

## APPRAISAL OF CONTEMPORARY LEGAL FRAMEWORKS FOR COMBATTING HUMAN TRAFFICKING IN NIGERIA

By

Ogwezzy Oluwatosin O\*

### Abstract

*Human trafficking entails a variety of crimes and abusers connected with the recruitment, movement and sale of people into a range of exploitative situations in Nigeria and all over the world. Human trafficking is complex phenomenon which requires States to legislatively arm themselves to confront it as a serious crime, committed by criminals and perpetrated against victims. The Trafficking in Person (Prohibition) Enforcement and Administration Act 2015 and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter the Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime (hereinafter the TOC Convention) require the implementation of laws which can properly respond to human trafficking, in as nuanced and effective a way as the crime is complex and injurious. The successful prosecution of traffickers and compensation of victims can only be brought about by laws and regulations which have effectively criminalised all elements of trafficking in persons in accordance with 13 of (TIPPEAA) 2015 and Article 5 of the Palermo Protocol. The complex interplay of elements requires that laws be broad enough to cover the varied ways in which people are being exploited, while simultaneously being specific enough to address the often convoluted process of trafficking. The government of Nigeria and some States in Nigeria have made enormous and frantic efforts to combat the act of human trafficking. Respectively, the legal and institutional framework for combating human trafficking will be clearly established. Apart from the legal and institutional framework for combating the act, this paper suggests other possible ways for combating the act of human trafficking in Nigeria.*

**Keywords:** Contemporary, Legal Framework, Human Trafficking

### Introduction

Human trafficking has been a global issue and has assumed a dimension that is difficult to control. It is an abuse of human rights of those who have been trafficked. The major factor that allows human trafficking to thrive in Nigeria is voodoo of juju voodoo or juju which makes the victims of human trafficking remain silent and refused to come to the court as witness to testify against the traffickers. There are also other factors causes of human trafficking such as the porous nature of Nigerian borders, poverty, corruption, ineptitude of our law enforcements agencies, ignorance. All these factors does not allow the legal framework in combatting human trafficking to work effectively This paper deals with the legal framework on human trafficking, it considers the national laws, that is, laws made by the Nigerian legislature which comprises

of the Senate and House of Representatives, international laws such as treaties to which Nigeria is a party on human trafficking to combat the scourge of human trafficking.

## **1. National Legal Framework**

### **1.2 Constitution of the Federal Republic of Nigeria 1999 (As amended)**

The Constitution of the Federal Republic of Nigeria as amended is the fundamental and organic law of a nation or state.<sup>1</sup> It is the organic law of nation, the grundnorm<sup>2</sup> from which all other laws in the country derives its validity.<sup>3</sup> Any law whose provisions are contrary or inconsistent with the provisions of the Constitution shall be void to the extent of its contradiction or inconsistency.<sup>4</sup>

The 1999 Constitution of the Federal Republic of Nigeria as amended provided in, section 14(2)(b) of Chapter II that “Security and Welfare of the people shall be the primary purpose of the Government”. As a result, the Government of Nigeria has taken a strong stand against human trafficking and treated it as a priority criminal justice issue.<sup>5</sup> Human trafficking violates sections 17, 34, 35, 38, 39, 41 and 42 of the Constitution of the Federal Republic of Nigeria, (1999), which states as follows:<sup>6</sup> The State social order is founded on ideals of Freedom, Equality and justice.<sup>7</sup>

These provisions of the constitution<sup>8</sup> borders on the social objectives under fundamental objectives and directive principles of state policy under the 1999 Constitution (as amended). This aspect of the provision of law relates to human trafficking particularly with one of the element that constitute to human trafficking which is exploitation. The above provision prohibits any form of exploitation of human being whether old or young. In essence no state or individual should exploit human because it contravenes the law and exploitation in any form amounts to the offence of human trafficking.

The 1999 Nigerian Constitution provides that “every individual is entitled to respect for the dignity of his person and accordingly, no person shall be subjected to torture or to inhuman or

---

\*LL.B (OSU) B.L, (Enugu), LL.M (LAGOS), LL.M (AAU-Akungba) Acrlrb (Nigeria) Doctoral Candidate, Faculty of Law, Rivers State University, Nkpulu-Oroworukwo, Port Harcourt. Formerly, Lecturer/Facilitator, Faculty of Law, National Open University of Nigeria (NOUN), Port Harcourt Study Centre. Email address: ogwezzytosin@gmail.com.

<sup>1</sup>*Anyaoba v. Obioha* (2014) 6NWLR (Pt. 1404) 473-474.

<sup>2</sup>*Ibid*

<sup>3</sup>J.M Elegido, *Jurisprudence* (Spectrum books Ltd 1994) 373; *AG Lagos State v AG Federation* (2004) 70SCNLR96; *Inspector General of Police v ANPP and Ors* (2007) 8NWLR (pt. 1066) 437.

<sup>4</sup>CFRN s.1 (3).

<sup>5</sup>Access to Justice for Trafficked Persons in Nigeria; *A Handbook for legal Actors and Assistance Providers* <[http://gaatw.org/publications/AtJHandbook\\_Final.pdf](http://gaatw.org/publications/AtJHandbook_Final.pdf)> accessed 23 August 2021.

<sup>6</sup>CFRN, s 17(1).

<sup>7</sup>CFRN, s.17(2)(b)(d), 3(f).

<sup>8</sup>*Ibid*.

degrading treatment; no one shall be held in slavery or servitude”<sup>9</sup> and “no person shall be required to perform forced or compulsory labour.”<sup>10</sup> Torture and inhuman treatment depicts any unwarranted and unjustified treatment of a person resulting in physical pain or mental distress.<sup>11</sup> In this subsection, the Constitution prohibits what the Eight Amendment to the United States Constitution described as “cruel and unusual punishment”<sup>12</sup> This is what could amount to inhuman treatment. In the case of *Ransome Kuti v Attorney-General of Federation*,<sup>13</sup> Justice Kayode Eso who read the lead Judgment of the Supreme Court adopted the view of the United States Supreme Court in *Trop v Dulles* <sup>14</sup> when it held that inhuman treatment “must draw its meaning from the evolving standards of decency that mark the progress of a maturing society”.

In Nigeria by virtue of section 34 of the Constitution of the Federal Republic of Nigeria, 1999 as amended, the Constitution is very clear with regard to the right of every human person to be treated with some dignity and what amounts to inhuman treatment. The section clearly outlaws the infliction of torture or inhuman or degrading treatment against anybody.<sup>15</sup> Apart from the fact that the decision of the court in *Uzoukwu v Ezeonu II* <sup>16</sup> elaborately examined the right to dignity of human person, certain terms were interpreted, thereby throwing some light on the extent to which violations under this section may ground a cause of action. Torture was defined to include mental harassment as well as physical assault; “Inhuman-treatment” means treatment which is devoid of feelings for the suffering of others.<sup>17</sup> Degrading treatment was defined to be the element of lowering societal status, character, value or position of a person, while “slavery and servitude” was interpreted to include lowering somebody to a state of drudgery.<sup>18</sup> In the case of *Alhaja Abibatu Mogaji & Ors v. Board of Customs and Excise & Anor* <sup>19</sup> where it was held that flogging of a person was unconstitutional and gross violation of the right against cruel inhuman and degrading treatment. The right to dignity of human person is guaranteed under Section 34 1999 Nigerian Constitution. Strictly torture, inhuman degrading treatment, slavery, servitude force labour are forbidden. The act of human trafficking violates the dignity of human person and those trafficked are mostly into different forms of forced labour and as such violates the provision of the Constitution. In Nigeria, persons are trafficked for prostitution within and outside the country, to work as domestic

<sup>9</sup>Constitution of the Federal Republic of Nigeria 1999 (as amended). Chapter IV, Cap. C38, Vol. 3, Laws of the Federation of Nigeria (LFN) 2004. s 34(1) (a) and (b).

<sup>10</sup>CFRN, s.34(1)(c).

<sup>11</sup>C.A.J Chinwo, *Principles and Practice of Constitutional law in Nigeria* (Volume 2)(Davis Printing & Packaging Co.Ltd 2007).

<sup>12</sup>*Ibid.*

<sup>13</sup>(2001) FWLR (pt. 80)1637 at1678.

<sup>14</sup>356 U.S. 86 (1958).

<sup>15</sup>M.Oluwanisomo, ‘On Dignity and Liberty of Citizens’ <<https://tribuneonline.ng/on-dignity-and-liberty-of-citizens/>>accessed 12 January 2022.

<sup>16</sup>(1991) 6 NWLR (Pt 200)708 AT 778 Paras D-F.

<sup>17</sup>Oluwanisomo (n 15).

<sup>18</sup>*Ibid*

<sup>19</sup>(1982) 3 NCLR 552.

servants, bus conductors, street traders and begging. They are exploited in agricultural work, brass melting, stone digging and scavenging.<sup>20</sup>

To further buttress the provision of section 34(1) of the Constitution quoted above, and give effect to the obligation of the government to protect that section, section 17(f) of the 1999 Nigerian Constitution, under Fundamental Objectives and Directive Principles of State Policy, provides that all levels and arms of government are obligated to ensure that: children and young persons and the aged (men and women) are protected against *any exploitation whatsoever*,<sup>21</sup> and against moral and material neglect.

Human trafficking violates the right to personal liberty <sup>22</sup>of victims of human trafficking for instance recruitment through duplicity or false promises violate an individual's right to liberty and security, which are guaranteed under section 35 of the 199 constitution and article 9 of the ICCPR.

Section 39 of the Constitution of the Federal Republic of Nigeria ( as amended)on Freedom of speech and expression is a fundamental right that is protected under our law and in several key international conventions that have been ratified by the country of Nigeria, including the ICCPR, ICSCR, and CEDAW.<sup>23</sup>The right to freedom of speech and expression has been embraced by the government of Nigeria and written into domestic law in the Constitution of the Federal Republic of Nigeria. The act of oath -taking during the voodoo ceremony used in human trafficking of victims from Nigeria violates the right to freedom of expression as enshrined in the constitution.<sup>24</sup>This is one of the fundamental reasons in the agreement is to force the victim of human trafficking to remain silent in an effort to prevent law enforcement authorities from tracing the identities of the traffickers.<sup>25</sup>And the act of remaining in silence by the victims of human trafficking impedes effective administration of justice.

Also, by virtue of section 41 of the 1999 Constitution of the Federal Republic of Nigeria as amended, the right to freedom of movement of victims of human trafficking is also violated by the seizure of their documentation upon arrival in the destination country, with the understanding that if they did not obey the traffickers as to what is demanded, they will be threatened and beaten.<sup>26</sup> It is also sad to note that victims whom traditional oath are

---

<sup>20</sup>O. B. Olagbegi, 'Human Trafficking in Nigeria: Root Causes and Recommendations', Policy Paper Poverty Series No. 14.2 (E), UNESCO, Paris 2006, 25

<sup>21</sup>CFRN 1999 S.(17) f.

<sup>22</sup>CFRN, S35(as amended).

<sup>23</sup>J.Millett-Barrett, 'Bound by Silence: Psychological Effects of the Traditional Oath Ceremony Used in the Sex Trafficking of Nigerian Women and Girls' [2019] (4)(3) *Dignity: A Journal on Sexual Exploitation and Violence* 1-51<3<https://digitalcommons.uri.edu/dignity/vol4/iss3/3>>accessed 28 November 2021.

<sup>24</sup>*Ibid*.26.

<sup>25</sup>Millet- Barret (n 25).

<sup>26</sup>N.H Msuya, Traditional Juju Oath and Human Trafficking in Nigeria: A Human Rights Perspective [2019] (52)(2) *De Jure Law Journal*,138-162

administered on for trafficking purposes not only experience pressure and abuse of power from traffickers, but also from their own relations.<sup>27</sup>

## **1.2 Labour Act, Cap L1 LFN 2004**

The Labour Act<sup>28</sup> is designed to regulate labour and industrial relations in the Country. It is largely a reflection of the British Law which is the Contracts of Employment Act 1963 and the first key act, introducing written contracts and notice periods.<sup>29</sup> The issues of forced labour or subjection to servitude and child labour, are of serious concern and are therefore punishable offences.<sup>30</sup> The Nigerian Labour Act is the primary legislation which deals with the relationship between an employer and its employees. The Labour Act only covers employees engaged under a contract of manual labour or clerical work in private and public sector. Section 73 of the Act provides for the Prohibition of forced labour<sup>31</sup> Forced Labour which is any work or service which is exerted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.<sup>32</sup> The inference drawn from the provision of section 73 of the Labour Act is that ‘forced Labour’ is prohibited in Nigeria.<sup>33</sup>

## **1.3 The Criminal Code Act, Cap. C38 Vol.4 Laws of Federation (LFN) 2004**

The Criminal Code Act (CCA) which is applicable to southern part of Nigeria, does not specifically define human trafficking. However it contains provisions which punish offences of human trafficking such as unlawful deprivation of liberty, slave dealing, forced labour and sexual offences.<sup>34</sup> The Criminal Code forbids offences against morality under our law and by virtue of Section 222(a) of the Criminal Code, it provides that anyone who, having lawful custody of a girl less than 13 years of age, “causes or encourages the seduction, unlawful carnal knowledge or prostitution of, or the commission of an indecent assault upon such a girl” is subject to imprisonment for seven years or a fine.<sup>35</sup> In Nigeria, women and children, especially the girl-children, are victims of trafficking for various forms of labour including prostitution and sexual exploitation.<sup>36</sup> It is important to state here that child prostitution in Nigeria is illegal, according to Section 222A of the Criminal Code prohibits prostitution of girls below the age of 16. Hence the act of human trafficking which involving the use of young girls and women

---

<sup>27</sup>*Ibid*, 153.

<sup>28</sup>Labour Act Cap L1 Laws of Federation 2004.

<sup>29</sup>G. Buswell, Guide to Labour Law in UK <<https://www.expatica.com/uk/working/employment-law/employment-law-uk-104502/>> accessed 2 July 2022.

<sup>30</sup>Access to Justice (n5).

<sup>31</sup>LA, S. 73 (1)(2).

<sup>32</sup>Gabriel Feyisetan, ‘*Human Trafficking*’ (University Press PLC)

<sup>33</sup>Aelex, ‘Training Bonds- How Enforceable are they against Employees in Nigeria’ <[www.aelex.com](http://www.aelex.com)> accessed 12 July 2022.

<sup>34</sup>Access to Justice (n 5) 23.

<sup>35</sup>Criminal Code Act, Cap. C38 Vol.4, Laws of the Federation of Nigeria (LFN) 2004. (Section 223(A), as Amended by the Criminal Code (Amendment) Act 2000. Section 222(a).

<sup>36</sup>Women Consortium of Nigeria (WOCON), ‘Trafficking in Nigeria’ <<https://www.womenconsortiumofnigeria.org/?q=content/nigeria>> accessed 12 January 2022.



for prostitutions offends the criminal code. The punishment for an offence of living on the earnings from prostitution of others is imprisonment for two years and a fine.<sup>37</sup>

The Code penalises any person who “sponsors a girl or woman by giving her any financial, physical, or material assistance to enable her to travel out of Nigeria for the purpose of becoming a prostitute or to carry out any immoral act.”<sup>38</sup> It also penalises any person who “administers any oath on a woman or girl or performs any fetish ritual in order to enable her to travel out of Nigeria for the purpose of becoming a prostitute or to have unlawful carnal knowledge with any person.”<sup>39</sup> Punishment for the offense is a fine, imprisonment for 10 years, or both. Any man who patronises prostitutes is subject to punishment by imprisonment for two years and a fine.<sup>40</sup> The code also prohibits slave trading and prescribes a punishment of 14 years in imprisonment for violators<sup>41</sup>. This provision of the law is related to human trafficking because human trafficking is a modern form of slavery. It is an extreme form of labor exploitation where women, men and children are recruited or obtained and then forced to labor against their will through force, fraud or coercion. Trafficking victims are often lured by false promises of decent jobs and better lives, and good pay on the guise of slave trading.

#### **1.4 Penal Code Cap. P3 Vol.13, Laws of Federation (LFN) 2004**

The Penal Code (PC) applies to the Northern part of Nigeria, it preceded the NAPTIP Act but does not specifically define human trafficking.<sup>42</sup> The Penal Code is one of the early laws enacted during the late era of colonialism in Nigeria; it came into force on the 30<sup>th</sup> September, 1960. Penal Code applies in the Northern part of Nigeria which is predominantly occupied by Muslims.<sup>43</sup> The Penal Code provisions have identified offences of human trafficking and cover the interest of particularly children who are less than 18 years of age against all form of exploitative gains.<sup>44</sup>

The Penal Code imposes a punishment of up to 10 years and a fine on anyone who “buys, sells, hires, lets to hire, or otherwise obtains possession” of a person less than 18 years of age with the intent of using such a person for “prostitution or other unlawful or immoral purposes.”<sup>45</sup> It also imposes a punishment of imprisonment for up to 14 years and a fine for an offence of slave dealing<sup>46</sup> and section 280 of the Code further punishes forced labour with a fine and

---

<sup>37</sup>*Ibid*, S225(A) (1)(a)(b).

<sup>38</sup>*Ibid*, S 223(A).

<sup>39</sup>CCA, LFN 2004, S 223(A).

<sup>40</sup>*Ibid*, S 223(C).

<sup>41</sup>*Ibid*, S 369.

<sup>42</sup>Access to Justice (n 5)23.

<sup>43</sup>G.U, Kwagyang and G.M, Murgan,, ‘Appraisal of the Legal Framework against Child Trafficking in Nigeria’, [2016] (1)(1), *UNIMAID Journal of Private and Property Law (UJPPL)*, 39-40. <<http://www.unimaid.edu.ng/oer/Journals-oer-law.html>>, or <<http://www.unimaid.edu.ng/oer/Journals-oer/Law/Private%20Law/3.pdf>> accessed 23 August 2021.

<sup>44</sup>PC, Ss 271, 272, 277.

<sup>45</sup>*Ibid*, S278.

<sup>46</sup>*Ibid*, S279.

imprisonment for one year.<sup>47</sup>The Penal Code specified the punishment for slave trading and forced labour while the Criminal Code imposes a fine and punishment of one year imprisonment for forced labour alone.

### **1.5 Child Rights Act 2003**

The Child Rights Act, 2003 was enacted on the 31<sup>st</sup> of July, 2003 by the National Assembly of Nigeria. The Child Rights Act 2003 provides for all the rights and responsibilities of children, and consolidates all laws relating to children into one single piece of legislation, as well as specifying the duties and obligations of government, parents and other authorities, organisations and bodies. Some States of Nigeria have also enacted their own State laws on Child Rights. The Act sets out a list of child related offences, including child marriage, child labour and child abuse, the Act provides for the establishment of “Family Courts”<sup>48</sup> to hear all cases in which the existence of a legal right, power, duty, liability, privilege, interest, obligation or claim in respect of a child is in issue, and any criminal proceeding relating thereto. Sections 28, 30-32 are vital provisions under this sub-section as they protect the child against exploitative labour, buying, selling of the child for the purpose of begging and prostitution, prohibiting unlawful sexual intercourse with a child and other forms of sexual abuse and exploitation.

### **1.6 Nigerian Immigration Act of 2015<sup>49</sup>**

The Immigration Department was established on August 1 1963 by an Act of Parliament. The Immigration Department was extracted from the Nigeria Police Force in 1958<sup>50</sup>. The Nigerian Immigration Service (NIS) is in the forefront of monitoring of Nigeria's borders and exit points from the country. A Human trafficking division was introduced at the headquarters in Abuja with a task force on human trafficking in 2001. The Nigerian Immigration Act<sup>51</sup> makes some provisions that prohibit the acts relating to human trafficking either as a Nigerian prostitute or an immigrant who intend to travel to Nigeria with the aim of coming to earn a living through prostitution in a brothel.

### **1.7 Trafficking in Person (Prohibition), Enforcement and Administration Act, 2015<sup>52</sup>**

The Trafficking in Persons (Prohibition), Enforcement and Administration Act, 2015 is the newest Act addressing the age long problem of human trafficking in Nigeria. This Act repealed the Trafficking in Persons (Prohibition), Law Enforcement and Administration Act No. 14 of 2003 which was amended by the National Assembly of the Federal Republic of Nigeria, on 7

---

<sup>47</sup>PC LFN 2004,S280.

<sup>48</sup>Access to Justice (n 5)23.

<sup>49</sup>Hereinafter known as (IMA).

<sup>50</sup>S.K Kigbu and Y.B Hassan ‘An Assessment of the Institutional Framework for Combating Human Trafficking In Nigeria’ [2015] (1) *Journal of Law, Policy and Globalization* 93; Immigration Act 1963 (now Immigration Act, 2015).

<sup>51</sup>Immigration Act of Nigeria, Law No. 6 of 1<sup>st</sup> August 1963. (Cap. II, Vol. 7 LFN, 2004).

<sup>52</sup>Hereinafter called TIPPEAA 2015.

December 2005. The 2005 Act provided sundry amendments to the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003, to expand its scope from investigation to prosecution of traffickers, seizure of properties and forfeiture. The 2003 Act which was amended in 2005 and replaced in 2015<sup>53</sup> was to increase penalties for trafficking offenders. This Act is a Federal Legislation that applies to all the 36 States, including the Federal Capital Territory Abuja.<sup>54</sup>

The objectives of the Act as stated in section 1 are to provide an effective and comprehensive legal and institutional framework for the prohibition, prevention, detection, prosecution and punishment of human trafficking and related offences in Nigeria; protect victims of human trafficking and promote and facilitate national and international cooperation in order to meet the objectives of the Act in line with international best practice.<sup>55</sup> Part 4 deals with offences and penalties which covers, importation and exportation of person; procurement of person for sexual exploitation; abuse, procurement of recruitment of person under 18 years for prostitution or other forms of sexual exploitation; procurement or recruitment of person under the age of 18 years for pornography or brothel; foreign travel which promotes prostitution or sexual exploitation; procurement or recruitment of person for use in armed conflicts; procurement or recruitment of person for organ harvesting; prohibition of buying or selling of human beings for any purpose; forced labour; employment of child as domestic worker and inflicting grievous harm; trafficking in slaves; slave dealing; offences relating to fraudulent entry of persons; conspiracy; escape or aiding and abetting escape; attempt to commit an offence under this act; attempt to commit an offence under this act; where evidence establishes and attempt to commit an offence or the commission of the full offences; offences by a body corporate; obstruction of the agency or her authorised officer; impersonating or assumption of character of an officer of the agency; tampering with evidence and witness; responsibility of airlines, commercial carriers, tour operators and travel agents.<sup>56</sup>

Part 9 of the Act, deals with treatment of trafficked persons; non-detention or prosecution of a trafficked person in certain circumstances; rights of a victim to information; establishment of transit shelter; right to compensation or restitution; application of certain enactments.<sup>57</sup> while, Part 10 provides for establishment of victims of trafficking trust fund and establishment of victims of trafficking trust fund committee.<sup>58</sup>

### **1.8 Violence against Persons (Prohibition) Act, 2015**

The Violence against Persons (Prohibition) Act, 2015 (hereinafter referred to as VAPP Act) was enacted by pass in May 2015 at the end of Good luck Jonathan's administration. The VAPP

---

<sup>53</sup>TIPPEAA 2015 (n 52).

<sup>54</sup>UK Home Office, 'Country Information and Guidance Nigeria: Trafficking of Women', Version 1.0 August 2016, .21, <<https://www.justice.gov/eoir/file/887031/download>> (accessed 23 August, 2021).

<sup>55</sup>TIPPEAA 2015, S1.

<sup>56</sup>TIPPEAA 2015, S14-35.

<sup>57</sup>TIPPEAA 2015, S 61-66.

<sup>58</sup>TIPPEAA 2015, S 67-68.



Act provides for a legal and legislative framework for the prevention of all forms of violence against persons, whether such violence is political, domestic or perpetuated by State actors and non-states actors.<sup>59</sup> The Act has a total of 48 sections of which some of them are directly related to the offence and offences of trafficking in persons within and outside Nigeria. The National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) has the mandate to administer the Act and collaborate with relevant stakeholders including faith-based organizations. Vital sections of the Act that are relevant to this paper are discussed hereunder. Section 3 of the VAPP Act prohibits the act of coercion,<sup>60</sup> which is an element of human trafficking crime. It provides that a person who coerces another to engage in any act to the detriment of that other person, physical or psychological wellbeing, commits an offence and is liable on conviction to term of three (3) years imprisonment.<sup>61</sup> Section 5 of the Act refers to the trafficker and it explicitly provides that, a person who compels another by force or threat to engage in any conduct or act, sexual or otherwise to the detriment of the victims physical or psychological wellbeing commits an offence and is liable on conviction to a term of imprisonment not exceeding two years or five hundred thousand naira (N500, 000.00) or both fine and imprisonment. It is instructive to note that section 10 of the Act guarantees the right to liberty of the individuals just like the Constitution of the Federal Republic of Nigeria, 1999 has done. Traffickers are known to deprive their victims' within or outside the country their right to liberty contrary to human rights norms. Section 18 of the Act also deals with the offence of intimidation. Human trafficking is known to thrive through the tactics of coercion and intimidation using the spiritual force of juju or voodoo as employed by the sponsors of traffickers especially in cases of trafficking for the purpose of prostitution or commercial sexual exploitation abroad.<sup>62</sup> The VAPP Act provides that a person who intimidates another commits an offence and is liable on conviction to imprisonment for one year or two hundred thousand naira (200, 000.00) fine or both fine and imprisonment.

### **1. 9 Edo State Trafficking in Persons (Prohibition) Law 2018**

The Governor of Edo State, His Excellency, Mr. Godwin Obaseki, on May 23, 2018, signed into law the Edo State Trafficking in Persons Prohibition Bill (2018) in Abuja<sup>63</sup>. The new law, which was approved by the Edo State House of Assembly in March provides for an effective comprehensive legal and institutional framework for the prohibition, prevention, detection, prosecution and punishment of human trafficking and related offenses in Edo State. The provisions that relates to human trafficking are set out in part three of the Edo State trafficking in persons (Prohibition) law provides for the prohibition of all acts of trafficking in persons and other related offences. Section 13 provides that all acts of human trafficking are prohibited in

---

<sup>59</sup>A.L, Ikobi-Anyali, 'Powers of Service Providers under the Violence Against Persons (Prohibition) Act (VAPPA) 2015.A Privatisation of Services', [2017] (20)(2) *The Nigerian Law Journal*, 557.

<sup>60</sup>*Ibid.*

<sup>61</sup>VAPP 2015, S3.

<sup>62</sup>VAPP 2015, S18.

<sup>63</sup>Pathfinders Justice Initiative, 'Edo State Human Trafficking Bill Signed into law by Governor Obaseki' <<https://pathfindersji.org/edo-state-passes-new-law-against-human-trafficking/>>accessed 3 July 2022.

the State and the punishment when the offence is committed<sup>64</sup>.Section 14 deals with importation and exportation of person forced into prostitution in Edo state or while in transit. Section 15 deals with the offence of procurement of persons for sexual exploitation. Section 16 deals with procurement and recruitment of persons under 18 years for prostitution or other forms of sexual exploitation. Procurement and recruitment of persons for sexual pornography is stated in section 17 of the Law<sup>65</sup>.Section 18 of the law provides for the offence of foreign travels which promotes prostitution and sexual exploitation. Section 20 deals with the offence of procurement recruitment for organ harvesting. Section 21 deals with the prohibition of selling and buying of human beings for any purposes while section 22 provides that no person should be recruited for forced labour and Section 31 provides that the corporate body shall be liable in respect of any offence that relates to human trafficking under the law while section 34 for an offence tampering with the evidence of a witness, intimidating, or threatening a witness.

### **1.10 Administration of Criminal Justice Act,(ACJA) 2015**

The Act merges the two principal legislations that is the Criminal Procedure Act (CPA)<sup>66</sup> and the Criminal Procedure Code (CPC).<sup>67</sup> Thus, the ACJ Act, 2015 repealed the CPA, CPC and the Administration of Criminal Justice Act.<sup>68</sup> The provisions of the Act preserved the existing criminal procedure systems. Section 8 (1)(a) and (b) of the ACJA provides that a suspect shall be accorded humane treatment, having regard to his right to the dignity of his person and shall not be subjected to any form of torture, cruel, inhuman, or degrading treatment. This section relates to this thesis where voodoo has been used on victim of human trafficking to instil fear and are told not to reveal the identity of the traffickers in event they are arrested. Also Section 232 of the ACJA permits witnesses to some offences to give evidence in camera.<sup>69</sup> The section states that the name and identity of the victims of such offences or witnesses shall not be disclosed in any record or report of the proceedings, and it shall be sufficient to designate the names of the victims or witnesses with a combination of alphabets because of the fear of attack. It further provides measures the court can take in protecting the identity of the victim or a witness. Section 232 (4) (d) applies to trafficking in persons and other related offences.<sup>70</sup>

### **1. 11 Anti –Torture Act 2017**

The Anti-Torture Act 2017 came into force on 29<sup>th</sup> December 2017.Its main objective is the prohibition and punishment of torture and other forms of cruel, inhuman or degrading

---

<sup>64</sup>ESTPPL 2018, S13(1-4).

<sup>65</sup>ESTPPL 2018, S17.

<sup>66</sup>Y.Akinseye-George, ‘Overview of the Administration of Criminal Justice Act 2015’<[https://nji.gov.ng/images/Workshop\\_Papers/2016/Refresher\\_Magistrates/s02.pdf](https://nji.gov.ng/images/Workshop_Papers/2016/Refresher_Magistrates/s02.pdf)>accessed 3 july2022, CPA CAP C41LFN 2004.

<sup>67</sup>*Ibid*, CPC CAP C42 LFN 2004.

<sup>68</sup>Akinseye-George (n 66), CAP A3 LFN 2004.

<sup>69</sup>F.Waziri-Azi, ‘Compliance to the Administration of Criminal Justice Act, 2015 in Prosecuting High Profile Corruption Cases in Nigeria (2015 – 2017)’ [2017] (5)(2) *Journal of Law and Criminal Justice* 118<[http://jlcjnet.com/journals/jlcj/Vol\\_5\\_No\\_2\\_December\\_2017/11.pdf](http://jlcjnet.com/journals/jlcj/Vol_5_No_2_December_2017/11.pdf)>accessed 3 July 2022.

<sup>70</sup>Waziri-Azi (n74).

treatment.<sup>71</sup> Section 2(c) of the Anti-torture Act 2017 defines torture and relates to human trafficking(c) which define torture to have the element of intimidation or coerce influence. Torture includes ‘that intimidate or coerce him or third person for any reason based on discrimination of any kind’ The act seeks to prevent intimidation of persons as it regards human trafficking which implies that victims of human trafficking shall not be subjected to torture by form of intimidation or being coerced.

### **1.12 Police Act (PA) 2020**

The Nigeria Police Force (Establishment) Act, 2020 (**‘the new Act’**) came into force on the 17th of September 2020, it repealed the Police Act of 2004.<sup>72</sup> The objective of the new Act is to provide an effective police service that is based on the principles of accountability and transparency, protection of human rights, and partnership with other security agencies. Section 37 of the Act relates to human trafficking which prohibits inhuman or degrading treatment which any victim of human trafficking may be subjected to.

## **2 Regional Legal Frameworks**

### **2.1 African Charter on Human and Peoples’ Rights 1986**

At the Regional level, the human rights obligations of African States arise primarily from the African Charter on Human and Peoples’ Rights. Article 9 of the charter relates to human trafficking and that section of the article on freedom of expression violates fundamental right of victims of human trafficking. That provision of the article does not allow victims of human trafficking to reveal the identities of their traffickers. Victims are required by their traffickers to be silent on their identities so that the law enforcement agencies would not arrest them. In Nigeria, the Charter has been domesticated through the African Charter on Human and People’s Rights (Enforcement and Ratification) Act, 1983.

### **2.2 African Union Charter on the Rights and Welfare of the Child 1999**

The African Union Charter on the Rights and welfare of child commits all State signatories to take appropriate measures to prevent the abduction, sale and trafficking of children for any purpose in any form, by any person including parents or legal guardians of the child<sup>73</sup>. Article 29 made express mention of the term “trafficking” in addition to the word’s “sale”, and “abduction”. It provides that States Parties shall take appropriate measures to prevent: the abduction, the sale of, or trafficking of children for any purpose or in any form, by any person including parents or legal guardians of the child; the use of children in all forms of begging.<sup>74</sup>

---

<sup>71</sup>C .Okeke ,Anti Torture Act 2017:Issues and Implications For Police Officers< <https://www.mondaq.com/nigeria/human-rights/1084406/anti-torture-act-2017-issues-and-implication-for-police-officers>>accessed 2 July 2022.

<sup>72</sup>Law Pavillion,’Things you should know about the New Police Act’< <https://lawpavilion.com/blog/things-you-should-know-about-the-new-police-act-2020/>>accessed 5 July 2022.

<sup>73</sup>Gbadamoshi (n23) 96.

<sup>74</sup>Article 29(a)(b).

### **2.3 Protocol to the African Charter on Human and People's Rights on the Rights of *Women* in Africa 2004**

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was adopted in August 2003<sup>75</sup>. This protocol is meant to consolidate the provisions of African Charter on Human and Peoples Right particularly on the Rights of Women for which adequate provision does not exist in the African Charter on Human Rights and more importantly it contains interesting provisions dealing with trafficking in African women and girls. Article 3(3) of the Protocol, provides that; States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women<sup>76</sup> while article 3(4) request "States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence".<sup>77</sup> Article 4 provides that; "every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited".<sup>78</sup>

## **3 International Legal Framework**

### **3.1 Convention on the Elimination of all Forms of Discriminations against Women, 1989(CEDAW)**

The Convention on the Elimination of all forms of Discriminations against Women (CEDAW) of 1989<sup>79</sup> is an anti-discrimination treaty that codifies and strengthens the rights of women. At present there are 186 States parties to the CEDAW, making it the second most widely ratified of all the human rights treaties.<sup>80</sup> The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is not specifically an international treaty on human trafficking, it is of great important to this paper because Article 6 invites all States parties to take "appropriate measures" and legislations to suppress all forms of traffic in women and sexual exploitation.<sup>81</sup> Despite the fact that there is no strictly operative measure against trafficking of women, it was the first time that trafficking was included in an international convention which regards gender discrimination and violence. In 1992 the CEDAW Committee issued the General Recommendation which recognised all the structural causes and push factors that foster trafficking in women, such as poverty, unemployment, conflict and wars, and it recognised new forms of sexual exploitation like sex tourism, recruitment for

---

<sup>75</sup>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003. Adopted by the 2<sup>nd</sup> Ordinary Session of the Assembly of the Union, Maputo, and 11 July- 13 August, 2003.

<sup>76</sup>Article 3(4).

<sup>77</sup>Article 3(4).

<sup>78</sup>Article 4(1).

<sup>79</sup>Convention on the Elimination of all Forms of Discrimination against Women G.A Res 34/180 of 18 December 1979. U.N.TS. Vol.1249, 13 entered into force on 3 September 1981.

<sup>80</sup>A. Edwards. 'Displacement, Statelessness and Questions of Gender Equality under the Convention on the Elimination of All Forms of Discrimination against Women', Legal and Protection Policy Research Series, PPLAS/2009/02, UNHCR, August 2009, 25.

<sup>81</sup>Laura Gaspari, The International and European Legal Framework on Human Trafficking: an overall view

domestic labour and arranged forced marriages. It added that “These practices are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity. They put women at special risk of violence and abuse”<sup>82</sup>

With regards to prostitution, the CEDAW Committee affirmed that “Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence”<sup>83</sup> It was a strong milestone for the international community that was reaffirmed years later, and the elimination of trafficking entered international action plans, like the Beijing Platform for Action of 1995 and UN political agenda, such as the 2016 Sustainable Development Goals at goal number 5 (Gender equality and women’s empowerment).<sup>84</sup>

### **3.2 United Nations Convention on the Rights of the Child, 1989 and the Two Optional Protocols of 2002**

Trafficking involves serious violations of children’s rights, the 1989 United Nations (UN) Convention on the Rights of the Child (CRC)<sup>85</sup> is highly relevant and applicable to the crux of this paper, with respect to children, the Convention on the Rights of the Child (CRC) and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography contain Articles which expressly prohibit trafficking in children in any purpose and form, invites all States parties to take the appropriate measures. In 1999 the General Conference of the ILO adopted the Convention concerning the Prohibition and Immediate action for the Elimination of the Worst Forms of Child Labour aiming at protecting children from exploitative situations also generated by human trafficking.

While the second optional protocol clearly addresses only trafficking in children, as opposed to women and children, for sexual exploitation, this protocol may benefit all victims because of the detailed standards it sets for criminal investigation, prosecution, and protection of victims through national legal systems with support from the international community. The second optional Protocol addresses the problem of sex trafficking, one among many purposes for which children are bought and sold, including, in addition, forced labour, adoption, participation in armed conflicts, marriage, and organ trade. The second optional Protocol defines and prohibits the sale of children, child prostitution, and child pornography; obliges States parties to make certain acts punishable under their criminal law; sets forth the bases for States parties to assert jurisdiction over actionable practices, and strengthens their ability to pursue extradition of offenders.

---

<sup>82</sup>(General Recommendation 1992: par.14)

<sup>83</sup>Gaspari (n 81).

<sup>84</sup>*Ibid.*

<sup>85</sup>Convention on the Rights of the Child, G.A.Res. 44/25, U.N. Doc.A/RES/44/25, 20 November 1989. See Article 34(a)(b)(c)(d). Nigeria signed this Convention on 26<sup>th</sup> January 1990 and ratified on 19<sup>th</sup> April 1991.



### **3.3 The Rome Statutes of the International Criminal Court, 2001**

There is a relatively new approach of linking trafficking to slavery and slavery-like practices as reflected in the Rome Statute for the International Criminal Court,<sup>86</sup> which was adopted on 18 July, 1999. All these provisions of the Rome Statutes are meant to punish traffickers who subject their victims to various forms of anguish as prohibited by the statutes. Article 7(1) of the ICC Statute explicitly prohibits criminal conduct related to human trafficking, such as “enslavement,” “sexual slavery,” “enforced prostitution,” “forced pregnancy,” and “any other form of sexual violence of comparable gravity.”

### **3.4 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and Children, Supplementing the UN Convention against Transnational Organised Crime, 2000(Palermo protocol)**

The Protocol to Prevent Suppress and Punish Trafficking in Persons especially Women and Children is a relatively new and comprehensive approach adopted by the United Nations in December 2000<sup>87</sup> to curb the menace of trafficking in women and children. The UN Protocol represents a direct attempt to comprehensively criminalise trafficking in international law.<sup>88</sup> Responding to growing organized criminal involvement in trafficking in human beings, the Protocol was designed as a tool for combating cross-border trafficking through judicial and law enforcement means.<sup>89</sup> It supplements the UN Convention against Transnational Organized Crime and emphasizes putting in place effective legal and law enforcement frameworks and responses.<sup>90</sup> These include: the criminalising of traffickers, not victims; protection of victims from revictimisation; sanctioning of individuals and organizations involved in trafficking; and promotion of child-friendly procedures for securing testimony.

The Protocol provides the current internationally accepted definition of trafficking developed in consultation with governments and a wide range of international organizations working in the field of human rights. Article 3(a) of the Protocol defines trafficking as ... 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

---

<sup>86</sup>UN Doc. A/CONF.183/9 < [http://www1.umn.edu/humanrts/instree/Rome\\_Statute\\_ICC/Rome\\_ICC\\_toc.html](http://www1.umn.edu/humanrts/instree/Rome_Statute_ICC/Rome_ICC_toc.html) > accessed 28 August, 2021.

<sup>87</sup>United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and Children, Supplementing the UN Convention against Transnational Organised Crime, 2000, adopted by resolution A/RES/55/25. UN Doc A/55/383 of 15 November 2000 at the fifty-fifth session of the General Assembly of the United Nations and entered into force on 25 December 2003.

<sup>88</sup>C. M. Bassiouni and others, ‘Addressing International Human Trafficking in Women and Children for Commercial Sexual Exploitation in the 21st century, Dans Revue internationale de droit péna’l[2010] (81), 417 à 491 < <https://www.cairn.info/revue-internationale-de-droit-penal-2010-3-page-417.htm#no6>>, accessed 29 August 2021. 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, G. A. Res. 55/25, annex II, 55 U. N. GAOR Supp. (No. 49) at 60, U. N. Doc. A/45/49 [2001] (1).

<sup>89</sup>*Ibid.*

<sup>90</sup>P. Boonpala and J. Kane, ‘Unbearable to the Human Heart: Child Trafficking and Action to Eliminate It’, International Labour Organization, (ILO Office, Geneva, 2002), 5-6.

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.<sup>91</sup>

This protocol is significant because apart from criminalizing at international level the act of human trafficking, it laid to rest the controversial issues that surrounded the definition of trafficking which hitherto the year 2000 makes it difficult for prosecutors to prosecute traffickers. There is need for a precise definition of trafficking in international law as a kind of exploitation which it prohibits must be addressed not only in order to combat trafficking as such, but also to address the abuses to which it gives rise.<sup>92</sup>

Under the Protocol, the predominant international approach to human trafficking is focused on law enforcement strategies and techniques. The Protocol is a subset of the convention regarding transnational organized crime; a State cannot become a party to the Protocol without first signing the convention.<sup>93</sup> Human trafficking is accordingly treated as a subset of the fight against transnational organised crime.<sup>94</sup> It was observed that that the human rights paradigm could not adequately address child prostitution and child pornography and “lobbied strongly for trafficking to be dealt with as part of the broader international attack on transnational organised crime.”<sup>95</sup>

Criminalisation of trafficking is axiomatic to the law enforcement approach. The Protocol focuses on strong state obligations to make trafficking a criminal act in domestic legislation. The number of states that have criminalised trafficking is used as a yardstick to determine how the global community is faring in its war on trafficking in persons. Another central feature of the Protocol is the strong border control measures where state parties are required to strengthen border controls to detect and prevent trafficking in persons.

### **3.5 The International Bill of Human Rights: UDHR, ICCPR and ICESCR**

According to Gupta, the following comprises of the International Bill of Human Rights: The Universal Declaration of Human Rights (UDHR), 1948, the International Covenant on Civil and Political Rights (ICCPR), 1966 together with the Optional Protocol, and the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.<sup>96</sup> The two covenants are based on the provisions of the Universal Declaration of Human Rights 1948. The International Bill of Human Rights did not make express mention of the term trafficking in its provisions,

---

<sup>91</sup>*Ibid.*

<sup>92</sup>L.Swepston, ‘Forced and Compulsory Labour in International Human Rights Law’, International Labour Organization, (International Labour Office, Geneva: ILO, 2014), 23.

<sup>93</sup>M.Ross, ‘A Diamond in the Rough: The Transnational Duty to Prevent Human Trafficking in the Protocol’, [2014] (21(325)), *Duke Journal of Gender Law & Policy*, 329-332.

<sup>94</sup>E.M. Bruch, ‘Models Wanted: The Search for an Effective Response to Human Trafficking’, [2004], (40) *STAN J. INT’L L.* 21.

<sup>95</sup>A. Gallagher, ‘Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis’, [2001], (23), *HUM. RTS. Q.* 975, 982.

<sup>96</sup>S.P. Gupta, ‘*International Law and Human Rights*’, (Allahabad Law Agency, Delhi, 2009), 595.

but the processes involved in human trafficking violate the very provisions of these covenants. The UDHR is the first comprehensive human rights instrument to be drawn up by a universal international organisation.<sup>97</sup>

Article 1 clearly states that “all human beings are born free and equal in dignity and rights”. Article 3, of UDHR stated that everyone has the right to life, liberty, and security of person.<sup>98</sup> While Article 4, emphasises that no one should be held in slavery or servitude, slavery and slave trade should be prohibited in all their forms<sup>99</sup>. Article 5 states clearly that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment,<sup>100</sup> and Article 6 overwhelmingly stated that everyone has the right to recognition as a person before the law.<sup>101</sup>

Article 13(1) of the UDHR adds that everyone has the right to freedom of movement and residence in any State and Article 23(1) declares the right to freely choose employment and to obtain just and favourable condition of work.<sup>102</sup> By its very nature, human trafficking threatens these rights.<sup>103</sup> The International Covenant on Civil and Political Rights of 1966,<sup>104</sup> reiterates the prohibition on slavery and the slave trade as set out in the Universal Declaration. According to the Article 8 of the International Covenant on Civil and Political Rights it explicitly declared that: “no one shall be held in slavery: slavery and slave trade, in all their forms shall be prohibited”.<sup>105</sup>

Both the Universal Declaration and the ICCPR further stipulate that, no person shall be held in servitude a term which, while not defined by either instrument, is generally seen to be separate degradation of human beings by human beings<sup>106</sup> The Universal Declaration on Human Rights indirectly addressed the issue of forced and compulsory labour in its provision which states that “everyone has the right to work, to free choice of employment, to just and favourable conditions of work.”<sup>107</sup> The United Nations General Assembly and the Human Rights Council have repeatedly affirmed that, trafficking violates and impairs fundamental human rights, as have many of the international human rights mechanisms.<sup>108</sup>

---

<sup>97</sup>*Ibid.*

<sup>98</sup>Article 3.

<sup>99</sup>Article 4.

<sup>100</sup>Article 5.

<sup>101</sup>Article 6.

<sup>102</sup>S.K, Kigbu, and Y.B, Hassan, ‘Legal Framework for Combating Human Trafficking in Nigeria: The Journey So Far’, [2015], (38), *Journal of Law, Policy and Globalisation*, 216.

<sup>103</sup>International Labour Organization, “Training Manual to Fight Trafficking in Children for Labour, Sexual and Other Forms of Exploitation”, International Labour Organisation 2009, 18, <[https://www.unicef.org/protection/Textbook\\_1.pdf](https://www.unicef.org/protection/Textbook_1.pdf)> accessed 29 August 2021.

<sup>104</sup>UN International Covenant on Civil and Political Rights G.A.R 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23<sup>rd</sup> March 1976.

<sup>105</sup>Article 8.

<sup>106</sup>A. Gallagher, ‘Using International Human Rights Law to Better Protect Victims Of Human Trafficking: The Prohibitions on Slavery, Servitude Forced Labor and Debt Bondage’, in: L.N. Sadat, M.P. Scarf, *The Theory and Practice of International Criminal Law: Essays in Honour of M. Cherif Bassiouni*, (Leiden: Martinus Nijhoff, 2008) 397-430, 8.

<sup>107</sup>Article 23 of the Universal Declaration of Human Rights.

<sup>108</sup>UNHCR, ‘Human Rights and Human Trafficking’, Fact Sheet No. 36, United Nations, New York, and Geneva, 2014, 5.

### **3.6 ILO Convention No.29 on Forced Labour 1930 and the Additional Protocol of 2014**

The International Labour Organisation (ILO) is the specialised Agency of the UN charged with developing and enforcing international labour standards. ILO defined labour trafficking to mean the recruitment of persons, using deception, threat or use of coercion or by the abuse of vulnerability, for the purpose of labour exploitation, including forced labour. Labour trafficking is a severe violation of human rights, prohibited by key human rights instruments.<sup>109</sup> Labour trafficking is also a serious crime. It is prohibited, prosecuted, and sanctioned through criminal laws at international level.<sup>110</sup> The ILO Forced Labour Convention No.29 of 1930<sup>111</sup> is applicable to human trafficking, because the signatories to this convention undertook to eliminate all forms of forced labour. ILO Convention No.29 obliges and Art 1(1) States parties to “suppress the use of forced or compulsory labour within the shortest possible time”.

### **3.7 Protocol of 2014 to the Forced Labour Convention, No.29 of 1930**

The new Protocol of 2014 (Protocol 29) updates the widely ratified Forced Labour Convention by addressing gaps in its implementation and reaffirming the obligation of States to take effective measures to prevent and eliminate forced labour in all its forms. It reaffirms the definition of forced labor contained in Convention 29 and provides concrete guidance to ratifying States on effective measures to prevent and eliminate all forms of forced labor. The legally binding Protocol 29 also complements other international instruments such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime (2000) and mandates specifically that measures include actions against trafficking in persons.<sup>112</sup>

### **3.3.8 ILO Convention 182 on Worst forms of Child Labour, 1999 Recommendation (No. 190)**

Since 1999, the ILO’s work against child trafficking has been reinforced by the adoption of the ILO Worst Forms of Child Labour Convention (No. 182).<sup>113</sup> This declares child trafficking to be unacceptable in all countries regardless of their level of development and calls for it to be eliminated without further delay. It confirms that child trafficking is a practice like slavery and belongs in the same category as forced labour. Convention 182 urges countries to both prohibit and eliminate trafficking of children (under 18 years of age).<sup>114</sup> It not only targets trafficking that leads to exploitation in more recognizable labour situations (sweatshops, domestic work,

---

<sup>109</sup> Article 8 of the Forced labour is prohibited by the International Covenant on Civil and Political Rights.

<sup>110</sup> Article 5.

<sup>111</sup> Forced Labour Convention (No.C29) Concerning Forced Labour. 39 UNTS, adopted 28 June 1930, entered into force 1 May 1932.

<sup>112</sup> US Department of States, “Trafficking in Persons Report 2015”, Washington D.C, 2015, p.28. On June 11, 2014.

<sup>113</sup> Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO NO. 182) 38 I.L.M.1207, 1999, entered into force 19 November 2000.

<sup>114</sup> Article 1, Boonpala (n 90). 6-7.

agriculture, and fishing, for example), but also in illicit or criminal situations (drug trafficking and prostitution).

### 3.9 Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993

The Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption was adopted on 29 May of 1993.<sup>115</sup> Moreover, the preamble states that the principles announced in the U.N. Convention on the Rights of the Child, most notably, the “best interest of the child” standard, were taken into consideration. Article 1 states that the three objectives of the Convention are: to ensure that inter-country adoptions occur when they are in the best interests of the child; to create a system of cooperation among States to assure that the agreements made by them are respected and help prevent the *sale of children*; and to secure recognition of adoptions that meet the requirements of the Convention.”<sup>116</sup> Ultimately, the Convention seeks to terminate the *illegal baby trade* and to diminish the accompanying frustration of inter-country adoptions.

Conclusively, a wide range of laws have been found to be useful in disrupting trafficking operations, prosecuting traffickers and preventing trafficking in persons, but has its shortcomings. For instance, the trafficking Act 2015 in Nigeria just have only 7 years of imprisonment for highest penalty of human trafficking offence in the whole legislation. Traffickers in Nigeria do not see seven years as years that can stop them from continuing to commit the crime of human trafficking. The voodoo phenomenon which is a major oiling factor in human trafficking in Nigeria should also be legislated upon. Also, under the international instruments with respect to the Palermo Protocol, in the past decades law enforcement officials in different countries had learnt lessons about what is effective and what is not when collecting evidence and prosecuting suspected traffickers but unfortunately these lessons have not become common practice across jurisdictions. Some of the most important lessons relate to the way that victims of trafficking (who are potential witnesses) are treated.

This paper recommends that the present Act 2015 should be amended again to increase the years of imprisonment to 20 years and to also include death sentence peradventure the victim dies to bring human trafficking to an end. It also recommends that there should be a provision that will recognise voodoo which one of the major factors that makes human trafficking to thrive in Nigeria. Government should try its best to provide jobs for its teeming population, stop corruption, tighten our porous borders to enable the legal frameworks work effectively. It also recommends that during the course of a criminal investigation and prosecution not only is the protection of victims right be recognized in principle but also right in practice as it is not effective to prosecute traffickers without placing the protection and assistance of victims at the heart of the intervention.

---

<sup>115</sup>Hague Conference on Private International Law: Final Act of the Convention on Protection of Children and Co-Operation in Respect on Intercountry Adoption, 29 May 1993, 32 I.L.M. 1134.

<sup>116</sup>Article 1(1)(2)(3).