



Combating Child Trafficking: An Analysis of the Existing Laws for the Protection of Children's Rights in Nigeria

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Abstract

The Paper analyses the extant laws on Child trafficking and protection of children rights in Nigeria. Like any other Criminal act, child trafficking is a scourge that has drawn attention from both domestic and international communities due to its catastrophic effects on the general well-being of the community, which include not only the child but also the parents, family, and society at large. Put another way, child trafficking is a serious issue in the modern world. It is a crime that involves egregious violations of human rights that jeopardize children's survival and development. Compared to the trafficking of guns and drugs, there is a significantly lower risk of detection or prosecution associated with this immensely profitable venture. In spite of multiple government measures to eradicate child trafficking, the issue still exists in Nigeria. In an effort to stop child trafficking, Nigeria has ratified a number of regional and international agreements. Furthermore, there are municipal laws that attempt to accomplish the same goal, but they are not entirely successful in doing so. For a variety of reasons, Nigeria is susceptible to child trafficking, including deprivation, ignorance, greed, peer pressure, and the exploitation of religious and cultural beliefs. Adopting doctrinal method of research, the paper looks at Nigeria's current legislative framework for combating child trafficking. The paper observes and recommends that to effectively combat Child trafficking, National and state leaders should adopt adequate policies and programmes by implementing all legislations against human trafficking in Nigeria.

Key words: Child, Child Trafficking Law, Legal Framework, Human Rights.

I. Introduction

The terrible impacts of child trafficking on the overall well-being of the community—which encompasses not just the child but also the parents, family, and society at large—have received attention

from both domestic and international societies, as does any other criminal act. Stated differently, child trafficking is a significant problem in the contemporary world. It is a crime that puts children existence and development in danger by committing flagrant abuses of their human rights. Compared to the trafficking of guns and drugs, there is a significantly lower risk of arrest, detection or prosecution associated with this immensely profitable venture. In Nigeria, child trafficking thrives due to labour exploitation of children by utilizing them for domestic service, street trading, street begging, farm lands and prostitution.¹ The challenge is made more difficult by cultural tolerance for treating children like property that can be distributed and used at the whims and caprices of their parents, guardians, or relatives. Child labour is seen as a necessary part of growing up, helping children get ready for the rigors of adulthood.² This article examines the persistence of child trafficking in Nigeria despite numerous government initiatives to combat the problem. Nigeria has ratified a number of regional and international agreements aimed at combating child trafficking. Furthermore, there are municipal laws that attempt to accomplish the same goal, though to differing degrees of success. The paper primarily examines Nigeria's current legal framework in order to address child trafficking, and it concludes with some recommendations for addressing this seemingly never-ending problem.

II. Conceptual framework

2.1 Child

Proffering a definite and universal definition of a child is somewhat of a herculean task as a result of the variety of socio-legal and cultural considerations involved in defining who a child is. Statutorily, a child is defined as a person under the

¹ Violet Aigbokhaevbo, 'Child Trafficking in Nigeria: Regulatory Constraints' *University of Benin Journal of Law* (2010-2012) (13) (1) 341.

² *ibid*



age of 14 years, while a young person is a child, under the age of 17 but who has attained the age of 14.³ However, under international instruments such as Organization of African Union Charter on the Rights and Welfare of the Child: A “child” is every human being below the age of 18 years.⁴ Furthermore, various laws in Nigeria give expansive definitions of who qualifies to be called a “child”. The Criminal Code Act provides that a child under 7 years of age is not criminally responsible, whereas there is a rebuttable presumption that a child under 12 years can commit a crime.⁵ Again, under the Children and Young Persons Law, a child is defined as a human being below 14 years of age, while a young person is older than 14 years, but is below 17 years of age under Children and Young Persons Law of Lagos State.⁶ Under the Land Use Act, the minimum age to acquire land in any part of Nigeria is 18 years.⁷ Furthermore, the Infant Relief Act 1874⁸ defines infant as any person below the age of 21 years.⁹ The Act determines the age at which a person could have the capacity to enter into a contract.¹⁰ Moreover, the minimum age under the Electoral Act, 2010 (amended), at which a person could exercise his voting rights in Nigeria is fixed at 18 years.¹¹ Lastly, in Nigeria, the age at which a person is eligible to marriage varies depending on the type of marriage contracted.¹² For example, under the Matrimonial Cause Act, 1970, years as the majority age¹³ (usually styled as “marriage under the Act”), as well as at Common Law, the marriageable age is fixed at 16 years, but under customary and Islamic law, there is no uniform marriageable age. Nevertheless, the Nigerian Child’s Rights Act defines a child as anyone below the age of 18 years.¹⁴

³ Children & Young Person’s Law (CYPLS). 2 Cap. 32, LFN 2004.

⁴ United Nations Convention on Rights of the Child article 1 a 1.].

⁵ CCA s. 30 Cap. 38, LFN 2004.

⁶ Children & Young Person’s Law (CYPLS). 2

⁷ LUA s 7 Cap 202, LFN 1990.

⁸ IRA of Ogun, Ondo, and Oyo States.

⁹ S. A. Joshua, ‘Protecting the Nigerian Child Against Child Trafficking: Issues, Challenges, and Prospects’ *International Journal of Criminal, Common, and Statutory Law* (2022) (2).

¹⁰ Ibid.

¹¹ Electoral Act, 2010 as amended.

¹² Samson Ayobami, (n 9) 39.

¹³ MCAS. 3 Cap 50, 1970.

¹⁴ Samson Ayobami, (n 9) 39.

2.2 Child Trafficking

Child trafficking is defined as a trade in human being for domestic, sexual, reproductive, labour and other purposes.¹⁵ It was also defined as the commercial trade “smuggling” of human beings, who are subjected to involuntary acts such as begging, sexual exploitation such as (prostitution and forced marriage) or unfree labour such as (unintentional servitude).¹⁶

2.3 Causes of Child Trafficking

Not just in Nigeria but all over the world, a number of variables have been linked to the trafficking of children. Nonetheless, we shall take into account the elements recognized as contributing to child trafficking in Nigeria. Cultural practices, moral decay, underdevelopment, poverty, corruption, and negligent parenting are a few of them. This phenomena is growing, and this criminal network is doing very well because of the desire for inexpensive commercial sex workers in the nations where they are going.¹⁷ Large family parents are more likely to fall victim to child trafficking schemes. These schemes generally involve overburdening parents with the care of an excessive number of children. In other cases, traffickers may even pose as strangers and trick parents into parting with their children in exchange for better lives.

2.4 Effects of Child Trafficking

¹⁵ Abubakar S.I in A Report of a 2 days’ Workshop/Seminar for the establishment of Anti-human trafficking network in endemic local Government and communities. Theme “Partnering against human traffickers” held at Women Development Centre, Adamawa State on 16th-17th October, 2006. Cited in Garba Umaru Kwayang, ‘Child Trafficking and Religion: A Case Study of Almajiri Education in Northern Nigeria’ *International Journal of Business, Economics and Law*, (2015) (8), (4) 2.

¹⁶ Ibid.

¹⁷ UNICEF Information Sheet on Child Trafficking in Nigeria, 2017 available at <<https://www.google.com/url?sa=t&source=web&rc=t=j&opi=89978449&url=https://www.almendron.com/tribuna/wp-content/uploads/2018/01/wcaro-nigeria-factsheets-childtrafficking.pdf&ved=2ahUKEwiQiN2l5KOGAxUKXUEAHXZgAzc4ChAWegQIFhAB&usq=AOvVaw2BkKFwG0BjPQtxnoQu-aAn>> accessed 23 May, 2024.



Undoubtedly, child trafficking affects a child's well-being in a variety of ways, such as affecting his or her mental state, health, intellectual health, and physical well-being. Other effects of child trafficking according to Joshua:¹⁸

- i. Promotion of the vicious cycle of poverty
- ii. Reduction in the rate of enrolment in primary and secondary schools. This is particularly common in the Northern parts of Nigeria.
- iii. Increase in the level of illiteracy
- iv. Increase in the rates of crime
- v. Promotion of other moral decadence like prostitution and drug abuse etc.
- vi. Psychological trauma suffered by the victims, include anxiety, depression, and other mental challenges.

III. A Succinct Synopsis of the Nigerian Child Trafficking Epidemic

When it comes to human trafficking, Nigeria has been mentioned numerous times as a source, transit, and destination country.¹⁹ It has been reported that Nigeria has about 1,386,000 slaves, ranking 32 out of 167 countries with the highest number of slaves. According to the Nigerian National Agency for the Prohibition of Trafficking in Persons, the average age of trafficked children in Nigeria has increased, moving the country up to tier 2 status on the United States Department of State's Trafficking in Persons Report 2019. According to the National Agency, 23% of those who are trafficked within Nigeria are trafficked within states, whilst 75% of those who are trafficked within Nigeria are trafficked across states. After drug trafficking and economic fraud, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) reports that human trafficking, including the trafficking of women and children, ranks third among all crimes committed in Nigeria.²⁰ It is undeniable that Nigeria is frequently listed as one of the Nations with the highest number of trafficking victims overseas, primarily because of its population, even though the exact number of victims of human trafficking both inside and outside of Nigeria is largely unknown (particularly in Europe).²¹

¹⁸ Ibid.

¹⁹ See the Global Slavery Index Report (2018) P.10.

²⁰ Ibid.

²¹ Ibid. 245.

IV. Analysis of the Legal Framework for the Protection of Children's Rights in Nigeria

A prelude to the legal regime against child Trafficking in Nigeria

Convention on the Rights of the Child further provides that: Child victims of trafficking are entitled to the same protections as nationals of the receiving state in all matters, including those relating to the protection of their privacy and physical and moral integrity.

The above expressions bring us to child trafficking in Nigeria.²² The inception of democratic government in May 1999, after nearly 16 years of military rule, raised the issue of human rights, especially the rights of children and women, at the forefront of the national agenda.²³ Nigeria ratified the United Nations Convention on the Rights of the Child in 1991 and 1985, ratified the Convention on the Elimination of All Forms of Discrimination against Women.²⁴ Also, in 2001, Nigeria ratified the African Charter on the Rights and Welfare of the Child.²⁵ The International Labour Convention,²⁶ the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.²⁷ Military rule, raised the issue of human rights, especially the rights of children and women, at the forefront of the National agenda.²⁸ Nigeria ratified the United Nations Convention on the Rights of the Child in 1991 and 24 in 1985, ratified the Convention on the Elimination of All Forms of Discrimination against Women.²⁹ Also, in 2001, Nigeria ratified the African Charter on the Rights

²² Uche Nnawuken and Bosede Remilekun Adeutu, 'Promoting Efforts in the Eradication of Child Trafficking in Nigeria: The Need for a More Robust Legislation' *Strathmore Law Journal* (2022) (6) (1) 244.

²³ Ibid.

²⁴ Ibid.

²⁵ African Charter on the Rights and Welfare of the Child, 11 July 1990, CAB/LEG/24.9/49/1990). See *ibid* 225.

²⁶ International Labour Convention Concerning Forced or Compulsory Labour, 28 June 1930.

²⁷ Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, 10 December 1984, UNTS Vol. 1465. See Uche Nnawuken and Bosede Remilekun Adeutu, (n 20).

²⁸ Uche Nnawuken and Bosede Remilekun Adeutu, (n 22) 225.

²⁹ Ibid.



and Welfare of the Child.³⁰ The International Labour Convention.³¹ The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.³² Nigeria has entered into various bilateral agreements of understanding with individual countries within Africa. that have a direct relationship with the problems of human trafficking, forced labor and migration in general.³³ In 2006, The African Union adopted the Ouagadougou Action Plan to Combat Trafficking in the Office the Office of the Secretary to the Government of the Federation and the Customs Service.³⁴ The Office of the Special Assistant to the President on Human Trafficking and Child Labor was set up to coordinate the work. of the committee.³⁵ The work of the committee has been criticized for its absence of coordination, the presence of rivalry amongst members and competing demands of the agencies, and the absence of enabling legislation.³⁶

Furthermore, the Trafficking Law Enforcement and Administration Act was enacted in Nigeria in 2003; it was revised in 2005 and eventually repealed in 2015.³⁷ In a same spirit,

³⁰ African Charter on the Rights and Welfare of the Child, 11 July 1990, CAB/LEG/24.9/49/1990). See *ibid.* 225.

³¹ International Labour Convention Concerning Forced or Compulsory Labour, 28 June 1930. See Uche Nnawuken and Bosede Remilekun Adeutu, (n 22) 225.

³² Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, 10 December 1984, UNTS Vol. 1465, 85. See Uche Nnawuken and Bosede Remilekun Adeutu, (n 22) 225.

³³ The International Movement Against All Forms of Discrimination and Racism: Human Trafficking in Nigeria (Briefing paper for the Special Rapporteur on Trafficking in persons, especially in women and children 2015) 45. <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://imadr.org/wp-content/uploads/2016/01/IMADR-Briefing-Paper_Human-Trafficking-in-Nigeria_5.11.2015.pdf&ved=2ahUKEwj-qoSGgaGGAxVITEEAHfE3AXYQFnoECCUQAQ&usq=AOvVaw1AEhdd0hriA39uXgncwG2Z> accessed on May 22, 2024.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ Alexis Foua and Wilson Diriwari, 'Cultural and Legal Perspectives on Child Protection in the

Nigeria and Benin signed a bilateral agreement in 2005 on the prevention, control, and supervision of trafficking, particularly that which involves women and children.³⁸ A Quadripartite Agreement on Information Sharing and Monitoring of Trafficking Routes was signed by Nigeria, Benin, Togo, and Ghana earlier in 1984. Nigeria signed a quadripartite treaty on cross-border crime in 1996 with its neighbors in West Africa.³⁹ Nigeria established the National Agency for the Prohibition of Traffic in Persons and Other Related Matters (NAPTIP) in 2003 as a counterbalance to functional institutional frameworks.⁴⁰ In order to better address the problem, a National Action Plan was implemented in 2008.⁴¹

4.1 International legal Framework in Combating Child Trafficking

Child trafficking being an international phenomenon and Nigeria being a part and parcel of a recognized state in the international domain, Nigeria always has recourse to the international legal space to frame its own domestic legal mechanism to combat ranging domestic criminal and unwholesome conduct in addition to its established criminal jurisprudence. Hence, a brief light will be shed on the existing legal framework for combating child trafficking.

Nigeria is a signatory to many Conventions and treaties on human and has ratified a good number of these Conventions.⁴² Some of these conventions include; Convention for the Suppression of Trafficking in Persons and of the Exploitation of the Prostitution of Others 1949, International Abolition of Forced Labour convention 195,⁴³ International Labour Organization (ILO) Forced Labor Convention 1930, International Labour Organization (ILO) Worst Forms of Child

Context of Child Trafficking in Nigeria' (2020)(11) (1)

<https://www.scirp.org/journal/paperinformation?paperid=97662#ref23>> accessed 23 May, 2024.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² Olateru-Olagbegi and A Ikpeme, 'Review of Legislation and Policies in Nigeria on Human Trafficking and Forced Labour' (ILO, 2006) cited in Alexis Foua and Wilson Diriwari, 'Cultural and Legal Perspectives on Child Protection in the Context of Child Trafficking in Nigeria' *Beijing Law Review* (2020) (11) (1) 24

⁴³ No. 105.



Labour Convention 1999,⁴⁴ The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984, The Convention on Elimination of all forms of Discrimination against Women 1979, The Convention on the Elimination of all forms of Radical Discrimination 1965, The United Nation Convention on the Rights of the child (CRC) 1989, United Nations Slavery Convention 1927.⁴⁵ Furthermore, it is important to note that these conventions cannot be a force of law in Nigeria unless these laws are domesticated.⁴⁶ In other words, [s]ection 12 of the constitution of the Federal Republic of Nigeria provides that before these laws can have a force in Nigeria, they must be passed into law by the National Assembly.⁴⁷ This article will now engross in the analysis of the domestic legal mechanism to combat child trafficking in Nigeria.

4.2 Domestic Legal Regime Against Child Trafficking in Nigeria

4.2.1 Constitution of the Federal Republic of Nigeria

Being the basis of the Nigerian corpus, the Constitution of the Federal Republic of Nigeria, 1999, as amended, is regarded as the mainstream of all laws against child trafficking in Nigeria.

In view of the fact that trafficking in persons involves the violation of fundamental human rights, it is important to consider the relevant provisions of the Constitution of the Federal Republic of Nigeria, 1999, that guarantees these fundamental rights.⁴⁸ Chapter IV of the Constitution contains fundamental rights, while Chapter XI spells out the Fundamental Objectives and Directive Principles of State Policy.⁴⁹ According to Section 34 of the Constitution:

The right to dignity of human persons thus prohibits the subjection of any person to slavery or

servitude. It further provides that every individual is entitled to respect for the dignity of the person, and accordingly, no person shall be subjected to torture or to inhuman or degrading treatment, no person shall be held in slavery or servitude, and no person shall be required to perform forced or compulsory labor.⁵⁰

Other relevant provisions in the Constitution are those that safeguard the rights to movement,⁵¹ personal liberty,⁵² and those that prohibit torture, inhuman or degrading treatment, slavery, servitude, and forced labor. In other words, the sections guaranteed the ideals of freedom, equity, and justice. It also provides against slavery and forced labor or compulsory labor; sexual exploitation and deprivation of personal liberty for Nigerians.⁵³ Section 46 of The Constitution allows anyone whose rights, as guaranteed by These provisions have been violated. To challenge the violation in the High Court of a State.⁵⁴ It is altruism to state that, apart from the specific legislation against child trafficking (which shall be examined shortly), child abuse or trafficking readily falls within the above provisions. In other words, human and child trafficking infringe on these rights.⁵⁵

4.2.2 Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003

In 2003, the Federal Government of Nigeria, concerned by the alarming rates of trafficking in person, enacted the above mentioned the above-mentioned law. The law was amended in 2005.⁵⁶ Under the law, The National Agency for the Prohibition of Traffic in Person (NAPTIP) is saddled with the responsibility of ensuring its compliance. The enactment defines the categories of offenses dealt with under it.⁵⁷ The agency is by law empowered to ensure, among others, that the investigation, detection, and gathering and interpretation of evidence in respect of trafficking in person cases should be conducted in such a manner as to minimize intrusion into the personal history of the trafficked person, that the identity of the trafficked person is protected from intimidation,

⁴⁴ No. 105.

⁴⁵ Joanna Rotdelmwa and Omamen Musa, 'A Critique on the Legal Framework for Combating Human Trafficking in Nigeria' *ABUAD Law Journal* (2023) (11) (1) <https://www.researchgate.net/publication/375984474_A_Critique_on_the_Legal_Framework_for_Combating_Human_Trafficking_in_Nigeria> accessed 23 May, 2024

⁴⁶ Ibid.

⁴⁷ Ibid 24.

⁴⁸ Uche Nnawuken and Bosede Remilekun Adeutu, (n 22) 248.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Section 34.

⁵¹ Section 41.

⁵² Joshua, (n 9) 42.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Onu K. O, 'Examination of the Legal Regime for Combatting Trafficking in Persons in Nigeria' *Journal of Law Science* (2022) (4) (3).

⁵⁶ Joshua, (n 9) 42.

⁵⁷ Ibid.



threats, and reprisals from traffickers and their associates, including reprisals from persons in positions of authority.⁵⁸ Steps should be taken to rehabilitate the trafficked person, and where the circumstances so justified, trafficked persons shall not be detained, imprisoned, or prosecuted for offenses related to being a victim of trafficking, including possession of valid travel, false travel, or other documents).⁵⁹ As an instance, Section 64 of the Act defines the word 'trafficking' as:

All acts involved in the recruitment, transportation within, or across Nigerian borders, purchases, sale, transfer, receipt, or harboring of a person, involving the use of deception, coercion or debt bondage for the purpose of placing or holding the person, whether or not in voluntary servitude (domestic, sexual, or reproductive) in forced or bonded labor or in slavery-like conditions.⁶⁰

However, this definition is devoid of some identified criticism. In other words, the definition of trafficking provided in Section 64 of the Trafficking in Person (Prohibition) Law Enforcement and Administration Act has been criticized by some researchers:⁶¹

This definition of trafficking is not broad enough to cover all the means and purposes envisaged by Article 3 of the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, 2000 (Trafficking Protocol), to which Nigeria is a party. While the Act recognizes the fact that a person may be recruited, bought, sold, received, labored, and transported, it failed to take into account that these actions may be achieved not only by means of deception, coercion, or debt bondage but also by means of fraud and more importantly, by means of the abuse of one's power over someone else or of a victim's position of vulnerability, commonly found among poverty-stricken families and those caught in the cross-fire of armed conflict. It does not also take into account the giving or receiving of payments of benefits to achieve the consent of a person having control over another person for the purpose of exploration, which

⁵⁸ Ibid.

⁵⁹ S.K. Kigbu, 'Legal Framework for Combating Human Trafficking in Nigeria: The Journey So Far' *Journal of Law, Policy, and Globalization* (2015) (38).

⁶⁰ (Joshua, (n)

⁶¹ S.K. Kigbu, (n 59) 206-207.

is the most common method of recruitment of children for exploitation in Nigeria. The definition in the Act does not also recognize the fact that a person may be trafficked for the purpose of the removal of organs or ritual murders that are commonplace in Nigeria, even though an offense for this purpose is created under Section 20 of the Act. The definition does not impose the kind of liability the trafficking protocol does, where a child is deemed to have been trafficked even when none of the means specified under Article 3(a) is employed in his recruitment, transportation, transfer, harbouring or receipt. The definition is also silent on the element of the victim's consent to intended exploitation, which the trafficking protocol considers irrelevant when any of the means identified in Article 3(a) have been used in the process.

The author believes that the loopholes in the definition as identified above are traceable to sociocultural considerations, as he vividly pointed out:

The obvious lapses in the Nigerian definition of trafficking may not be unconnected with the general societal attitude towards prostitution and the cultural practices of child placement by less privileged families with perceived more economically buoyant families elsewhere. One is tempted to think that these are silent recognition of Nigeria's traditional values on fostering and socializing and outright criminalization and condemnation of prostitution.⁶²

However, another author looks at the import of the definition from another angle and posits that the definition addresses various variables and brings them within the compass of trafficking. In other words, TIPLEA 2015 captured all these criticisms and made a more elaborate definition of the concept.⁶³ Section 82 of TIPLEA 2015 defines trafficking, or traffic in person, to mean:

Trafficking or traffic in persons" means the recruitment, transportation, transfer, harboring, or receipt of persons by means of threat or the use of force or other forms of coercion, abduction, fraud, deception, the abuse of power, 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 labor, or in

⁶² *ibid.* 207.

⁶³ Kingsley Osinachi Onu, (n 55) 110.



slavery-like conditions, the removal of organs or generally for exploitative purposes.

The above definition is all encompassing as it even extends to recent menace of organ harvesting that is ravaging the globe, especially in Asia and Africa.⁶⁴ In sum, The Trafficking in Persons Law Enforcement and Administration Act (TIPLEAA), as amended in 2015, criminalized sex trafficking and labour trafficking and prescribed a minimum penalty of two years' imprisonment and a fine of 250,000 naira) for both sex and labor trafficking; the minimum penalty for sex trafficking involving a child was seven years' imprisonment and a fine of 1 million naira. These penalties were sufficiently stringent and, with regard to sex trafficking, commensurate with those prescribed for other serious crimes, such as kidnapping.⁶⁵

4.2.3 Offenses under the Act

Section 13(1) generally prohibits all forms of human trafficking in Nigeria.⁶⁶The other offenses include the exportation of persons out of Nigeria and the importation of persons in to Nigeria;⁶⁷ procurement of any person for sexual exploitation;⁶⁸ abuse procurement or recruitment of persons under 18 years for prostitution or other forms of sexual exploitation;⁶⁹ Procurement or recruitment of persons under the age of 18 for pornography or brothel;⁷⁰Foreign travel that promotes prostitution or sexual exploitation;⁷¹ procurement or recruitment of person for use in armed conflicts;⁷²procurement or recruitment of people for organ harvesting;⁷³ prohibition of buying or selling of human beings for any purpose;⁷⁴ forced labor; employment of a child as a domestic worker; and inflicting grievous harm; trafficking in slaves.⁷⁵

Other offenses created under the Act include: Offences relating to fraudulent entry of

persons into another country;⁷⁶ conspiracy where the offense is actually committed;⁷⁷ conspiracy where the offense was not actually committed;⁷⁸ escape or aiding and abetting escape of any person in lawful custody of the agency or suspected to have committed an offense under TIPLEA, 2015;⁷⁹ where a person is convicted abroad for offences relating to trafficking in person,⁸⁰ attempt to commit any of the offenses under the Act;⁸¹ Where evidence establishes an attempt to commit an offense or the commission of the full offense;⁸² An offense under this Act committed by body corporate on the instigation, connivance of, or attributable to any neglect on the part of the secretary of the body corporate, director, or manager;⁸³ A body corporate convicted under this act;⁸⁴ Commercial carrier that knowingly carries any person in contravention of the Act;⁸⁵ Impersonation or assumption of character of an officer of the agency;⁸⁶ Tampering with evidence and witness.⁸⁷ Where the offense is committed on the instigation of the manager or secretary etc. The punishment upon conviction is the same punishment for individual offenders.⁸⁸ Any tour operator, travel agent, or airline who violates the provisions of Section 35(1) and (2) commits an offense;⁸⁹ Conviction for any of the offenses under the Act;⁹⁰ and Obstruction of the Agency authorized

⁶⁴ ibid 107.

⁶⁵ United State Department of State 2023 Trafficking in Persons Report: Nigeria <<https://www.state.gov/reports/2023-trafficking-in-persons-report/nigeria#!>> Accessed 23 May, 2023.

⁶⁶ Kingsley Osinachi Onu, (n 55) 110.

⁶⁷ section 14.

⁶⁸ section 15

⁶⁹ Section 16.

⁷⁰ Section 17.

⁷¹ Section 18.

⁷² Section 19.

⁷³ Section 20.

⁷⁴ Section 21.

⁷⁵ Section 24.

⁷⁶ Section 26.

⁷⁷ Section 27(a).

⁷⁸ Section 27(b).

⁷⁹ Section 28.

⁸⁰ Section 51 (1) (b) and 50)

⁸¹ Section 29.

⁸² Section 30 (a).

⁸³ Section 31 (1).

⁸⁴ Section 31 (2).

⁸⁵ Section 35.

⁸⁶ Section 33.

⁸⁷ The punishment on conviction is imprisonment for a term not exceeding 5 years or a fine not less than N250,000.00.)

or to both. See Kingsley (n 55)112.

⁸⁸ Section 31(2).

⁸⁹ Section 35.

⁹⁰ The passport of the person convicted shall be forfeited to the Federal Government of Nigeria; Section 48)



officers;⁹¹ and offenses related to forfeiture orders.⁹²

4.2.4 Criminal Code and Penal Code

These are substantive laws regulating crimes in Nigeria. The Criminal Code operates in the South, while the Penal Code regulates and criminalizes conduct as a crime in the Northern part of the country.

a. Criminal Code

The Criminal Code is one of the five principal statutes regulating crime in Nigeria, covering the Southern part of the country.⁹³ Although trafficking is not extensively covered here, there are salient provisions relevant to the topic of this discussion relating to domestic and external trafficking for slavery and prostitution.⁹⁴ For instance, Section 223 provides that:

Any person who procures a woman or girl under the age of 18 years to have carnal knowledge of any other person or persons either in Nigeria or elsewhere, or procures a woman or girl to become a common prostitute either in Nigeria or elsewhere, or procures a woman or girl to leave Nigeria with the intent that she may become an inmate of a brothel elsewhere or procures a woman or girl to leave her usual place of abode in Nigeria with the 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 for imprisonment for 2 years.⁹⁵

The Act also provided against sexual exploitation and unlawful carnal knowledge of women or girls by means of threat or intimidation, or administering to her any drug or other things to stupefy or overpower her, to have unlawful carnal knowledge

⁹¹ The punishment on conviction is imprisonment for a term not exceeding 5 years or a fine of N50,000.00 or both. Section 32.

⁹² Section 58. This attracts not less than 1-year imprisonment without an option of a fine See generally Kingsley Osinachi Onu, (n 55).

⁹³ M. A Nwanyanwu and Anumba F. N, 'Child Trafficking in Nigeria and the Law' *African Journal* (7) available at https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://ajieel.com/index.php/a/article/download/59/60&ved=2ahUKEwipzO37x6OGAxVZX0EAHWbyDL4QFnoECEYQAQ&usg=AOvVaw228v7VPFWoK7PcNSqGI_iC accessed 23 May, 2024.

⁹⁴ *ibid* 191.

⁹⁵ Section 223 of the Criminal Code Act.

of her, is guilty of a misdemeanour and is liable to imprisonment for 2 year.⁹⁶ The validity of this provision is called into doubt because it leaves open the question of what constitutes immoral character and whether society has a duty to protect an under age member of the public from engaging in immoral behavior.⁹⁷ In light of the fact that sexual exploitation is not based on a person's gender or ethnicity, It can be argued that this clause should be changed to address these issues and that the notion that only women can be sexually exploited should be abandoned and buried in a medieval tomb of costly presumptions.⁹⁸

b. Penal Code

The Penal Code contains similar provisions of the Criminal Code on trafficking.⁹⁹ The relevant ones are sections 275, 278, 279 and 280.¹⁰⁰ Section 275 deals with inducement of a girl under the age of eighteen years to go from place to place for defilement; section 278 prohibits the buying, selling, hiring or letting of persons below the age of 18 years with intent that such a person will be or is likely to be employed or used for prostitution or other unlawful or immoral purposes; Section 279 prohibits slave dealing while section 280 deals with forced labour. Osinachi made an acute comment and criticism of the wordings of section 278 of the penal code where the author stated thus:

This provision is laudable as it preserves the dignity of human person in that a human being is not a commodity that can be chased in either open or black market. However, the pegging of the age of the victim to 18 years is unacceptable, in my view, being that human beings of all ages could be victims of such buying or selling. Secondly, the limiting of the purpose for such buying or selling to 'prostitution or other unlawful or immoral purposes will pose a huge challenge to the prosecuting authority to establish¹⁰¹. In *Nwokocha v. State*¹⁰² the appellant was convicted of buying a person contrary to section 278 of the Penal Code Act. She was convicted on the strength of her extra judicial statement where she stated that she bought the victim from her mother for her sister living in Abuja

⁹⁶ Section 224. See M. A Nwanyanwu and Anumba F. N, (93).

⁹⁷ Kingsley, (n 55)115.

⁹⁸ *Ibid*.

⁹⁹ Joshua, (n 9) 42.

¹⁰⁰ *Ibid*.

¹⁰¹ Kingsly Osinachi, (n 55)116.

¹⁰² (2019) LPELR-47075(CA).



that has been married for over 10 years without a child. The Court of Appeal held that the buying and selling of new babies and minors is not illegal, that, that's what adoption entails, but in this case that the buying was not from authorized government agency or motherless babies' home. The prosecution couldn't establish that the purpose of the buying was to subject the minor to 'prostitution or other unlawful or immoral purposes'. The content of the extrajudicial statement only established the doing an act prima facie legal but by an illegal means. The Court discharged and acquitted the appellant on the above charge but convicted for conspiracy to perform a lawful act by an unlawful manner under section 97(2) of the Penal Code.

4.2.5 Child Right Act

As a country of origin, transit and destination, there is usually the outflow and inflow of trafficked victims, particularly through Nigeria's porous borders, which allows easy access for traffickers to operate without being caught by the law enforcement agents. To demonstrate its zero-tolerance for child trafficking (as well as any form of trafficking in persons), the Federal Government of Nigeria, sometime in 2014 became the first country in the West African Sub-Region to sign, ratify and domesticate the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Children {and Women}; as well as the Convention on the Rights of the Child, which it followed, in July 2003, by enacting into law the Child Rights Act.¹⁰³ Subsequent to its enactment in 2003, the Act has been adopted in 23 states including the Federal Capital Territory (FCT).¹⁰⁴

The Child Rights Act deals comprehensively with the issue of child trafficking in Nigeria.¹⁰⁵ Most of the provisions of CRA are imported from the Convention on the Rights of the child (CRC) and International Labour Organization (ILO) Convention; and contain provisions, which deal with the issue of who a child is, as well as

limited conditions under which a child could be separated from his/her parents.¹⁰⁶

Under S. 14 of CRA, a child could be separated from parents where it is in the best interest of the child, but did not define what the best interest of the child.¹⁰⁷ The child right Act prohibits a number of conduct which amount to an abuse of the child's welfare such as unlawful removal of a child from the lawful custody of another are addressed in the CRA.¹⁰⁸ For instance, s.28 of the CRA prohibits exploitative and forced labor of children, employment of children in any capacity except where the child is employed by a member of the family on light work of an agricultural, horticultural or domestic nature.¹⁰⁹ Part 3 (sections 21-40) of the Act provides for the protection of the rights of the child through the prohibition of child marriage, child betrothal, infliction of tattoos, exposure to use, trafficking...abduction and unlawful removal and transfer of a child from lawful custody, forced, exploitative or hazardous child labour...using children for prostitution, unlawful sexual intercourse, other forms of sexual abuse and exploitation prejudicial to the welfare of the child.¹¹⁰ Although the Trafficking Law Enforcement and Administration Act, 2015 is considered to be the exclusive Human trafficking law in Nigeria, other laws play a significant role in the protection of the child such as the Child Rights Act 2003 which generally relates to the rights of the child in Nigeria, but some provisions are related to the protection of the child.¹¹¹

4.2.6 Laws Concerning Sexual Offenses:

Several states in Nigeria have passed legislation specifically addressing sexual offenses, particularly those against minors, in addition to adopting the Child Right Act. These states include Lagos, Abia, Adamawa, Akwa Ibom, Edo, Ekiti,

¹⁰³ Ayobami Joshua, n 42.

¹⁰⁴ Ibid.

¹⁰⁵ Dagaci Aliyu Manbe, 'Trafficking of Women and Children in Nigeria: A Critical Approach' *American International Journal of Science* (2016) (5) (3) 20. Available at <<https://www.google.com/url?sa=t&source=web&rc=t=j&opi=89978449&url=https://www.scirp.org/journal/paperinformation%3Fpaperid%3D95465&ved=2ahUKEwipzO37x6OGAxVZX0EAHWbyDL4QFn0ECEUQAQ&usq=AOvVaw1anqJB5pgx7nWveyMcA-8W>> accessed 23 May, 2024.

¹⁰⁶ Ibe Okegbe Ifeandu, 'Child Trafficking and Rights Violations: Examination of Child Protection under International and Nigeria Legal Provisions' *Beijing Law Review* (2019) (10) available at <https://www.researchgate.net/publication/336091976_Child_Trafficking_and_Rights_Violations_Examination_of_Child_Protection_under_International_and_Nigeria_Legal_Provisions> accessed 23 May, 2024.

¹⁰⁷ Ibid.

¹⁰⁸ Ibe Okegbe, (n 106) 1084.

¹⁰⁹ ibid 1084)

¹¹⁰ Child Rights Act Part 3. Sections 21-40

¹¹¹ Alexis Foua and Wilson Diriwari, (n 37).



and so on. In accordance with these laws, those who violate children's privacy rights may be prosecuted and punished.¹¹²

4.2.7 The Nigerian Immigration Act

In the given situation, the Nigerian Immigration Act is equally noteworthy.¹¹³ Nigeria's Immigration Act of 1963 was abolished in 2015 and replaced with the Immigration Act of 2015.¹¹⁴ The Immigration Act of 2015 reestablished the National Immigration Service,¹¹⁵ whose duties include issuing travel documents, monitoring borders, and regulating everyone entering or departing Nigeria.¹¹⁶ It mandates that anyone entering or departing Nigeria through any port or airport must present a landing or embarkation card to an immigration officer, along with any other travel documents the minister may instruct the ship or aircraft owners to provide to passengers.¹¹⁷ The individual must also satisfy the immigration officer that they are in possession of any travel documents the officer may require.¹¹⁸

The Act defines trafficking as 'all acts and attempted acts involved in the recruitment, transportation within or across Nigerian borders, purchase, sale, transfer, receipt, or harbouring of a person involving the use of deception, coercion or debt bondage 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.'¹¹⁹

The Act categorizes any person trafficking in persons or smuggling;¹²⁰

a prostitute; a person who has been convicted of the offence of rape, defilement, or any other sexual offence; 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; encourages the seduction of a child or young person; a person trading in prostitution, or is a procurer, as a prohibit

immigrant, and show a person shall be refused admission or to be deported from Nigeria.¹²¹

The person is deemed to have committed an offence and is liable on conviction to imprisonment for ten years.¹²²

V. Jurisdictional conflict in relation to the offense of child trafficking in Nigeria

Reading from the available literature on the subject reveal that issue of the appropriate court to entertain child trafficking offenses is not settled altogether. An author lamented that:

It seems the powers of the court to entertain matters relating to child care and protection, especially child trafficking in Nigeria is not clear. As earlier noted, the Child Rights Act 2003 empowers the Family Court constituted through the High Court and Magistrate court to entertain matters relating to children. The Act also made provision for the removal of jurisdiction limit of Magistrates to impose fine and punishment. Also, human trafficking sometimes occurs across borders, making it relate to Immigration (provided for under Section 251 (j) of the Constitution) as the jurisdiction of the Federal High Court – posing a jurisdictional problem. The TIPPEAA, also, confers jurisdiction on the High Court for offences under the Act. While a Sharia Court of Appeal of a State has express jurisdiction to decide Muslim civil matters, including Muslim children's cases. All these breed jurisdictional problems.¹²³

In furtherance to the above, it is submitted that the TIPPEAA has made elaborate provisions on the jurisdiction of the High court to entertain offenses of child trafficking and other sundry issues thereof. It is argued that:

The High Court can in addition to the sentence passed on a convicted person under the Act order that any property, asset or fund used in facilitating the commission of the offence or a proceed of such venture be forfeited to the Victims of Trafficking Trust Fund. The passport of a convict under this Act shall be forfeited to the Federal Republic of Nigeria and the same shall be handed over to the Nigerian Immigration service for necessary action, and the same shall not be returned to the convict except on the order of the President while exercising his power to grant pardon pursuant to the Constitution. The court also has the jurisdiction to order for interim attachment of

¹¹² Ajibola, (n 9).

¹¹³ M. A Nwanyanwu, (n 22) 191.

¹¹⁴ Kingsley Osinachi, (n 55) 116.

¹¹⁵ Section 1 of Immigration Act, Act No.8, 2015)

¹¹⁶ Kingsley Osinachi, (n 55).

¹¹⁷ Ibid.

¹¹⁸ section 4(1) (a) & (b). See M. A Nwanyanwu, (n 22) 191

¹¹⁹ Section 116. See Kingsley, (n 55) 116.

¹²⁰ Section 44.

¹²¹ Section 44 h (i-v).

¹²² Ibid

¹²³ Kingsley, (n 55) 113.



proceeds or assets of persons accused of commission of any offence created under the Act to the Victims of Trafficking Trust Fund, where there exists a prima facie case against such an accused person and the proceeds or assets were acquired through the commission of an offence created under Act. The procedure for seizure of property was well spelt out under the Act. Where a person has been convicted under the Act such interim attachment above shall be made final, and where such a convict has assets in foreign country which are proceeds of an offence for which the convict was convicted in Nigeria, subject to any treaty or arrangement between Nigeria and such a foreign country, such asset shall be forfeited to the Victims of Trafficking Trust Fund. The Act does not provide for the applicable Criminal Procedure law for the administration of the Act. It is suggested that the criminal procedure law that is applicable to the court of arraignment will be applied to such a case, however, the Act empowered the court to adopt all legitimate measures that it may deem expedient to eliminate unnecessary delay of trial of offences created under the Act. National Industrial Court of Nigeria is vested with the exclusive jurisdiction over civil cases emanating from the Act. However, the idea of having different courts handling civil and criminal cases separately poses problems as most times the issues are intertwined within themselves i.e. a civil and criminal issues may arise from the same transaction; this confusion extends the litigation period, cost, and also discourages litigants. A victim may institute a civil action against his/her traffickers for compensation, damages and restitution. However, the Court in making an award to the victim shall take into account the award made by the court in the criminal trial. Where any person or body seeks to initiate a civil action against the agency, such a person or body must first issue the agency with a pre action notice and satisfy the conditions prescribed under section 77 of the Act.¹²⁴ Giving the above, the question of the appropriate court to assume jurisdiction over offenses of child trafficking has been put to rest by the relevant provisions of the Act which vest jurisdiction on the High court to try offenses of child trafficking and related matters.

VI. Conclusion

Nigeria has made several Legislations to combat the menace of child trafficking. They include: the Constitution of the Federal Republic of Nigeria 1999, as amended in 2018; Trafficking in

Persons (Prohibition) Law Enforcement and Administration Act, 2015; Immigration Act, 2015; Criminal and Penal Code Acts; Child's Right Act; and African Charter are just a few of the numerous laws that address human trafficking in Nigeria that the paper identified. This study concludes that Nigeria's current legal framework has a number of flaws that will hinder and eventually undermine the effort to combat human trafficking. In other words, despite the above legislative measures, the menace of child trafficking still persists as a result of lack of strong political will, stringent policies and other identified factors in the study, that have crippled the regime of fight against child trafficking in Nigeria. Thus, the paper offers recommendations for resolving the observed lacuna.

VII. Recommendations

In view of the above findings, the following recommendations are made to strengthen the fight against child trafficking in Nigeria:

- a) Enhancing knowledge and research on the phenomenon of trafficking by supporting an efficient surveillance system to document the incidence and nature of rights violation.
- b) Raising public awareness through involvement of the media and addressing attitudes, behaviors and practices through an appropriate communication strategy.
- c) Advocating to national / State leaders to effectively combat trafficking by adopting adequate policies and programmes and by implementing legislation.
- d) Improving the co-ordination framework and strengthening collaboration at national, regional and international levels.
- e) Development and improvement of appropriate institutional responses and care for child victims of trafficking and exploitation.
- f) Enhancing the knowledge of the children themselves and adopting a preventive approach.

¹²⁴ Ibid 113-114.