designing, knitting, cloth weaving and hat making. Basic knowledge in English language, Mathematics, Social Studies, Fine Art, Health Education and Personality Development are also provided to the

[116] Ibid. P. 42
[117] Ibid
[118] Ibid
[119] Ibid.
[120] Danish Immigration Servicer Report., op. cit., .p.42

victims. Furthermore, voluntary HIV test is also administered on the victims of sexual exploitation[121]. In addition, the Agency had signed a Memorandum of Understanding with National Economic Reconstruction Fund to grant concessions, waivers including reduction in interest rate on loan to facilitate the course of rehabilitation.

e. The Research and Programme Department

The department is a creation of Section 12 (5) of the TIP Act. Thus, the section provide that:

> The Research and programme Development Department shall be responsible for-
> i) researching into factors causing and promoting internal and external trafficking in persons,
> ii) initiating programmes and developing strategies for addressing the problems of trafficking in persons,
> iii) supporting the Agency in areas of statistics, records, planning, and
> iv) performing such other duties as the Agency may refer to it from time to time.

Hence, the mandate and the term of office of the department covers mainly research and programme developing. The Research Unit embarks on data collection to expose the factors sustaining and filling internal and external trafficking in persons in Nigeria. Through this, inputs for planning, policy formulation and implementation aimed and intended at combating trafficking in Nigeria are provided. Furthermore, Programme Development Unit through data collection and analysis had developed, monitored and evaluated the programmes of the Agency in order to see whether the expected and ordinary results are in place. The department commissioned Professor Sola Ehindaro to carry out a research on the root causes of human trafficking which answers the question "Why trafficking in person"[122]. Also, in order to ascertain the incidence of human trafficking between the Republic of Cameroon and Nigeria, the department in

[121] Ibid.
[122] The outcome of the research work is entitled "Dynamics and Contexts of Trafficking in Person. A National Perspective".

collaboration with International Labour Organisation carried out a survey and study in four border States of Taraba, Sokoto, Benue and Borno State. A functional and handy library was also established by the department through collections of books donated by development partners, however the library lack the needful apparatus of a modern day facilities.

f. The Training and Manpower Development Department

The department is saddled with the responsibilities of initiating and developing specific training programmes for officers of the Agency. The functions of the department are stated in Section 12(6) of the TIP Act. The said section provides that:

> The Training and Man power Development Department shall-
>
> a. initiate ,develop or improve specific training programmes for officers of the Agency and relevant law enforcement officers charged with the responsibility for the prevention, detection, investigation, elimination, prosecution, rehabilitation of victims of trafficking and related activities;
> b. collaborating with relevant law enforcement and security agencies and institutions for the purpose of providing training for law enforcement and security officers responsible for investigation, detection, prevention, elimination of human trafficking and related offences and the rehabilitation of victims of trafficking in persons and related unlawful activities; and
> c. collaborate with, support and keep a register of Non-Governmental Organizations involved in anti-human trafficking activities especially in the area of training, workshop and seminars.

Thus, the department is responsible for designing the training policy and tactical training needs of the Agency as provided above. In 2012 and 2013 about 200 personnel of the Agency were deployed to State Service Academy (Center for Research, Reflection and Character Building), Lagos for training to update them in the different

operational activities and global trend in combating crime especially, trafficking in persons[123]. The researcher believed that the training had increased the level of staff performance in the Agency.

4.3 The Nigeria Police Force

The Nigeria Police Force (the Force) is a creation of Nigeria Constitution[124]. The Constitution said in Section 214 (1) that:

> There shall be a Police Force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section no other police force shall be established for the Federation or any part thereof.

The Force is saddled with the responsibility of prevention, detection of crimes and the preservation of law and order in Nigeria. Thus, the Police Act makes provision for the general duties of the police in the following language:

> The police shall be employed for the prevention and detection of crimes, the apprehension of offenders, the preservation of law and order, the protection of life and property and due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act.[125]

The Force in its effort at combating the scourge of human trafficking in Nigeria had established Anti-human Trafficking Unit. The Unit works in collaboration with NAPTIP, United States Agency for International Development and other relevant organisations working toward eradication of human trafficking in Nigeria. The Unit is headed by an Assistant Commissioner of Police and States Commands of the Force were also mandated to set up Anti-human Trafficking Unit in their various Commands as a measure to curb the menace of human trafficking in Nigeria especially at the

[123] NAPTIP News, p. 6, Vol. 4, 1 April-June, 2014.
[124] Section 214 (1), Constitution of the Federal Republic of Nigeria, 1999, (as amended)
[125] Sections 4, Police Act, Cap.359,L.F.N., 2004.

grassroots. Anti-trafficking Units of most of the command are sandwiched into tiny cubicles for use as offices with barely enough space for a table and a chair[126]. The mandate of the police includes investigation of reported cases of human trafficking, apprehending and prosecuting the suspected traffickers as well as enlightening the public about the phenomenon of trafficking and its dangers. The Force, had been handling issues of human trafficking before the establishment of NAPTIP in 2004. In the past, the Unit had handled about 120 cases of human trafficking, virtually all the victims being women or girls below the age of 12 years, consequent upon which over 200 victims were rescued. Between August, 2011 and July, 2012, the Force rescued 148 victims of human trafficking[127] and had also secured the arrest of a woman and a driver who were convening about 64 children from Mokwa in Niger State to Lagos apparently to work as domestic servant[128]. About 42 victims[129] were rescued by the Force in 2014 while 118 victims[130] were rescued in 2015. Also, in 2015, the Force with its prosecutorial power prosecuted 25 human traffickers and secured six convictions[131]. The International Police also rescue 13 victims of human trafficking[132]. The police usually assist in receiving deported victims on their arrival in Nigeria, after which they are screened and documented.

4.4 The Nigeria Immigration Service

The Nigeria Immigration Service (the Service) is the head and in the forefront of monitoring the Nigeria's boarders and exit points. The control and monitoring of borders is crucial to ensure effective prevention of human trafficking as Nigeria borders are permeable and are largely uncontrolled[133]. The Service is saddled with the

[126] Kigbu, S.K.., op. cit. p. 150
[127] NAPTIP., op.cit. p. 42.
[128] Mohammed A., *An Assessment of the Institutional Structure for the Prohibition of Traffic in Person and Other Related Matters*, LL.B Long Essay (Unpublished), Faculty of Law, Ahmadu Bello University, Zaria, (2009). p.53.
[129] Research and Programme Development Department., op. cit
[130] Research and Programme Development Department., op. cit.
[131] U.S. Department of State, Office to Monitor and Combat Trafficking in Persons (2014),p.7
[132] NAPTIP., op.cit.
[133] Kigbu, S.K.., op. cit. p. 151

responsibility of issuing travel documents to citizens who want to travel outside the country and also regulating the entry of aliens within its territory. In the year 2001, the Service established an Anti-trafficking Unit headed by an officer of the rank of Comptroller of Immigration. The Unit at Togo border arrested a truck containing 52 children, resulting into the arrest of four suspects including a man who claimed to be a pastor[134]. The Oyo State Command of the Service headed by Innocent Akatu, on the 22nd March, 2015, arrested four suspected traffickers trying to smuggle a nursing mother along her two years old son, nine girls and a boy into Nigeria[135]. The suspects were arrested at Saki border in Oke Ogun area of Oyo State. Also, the Jigawa State Command of the Service arrested five suspected traffickers along Jeke, Yar-Kira road in Babura, Jigawa State[136]. The suspects were arrested on the 18th March, 2015[137]. Furthermore, the Service had between August 2011 and July, 2012, rescued 290 victims of human trafficking[138]. The Service also in 2014 rescued about 420 victims[139] of human trafficking against 232 victims[140] that were rescued in the year 2015. The researcher contend that prosecutorial power been given to the Service to enable prosecution of trafficker by the Service without referring the matter to NAPTIP. In its effort at preventing human trafficking, the Service had been preaching the evils of trafficking at various educational institution using billboards and the local media at reaching the public. The Service had also strengthen its border check points by investing heavily on surveillance gargets and observing detailed screening of travellers, thereby reducing the number of trafficking at various exit point. However, free movement of goods and persons within the West African Region had been aiding trafficker's movement, thereby making it nearly impossible to apprehend traffickers

[134] Mohammed A., op. cit., p. 53.
[135] www, naptip.gov.ng.com., op. cit.
[136] Ibid
[137] Ibid
[138] NAPTIP., op.cit.
[139] Research and Programme Development Department., op. cit.
[140] Research and Programme Development Department., op. cit.

and their victims. The Service had also been collaborating with NAPTIP to further strengthen the mutual relationship and synergy between both organisations in the course of fighting trafficking in persons.

4.5 The Office of the Attorney General for the Federation

The Attorney General of the Federation (AGF) is the Chief Law Officer of the Federation. Section 150 (1) and (2) of the Constitution of Federal Republic of Nigeria, 1999 (as amended) provides:

> There shall be an Attorney-General of the Federation who shall be the Chief Law Officer of the Federation and a Minister of the Government of the Federation.
> (2) A person shall not be qualified to hold or perform the functions of the office of the Attorney – General of the Federation unless he is qualified to practise as a legal practitioner in Nigeria and has been qualified for not less than ten years.

Hence, for a person to hold or perform the functions of the AGF he must had met the conditions stated in section 150 (2) of the Constitution of Federal Republic of Nigeria (the Constitution).

The AGF been the Chief Law Officer of the Federation has the power of public prosecution. That is he has the power to institute, take over and to discontinue criminal proceedings before a Court in Nigeria in his respective jurisdiction, except in a Court Martial[141]. Thus, it is clear that the AGF does not have jurisdiction in Court Martial and cannot exercise powers granted to him under Section 174(1)[142] in respect of State offences. The court had held in a case[143] that it is only the Attorney General of the Federation that can institute and undertake proceedings against any person in relation to

[141] Section 174, Constitution of Federal Republic of Nigeria, 1999 as amended in 2011.
[142] Constitution of the Federal Republic of Nigeria, 1999 as amended in 2011.
[143] Anyebe vs State (1996)1 SC 87.

matters within the Exclusive Legislative List. However, whatever interpretation is placed on section 174 of the Constitution also affect section 211 of the Constitution.

The power of the AGF to institute criminal proceedings is an absolute one. What this means is that where two or more persons are alleged to have committed an offence, the AGF has the power to prosecute one or more of them and let one or more of them go. He is under no obligation to give reasons for exercising his discretion[144]. In the case of **State vs Okpegboro**[145], a State Counsel filed a charge before a Magistrate Court and an objection was taken on the ground that by Section 78(B)[146] of the Criminal Procedure Act, only a Police Officer could bring and file a charge before a Magistrate Court. The objection was overruled, the Court holding that the power of the Attorney General of a State supersedes the power of the Police as provided in Section 78(B). The said power of the Attorney General of a State is same as that of the AGF under section 147 (1) (a) of the constitution.

The Attorney-General being a Law Officer, and his office also been an office within the public service, serve as the principal adviser to the Government of Nigeria and at same time the chief public prosecutor. His role is not limited to the constitutional functions of advising and controlling criminal prosecutions, but extends to a multitude of other functions such as: appearing in court on behalf of the government in civil litigation in which the government is a party, acting as a counsel for parastatals in court, drafting bills for presentation in parliament, preparing international agreements, treaties and commercial agreements involving the government of Nigeria and foreign States or bodies and supervising of the Law Reform Commission.

Hence, the office of the AGF in its effort at fighting human trafficking in Nigeria commenced an extradition proceeding against one Mr. Kingsley Edegbe to stand trial

[144] Bagudu vs Federal Republic of Nigeria (2004) 1 NWLR (Pt 853) Pg.183.
[145] (1980) 2 NCR, p. 291.
[146] Criminal Procedure Code.

for criminal charges against him in the Netherlands[147]. However, the application was refused by the court.

4.6 The Legal Aid Council

The Legal Aid Council of Nigeria (Council) is a parastatal under the Federal Ministry of Justice. It is a creation of section 1 of the Legal Aid Act, 2011 (LAA). The said section provide that "*There is established the Legal Aid Council (in this Act referred to as "the Council)"*. It is a body corporate with perpetual succession and a common seal. It can sue and be sued in its corporate name[148]. It mandates includes the provision of free legal services to needy Nigerian. Section 3 of the LAA provides that; "*The Council shall have the responsibility for the provision in accordance with this Act, of legal aid, advice, access to justice in respect of persons entitled thereto"*

These needy Nigerians are those whose income does not exceed the national minimum wage[149]. The researcher is of the view that the needy also include those who cannot afford the services of private legal practitioners.

Proceedings in respect of which legal aid may be given to victims of human trafficking include civil claims in respect of breach of fundamental rights. Thus, the Council and the Agency are in concert at bringing succour in solving issues of human right abuses, especially where victims are reluctant to divulge information without some measure of protection which Legal Aid Council promise to undertake[150]

4.7 The Judiciary (High Courts)

Judiciary, the system and the department of courts of justice and government in a country charged with the administration of justice. Judiciary may also be seen as that arm of government invested with the judicial power in a country. It is also the body of judges, hence it is a collection of all judges be it first instance of trial judges or

[147] NAPTIP News, p. 20, Vol. 4, 1 April-June, 2014.
[148] Section 2, Legal Aid Act, 2011
[149] Section 10 (1), Ibid
[150] NAPTIP News, P. 30, Vol. 4, 1 April-June, 2014.

appellate judges. Courts are temple of justice and the Constitution has vested judicial powers in the courts[151]. The courts are assigned the constitutional role of interpreting the laws of the land. It also has the responsibility of directing the society for the attainment of justice as it is seen as a haven of last resort, for the protection of society especially the weak and the oppressed. The powers of the courts were further strengthened by the provision of Section 4 (8)[152] as the legislatures were forbidden from enacting laws that would oust the jurisdiction of the court. The justification for saddling the courts with the function of adjudication is based on the need to do justice between parties to a dispute, that is, justice according to the law and that which is reasonable to the reasonable man, hence the judiciary is seen as the fortress and stronghold against tyranny, oppressor and harsh laws.

The High Courts are vested with jurisdiction to try offences under the TIP Act from which appeals lay to Court of Appeal. The jurisdictional power of the High Court is provided under Section 36 of the TIP Act as follows:

> (1) The High Court shall have jurisdiction to try offences, hear and determine proceedings arsing under this Act.
> (2) Where any person is convicted of an offence under this Act, the Court in passing sentence shall, in addition to any punishment which the Court may impose in respect of the offence, order the forfeiture to the Victims of Trafficking Trust Fund of any property, asset or fund with accrued interest, article, substance, device, material or conveyance which has been used or facilitated the commission of the offence or the proceed of any unlawful activity under this Act.
> (3) Notwithstanding the provisions of subsection (2) of this section, the penalty imposed on a person convicted of an offence referred to in that subsection may be reduced

[151] Section 6 (6), Constitution of Federal Republic of Nigeria, 1999 as amended in 2011.
[152] Constitution of Federal Republic of Nigeria, 1999 as amended in 2011.

> in such manner as the Court deems fit where that person has, before any proceeding, made possible or facilitated the identification of other accused persons and their sponsors or who, after the commencement of the proceedings, has made possible or facilitated the arrest of such persons.

The High Court referred to in section 36 (1) are the Federal High Court, the High Court of a State or the High Court of the Federal Capital Territory[153]. Hence, the prosecuting Agency has the option of either approaching the Federal High Court or a High Court of State or High Court of the Federal Capital Territory, Abuja. However, the researcher submits that issues of forum shopping may arise because the prosecuting Agency may likely approach a Court that seems to be aliening with their submissions.

The provision of section 36 of the TIP Act is encompassing having provided for forfeiture of properties to Victims of Trafficking Trust Fund. The Trust Fund is utilized to support, pay compensations, damages and restitution to trafficked persons[154]. Also, Subsection (3) provides a sort of leverage or plea bargain for an accused person who made it possible the arrest of others who are connected to a crime. However, the researcher is of the view that section 36 (3) is amiable to abuse by the Courts as there is no guiding principle that will restrict the power of the Court in that instance. Thus, the said discretion by the Court should be judicial and judicious.

The Federal High Court had in its rules given priority to human trafficking matter under its Rules[155]. The Federal Capital Territory Judiciary had also designated a particular Court for handling of human trafficking matters. So far, the various courts in Nigeria had tried and successfully convicted and sentence more than 200 offenders by way of imposing various penalties as provided under the TIP Act, thereby sending signals to those who may want to partake in the act of human trafficking in Nigeria.

[153] Sections 82, Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015
[154] See generally Sections 67, Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015
[155] Rule 7 (2) Criminal Trials Practice Direction, 2013

It has now been established beyond doubt, that there is a symbiotic relationship between the various institutional structures discussed above, in that at one time or the other, the institutions were bound together by attainment of justice for the victims of human trafficking and eradication of the menace.

CHAPTER FIVE

SUMMARY AND CONCLUSIONS

5.1 Summary

Human trafficking is a crime that goes beyond geographical, social-cultural and religious barriers. It is destroying the lives of millions of people in various communities in Nigeria, while generating millions of Naira/Dollars in profits for human traffickers and exploiters. The issues of human trafficking, thus, involve both criminal and social complexities. Alarm bells started ringing when it was realized that transnational organized criminal syndicates were behind human trafficking which had generated for such criminal syndicates, earnings comparable to those in the clandestine drugs trade or illicit supply of arms. This development is one of the problems of the research. It creates a culture of lawlessness in the society. In Nigeria, the young age at which victims are now trafficked, some as young as eight or 10 years, is also an additional cause for concern.

Furthermore, human trafficking being act of exploitation, illegal economic activity driven by profit motives and the slavery of modern times is one of the gravest criminal activities confronting the international community as the act undermines the cornerstone of our Constitution. The act entails a number of different aspects dealt with by distinct legislations such as immigration laws, labour laws, criminal laws and laws on children. Consequently, one of the ways of combating trafficking in persons is the institution of adequate and efficient legal and institutional frameworks which will ensure the prevention of human trafficking, the protection of the victims and the prosecution of the traffickers and those responsible for forcing others into human trafficking. Hence, an analysis of the existing legal and institutional framework in Nigeria shows existence of obvious and clear provisions in laws and existence of institutions to curb, restrain and eliminate the menace of human trafficking for all

purposes. However, the legal and institutional framework focused mainly on the issue of prosecution, rather than the issue of prevention and rehabilitation. There has also been a global effort to meet the challenges posed by the trend of human trafficking through the adoption of not only national laws and policies but also through international and regional instruments and bilateral agreements between the various countries affected by the phenomenon. Nigeria having recognized the importance of a comprehensive legal framework as a first step towards combating trafficking enacted the TIP Act, thus, becoming the first country in Sub-Saharan Africa to pass a specific law to address the issue of human trafficking and to set up an Agency to oversee the affairs of the issues relating to such matters.

5.2 Findings

Having discussed and analyzed the entire chapters of this research, the researcher finds that human trafficking is social problem that create and continue to create hardship on the people. Thus, the following findings emerged.

i. Populations vulnerable to human trafficking are growing in Nigeria. This increases the supply of potential victims for human traffickers, thereby increasing the crime of trafficking in persons. For instance, 407 cases of human trafficking were reported to NAPTIP in 2013. In 2015, reported cases rose to 603 cases, showing a difference of 196 cases.

ii. Nigeria despite being signatory to major international treaty on trafficking in persons (United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children), the prohibition of human trafficking is not directly addressed in the constitution. However, prohibition of trafficking in persons exist in the constitution as an ancillary right based on the provisions in Chapter IV particularly section 33 (right to life), section 34 (right to dignity of the human person), section 35 (right to personal liberty) which are

enforceable under chapter IV (Fundamental Rights). Also, Nigeria has domesticated the African Charter on Human and People's Rights and is now part of our laws. Slavery and all forms of exploitations are prohibited under the Charter and therefore a useful tool for the protection of the right to human dignity in Nigeria.

iii. The research finds that Nigeria has made provisions with respect to laws and has established institutions saddled with the responsibilities of preventing trafficking in persons in the country. However, the research finds problems in the laws and institutions established for the protection of Nigerians against human trafficking. For instance, the research finds that some of the penal provisions in the Trafficking in Persons (Prohibition) Enforcement and Administration Act are restatement of the offences in Penal and Criminal Codes Act. Again, TIP Act failed to address circumstances where a convict failed to pay fines as imposed by the court after serving prison term. NAPTIP as an institution is also too far away removed from rural communities where most of the victims of trafficking in persons are recruited.

iv. Poverty in combination with other factors such as lack of education and fraud are taking their toll on majority of Nigerians. For instance, poverty is a major motivation for countless people in Nigeria to seek alternative means for survival, some of which involved movement away from their communities, thereby putting them at risk of being entangled in human trafficking episodes.

5.3 Recommendations

Consequent upon the above findings, the researcher has the following recommendations:

i. Enlightenment of citizens about the realities of human trafficking, the acts constituting human trafficking offence and sanctions envisaged against

violators. Also, spreading awareness within the society to ensure attitudinal changes to discourage human trafficking and encourage rehabilitation and repatriation of victims, thus, activities such as community theatre performances on human trafficking issues will prove useful in the sensitisation of the community. It is equally important to educate potential victims and their families. Parents be educated to improve the supervision of their children, carefully planned programmes would also help to address the issues of child trafficking.

ii. The Constitution of the Federal Republic of Nigeria should be amended and prohibition of trafficking in persons should be explicitly regarded as a human right issue. By doing this, government can also be held responsible directly for violation of the right against trafficking in persons should they fail in their responsibilities as stated in section 14 and 17 of the constitution. In the absence of justiciable right as contained in above sections of the constitution, the African Charter which Nigeria is a party and has domesticated provides a useful tool for the protection of against all forms of exploitations in Nigeria. The Charter has not differentiated civil and political rights from socio-economic right. Both sets of rights are justiciable under the Charter.

iii. Laws relating to trafficking in persons should be harmonized or streamlined. The streamlining should be geared toward amending all the relevant laws on trafficking in persons to avoid repetitive of functions and purposes. Also, penalties for violating the penal provisions particularly those on armed conflicts should be amended and stiffer penalties put in place to meet with the realities of the consequences of the offence.

iv. Corruption and poverty are factors that impede the realization of societies free from human trafficking in Nigeria despite the measures taken by the

government on them. It is recommended that more efforts should be geared towards fighting corruption and elimination of poverty in the country. Efforts of government should be synergized along with the efforts of other organizations and appropriate prevention method should focus on the elimination of poverty within household.

5.4 Conclusion

It is our humble view that human trafficking in Nigeria creates so many problems ranging from constitutional problems to social problems. However, these problems among other findings of this research can be resolved if the legal and the institutional frameworks are streamlined. The streamlining should be geared toward amending all the relevant laws on human trafficking in Nigeria.

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