



ISSN: 0331-4294

BENIN JOURNAL OF PUBLIC LAW

Volume 5 -7 2007 - 2009



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THE LEGAL BATTLE AGAINST TRAFFICKING IN WOMEN AND CHILDREN IN NIGERIA: PROBLEMS AND PROSPECT.

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ABSTRACT

Human trafficking, especially in women and children has in recent time assumed an alarming, discriminating and embarrassing dimension in Nigeria. It represents modern day slavery, whereby victims are smuggled like "goods" into foreign countries. It is a gross violation of the constitutionally guaranteed rights of the victims. Women and children have been shown to be more vulnerable and therefore are predominantly the victims of human trafficking. They suffer sexual exploitations, and degrading inhuman treatment such as forced labour. The paper focuses on the causes of persistent and consistent human trafficking in Nigeria. It further evaluates the existing legal frame-work, that have been adopted so far both at National and International levels to combat this heinous crime. The writers proffer concrete practical legal solutions for an effective implementation of the existing laws. The writers vehemently make a case that we cannot in all honesty talk about re-branding Nigeria, without first eradicating this ugly and disgraceful trend.

THE LEGAL BATTLE AGAINST TRAFFICKING IN WOMEN AND CHILDREN IN NIGERIA: PROBLEMS AND PROSPECT.

INTRODUCTION

Human trafficking, a modern day slavery is "a global phenomenon which entails rural to urban, urban to urban and

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trans-border movement of people for various reasons, ranging from, cheap labour, organ transportation, sexual exploitation, drugs, begging, ritual killings"¹. Sexual exploitation and child abuse have so far been identified as one of the most devastating effects of human trafficking². Women, for instance who are mostly the victims of sexually exploitation are exposed to rape, sexual transmitted diseases like HIV while children are subjected to inhuman treatment. Historically, human trafficking has taken diverse forms but in the context of globalization, it has assumed a new dimension. It is now "a complex, multi-faceted phenomenon involving multiple stakeholders at the institutional and international levels. it is a demand-driven business with a huge market for cheap labour and commercial sex"³

Nigeria, has acquired an embarrassing reputation for being one of the leading African countries in women trafficking. The victims are smuggled into neighbouring countries or foreign countries like, Italy, Belgium, Spain, Germany and Netherlands. Trafficking of persons is the third largest crime after economic fraud and drug trade⁴. According to Mrs Carol Nduaguba⁵, the Chief Executive of NAPTIP (National Agency for Prohibition of Trafficking in Persons;

In the West African Sub-region and Nigeria, trafficking in persons has already become a pervasive crime. The crime preys primarily on the women and children who are believed to be the most vulnerable group. It is established that men are trafficked especially for forced labour and for body organ, laundering but the emphasis placed on women and children is informed by the awareness

1 R.Ezennejiego , "Human Trafficking: A Cankerworm", National Light, May 13 2009

2 Adaeze Ojukwu, Nigeria/West Africa: Human Trafficking. Daily Champion Sept 21, 2006.

3 "Human Trafficking in Nigeria: Root Causes and Recommendation" portal unesco.org/shglen.php.

4 Op.cit. 12 782

5 Chris Anucha; NAPTIP enlists Journalists in the war Against human trafficking p.20, Daily Sun, Monday Dec. 17, 2007.

*that the group constitutes predominant target for traffickers*⁶.

This paper therefore focuses squarely on women and children, who have been found to be more vulnerable to this social menace. The paper shall presently discuss the salient causes of human trafficking. It will also appraise the national and international legal framework enacted so far to address the devastating effects of this modern day slavery. Recommendations would be proffered for an effective eradication of this endemic problem.

Causes of Trafficking in Women and Children

(a) Poverty and Corruption

Nigeria which is often referred to as the "giant of Africa" is naturally endowed with enormous natural and human resources. It is ranked the 11th largest oil producer in world. However, it is glaring that, "debt burden, institutionalized burden and institutionalized corruption, takes a serious toll on the country's economy"⁷. The corruption index rating by Transparency International has already adjudged Nigeria one of the topmost corrupt countries of the world, this is not surprising because most of our top Nigerian government functionaries have flagrantly indulged in massive looting of public funds, consequently Nigeria has been rated one of six poorest countries in the world with a per Capita GNP of about \$280 for a population of about 133 million. Therefore, although Nigeria is richly endowed with natural and human resources its citizens are mostly poverty stricken. Against this backdrop, it is evidently clear that poverty is the major cause of human trafficking in Nigeria, and this has forced people to resort to trafficking as a survival strategy. Poverty stricken parents easily fall prey to the financial enticement by the traffickers. The women/girls end up as prostitutes while the children are subjected to child labour (hawkers and house helps) and other attendant hazards.

6 Ibid.

7 Op. cit. portal uneco. Org/shsen.php.

(b) Mass Unemployment and Increase in Demand For Cheap Labour

Unemployment and continued increase in demand for cheap labour have been identified as factors that continue to attract people from poor regions. The Minister of Labour and Productivity, Prince Adetokunbo Kayode (SAN), recently asserted that the World Bank places Nigeria's current unemployment figure at a staggering 40 million, majority of the unemployed are between the ages of 18 and 25. This figure represents a third of the country's entire population⁸. With increasing trafficking in women and children, particularly girls for sex and domestic work. Destitute families have been found to be more vulnerable to persuasions by traffickers to hire out or sell their children.

C. Lack of Effective Implementation of Existing Laws

NAPTIP boss, Mrs. Carol Nduaguba, has stated that since the inception of NAPTIP till the 31st of March, 2007, 962 victims have passed through the agency, 118 rehabilitated while 539 were awaiting trial⁹. She however lamented that while concerted efforts have been made by NAPTIP to bring traffickers to book the, "cumbersome process of technical trials, have been the clog in the wheel of the Agency's efforts to get more convictions.

(d) Poor Security Measures

Finally, Nigeria's porous borders have been identified as facilitating easy smuggling of women and children out of Nigeria. Traffickers often bribe through their ways to obtain visas for their victims while these who are denied visas smuggle their way out through our porous borders.

⁸ National Daily May 25 – 29, 2009

⁹ Chris Amucha Op. cit.

An Examination of National and International Legal Framework Aimed at Combating Trafficking in Persons,

International Legislations

(a) The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Organized Crime (2000)

This is the first international instrument against human trafficking. In fact this instrument was the first law that formulated the first internationally agreed upon definition of trafficking¹⁰. The other salient feature of the Protocol is that it made consent to the intended exploitation irrelevant. It recognized a range of purpose for trafficking, in addition to sexual exploitation, it amongst other things called for international cooperation to prevent and combat trafficking.

The UN Protocol has however been criticized on the ground that its human rights provisions need to be expanded, enriched and made obligatory for all member states. It has however, been commended as an important step towards locating trafficking within human right framework¹¹.

(b) Libreville Platform of Action

This law was drafted in 2000, and signed by national regional and international governments as well as non-govermental organizations. It aims at protecting children and young women from dangers of trafficking¹².

(c) Joint Eccwas/Eccas Regional Co-Operation On Human Trafficking

This was signed by 26 countries in West and Central Africa at Abuja and it aimed, at creating and encouraging

10 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 vulnerable 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.

11 Op. Cit. human trafficking in Nigeria: root causes and recommendations.
Adaeze Ojukwu – Op. cit

12

collaborative efforts between African countries in combating trafficking

Nigerian Legislations on Human Trafficking

(a) Nigerian 1999 Constitution

The Nigerian legislators apparently have not been insensitive to this nefarious crime. The 1999 Nigerian constitution makes elaborate provisions against human trafficking. The combined effect of **sections 34 and 42** of the Nigerian constitution is to the effect that every individual is entitled to the dignity of his person consequently no person shall be subjected to inhuman or degrading treatment or subjected to slavery. Forced or compulsory labour. While, **section 42** specifically prohibits any form of gender discrimination against women or girl child. However, the vulnerability rate of women and girl-child to trafficking as opposed to men and boy-child counterpart point to the irresistible conclusion that the age long customary law belief that women are "chattels" is still very much with us. Human trafficking in Nigeria is discriminatory and a gross violation of the victims constitutionally guaranteed rights.

(B) Child's Right Act 2003

The Act has made elaborate provisions for the protection of the Nigerian Child. **Section 10** prohibits discrimination against girl child while **section 11**, provides for right to the dignity of the child against child abuse, like, sexual abuse, neglect and degrading treatment. **Section 48** of the Act, has also prohibited subjecting a child to exploitative labour. The sections has equally criminalized this act, by stating that a contravention of the Act would attract five years imprisonment or imposition of five thousand Naira fine or both fine and imprisonment. This Act is highly commendable but its effective implementation has been hindered by the fact that children are often trafficked by their relations, consequently, it is often difficult to get them to act as prosecution witnesses against their own relatives.

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

In consequence of the alarming proportion the ugly trend of human trafficking was assuming, the Nigeria National Assembly passed the above bill into law in 2003, to combat and eliminate these heinous activities against humanity. The bill was signed into law on July 14 2003, by the then President Olusegun Obasanjo. It was amended in 2005. The Act amongst other things stipulated stiff penalties for offenders. It equally established an administrative structure and entity called National Agency for Prohibition of Trafficking in Persons and other related matters (NAPTIP) to administer and enforce the law. Mrs. Carol Nduaguba was appointed on the establishment of NAPTIP to head the agency. The 2003 Act is a domestication of the UN Protocol on human trafficking as Nigeria was a signatory to the international instrument. The NAPTIP, under the able leadership of Mrs. Carol Nduaguba has been dogged in its sustained fight against human trafficking in Nigeria. However, the NAPTIP boss has lamented that the Nigerian inquisitorial Criminal Justice System has made the prosecution of the offenders highly cumbersome.

Recommendations

(a) Adoption of more Aggressive Strategies by NAPTIP, Ministries of Justice and Women and Youth Development

NAPTIP, being the administrative structure established to combat this social menace under discourse, is naturally at the forefront of the battle against trafficking in persons. NAPTIP under the leadership of Mrs. Carol Nduaguba has taken giant strides to stamp out human trafficking. NAPTIP has organizing workshops and seminars in order to sensitize the general public on the evil of trafficking. The agency since inception in March 2007 has rescued 962 victims and rehabilitated 118 of them and has made concerted efforts to bring the trafficker¹³ to book. NAPTIP as at 12 January 2008 had successfully secured the conviction of only 12 traffickers and had over 50 pending cases in

13 Chris Anucha Op. cit.

different High Court .Prosecuting traffickers has been an arduous task, for NAPTIP due to the enormous cases our High Court, judges have to contend with, consequently prosecuting Traffickers is, extremely slow and difficult.

The above abysmal rate of convictions secured as at January 8, 2008 no doubt is an indication that there is a cogent need for the establishment of independent courts that would be vested with sole jurisdiction to try traffickers. The new Family courts should be vested with jurisdiction where children are involved. Justice delayed is justice denied. It is equally recommended the NAPTIP should work in collaboration with Ministries of Justice, and Women Affairs and Youth Development. All hands must be on deck to stamp out this crime.

b. The Role of Media, Religious and Community Leaders

The significant roles of the media, Religious and Community leaders can never be over-emphasized. The media through radio and television jingles and advertisement and television drama could spread the message across to the grass root. They should sensitize the people in rural areas, on the devastating affects of trafficking in persons. People should be made to realize that the act is not only immoral but an offence against humanity and has been criminalized. In fact, NAPTIP in December 2007, organized a two-day sensitization workshop for media professionals in Benin, Edo State. The workshop was aimed at rubbing minds with members with a view to equipping them with the right information that would help to fight trafficking in persons. More of such workshops should be extended to other parts of the Federation. Religious and Community leaders also have a prominent role to play in this respect as they can help to shape the opinion of their adherents, by sensitizing them as to the legal and moral implications of human trafficking.

c. The Role of the Nigerian Police

The Police force is saddled with the task of combating human trafficking and therefore has a significant role to play in this fight. It has been shown that traffickers are continuously devising new strategies to outwit the police, the police should

therefore not rest on its oars. Training Workshops should be organized for the Police. Recently UNIFEM organized a training conference for one hundred Police Officers at Abuja, in December 2008, in collaboration with UNICEF in response to violence against women and human trafficking. The broad aim of the workshop was amongst other things to promote awareness of the evils of human trafficking, and to highlight gaps in the law enforcement system, solutions were equally proffered. It is submitted that this is a step in the right direction. More of such seminars should be continuously held across the country, until the crime is completely stamped out.

(d) Tightening of Security at the Nigerian Borders

Porous border¹⁴ have been identified as one of the causes of trans-border trafficking. Immigrations officers should as a matter of urgency beef up security at our borders in order to forestall further illegal migration of victims.

(e) More Collaborative Efforts of Nigerian Government and Other Foreign Countries

NAPTIP has in the past entered into bi-lateral and multilateral agreements with countries in West African sub-region, in a bid to join hands to fight human trafficking. However, NAPTIP Chief Executive has condemned the non-chalant, lip service attitude of the European countries, who are the beneficiaries of this crime. NAPTIP Chief Executive is however obviously undaunted by their attitude. She has had memorandum of understanding with Italy, Spain, and United Kingdom, e.t.c. More of such memo is hereby advocated. The traffickers should be repatriated by their host countries.

(f) Creation of More Employment Opportunities

As the saying goes "the idle men is the devils workshop". It has been established that unemployment is one of the major causes of trafficking especially in women, therefore whether or not, we can make any headway at all in this battle, depends

¹⁴ Adaeze Ojukwu, Nigeria/West Africa: Human trafficking Daily Champion Sept 21, 2008

largely how prepared we are to fight this endemic problem of unemployment in Nigeria. Able bodied educated women are lured into prostitution because of financial hardship. It is suggested that a type of social security can be provided for the unemployed as is done in foreign countries. This would go a long way to discourage human trafficking. The Nigerian government should be more sensitive to the plight of its unemployed population. Nigerians should be encouraged be more inward looking.

(g) Rehabilitation of victims

NAPTIP, should be commended for the numerous victims, it has rehabilitated so far. More of such rehabilitation centers should be set up by the government, in order to help the victims of human trafficking develop hidden skills and talents like, weaving, hairdressing, shoe-making and trading. Those that are academically inclined should be sponsored by the Federal Government to acquire formal education. They should never be abandoned.

Conclusion

It is quite glaring from this discourse that very elaborate and strict laws have been enacted both locally and internationally to combat this heinous crime. All that is now required is an effective implementation and policing of these laws in order to track down traffickers within and outside the country. The Police should as a matter of urgency rise up to the situation by filling the existing gaps in it enforcement system. There should be no "sacred cows". International Co-operation needless to say is imperative. The host countries of the victims should collaborate with the Nigerian Government to bring all culprits to book and also repatriate the victims of trafficking.

In fact very recently, the speaker of Parliament Economic Community of West African States (ECOWAS) Hon. Mahamane Ousmane, has called on Parliamentarians to come up with relevant laws that would put an end to the infamous business. He

equally warned that, all hands should be on deck to effectively stamp out this trade¹⁵.

It is quite evident that we cannot talk about rebranding Nigeria without first of all completely eliminating this ugly trend.

15 National Daily, May 25-29, 2009