

COUNTERMEASURES AGAINST TRAFFICKING IN PERSONS, WITH A FOCUS ON TRAFFICKING IN PERSONS FOR SEXUAL EXPLOITATION

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I. INTRODUCTION

Trafficking in Persons is a complex activity that usually requires a group of criminal accomplices working together to achieve the ultimate purpose of producing continuing streams of income from exploitation of vulnerable persons. Trafficking in Persons can also be compared to a modern-day form of slavery involving the exploitation of people through force, coercion, threat and deception. It also involves human rights abuses, such as debt bondage, deprivation of liberty, orphanage trafficking, organ harvesting and lack of control over freedom and labour.

However, from the year 2000, things began to change. The United Nations adopted an International Convention against Transnational Organized Crime (TOC) and its Protocol to prevent, suppress and punish Trafficking in Persons, especially women and children. The Federal Republic of Nigeria as a State party signed and ratified the United Nations Transnational Organized Crime (TOC) Convention and the supplemental protocol which was subsequently domesticated through an Act of Parliament known as the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003, which was amended in 2005. This Act established the National Agency for the Prohibition of Trafficking in Persons and other related matters (NAPTIP) as Nigeria's focal agency in the fight against trafficking in persons. This same Act was re-enacted in 2015 as the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015.

The term Trafficking in Persons was defined in the International Law by the UN Protocol also known as the Palermo Protocol thus:

Trafficking in Persons (TIP) shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or of use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power, or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

The 2015 Trafficking in Persons Act also defines Trafficking in Persons thus:

All acts and attempted acts involved in the recruitment within or across Nigeria borders, purchase, sales, transfer, receipts or harboring 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 labor, or in slavery-like conditions.

In order to understand the concept of Trafficking in Persons, we shall consider the key elements, which are: i. Act; ii. Means and iii. Purpose. The act includes the recruitment, transportation, harbouring, or receipt of a person, while the means includes, threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefit to a person in control of the victim. The third element is purpose which is the exploitation of victims through exploitation of prostitution of others, sexual, forced labour, slavery or similar practices and removal of organs.

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II. LEGAL SYSTEM

The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2015 empowers the Agency (NAPTIP) to arrest, investigate and prosecute the offence of trafficking in persons. Section 36 of the Act, vests jurisdiction in the High Court to hear, and determine proceedings arising under it. However, trafficking in persons cases can also be instituted in the Federal High Courts across the 36 states of the Federation. Trafficking in persons cases are filed in court in form of a charge when a prima facie case is established in a particular reported case, Subsequently the case is assigned to a particular court in that jurisdiction and the offender/defendant is arraigned and subsequently tried in the Court, which is usually presided by a single judge who sits as both the jury and the judge that determines issues of fact and of law at the same time.

The victim(s) are called to testify, so also witness(s), exhibit(s) are tendered and other material evidence to substantiate the case. While the defendant too will be allowed to put in his defence. At the end, both parties will adopt their written addresses, and the matter will be adjourned for judgment. The Defendant has a right of appeal up to the Supreme Court, the highest Court in the hierarchy of Courts in Nigeria. The same applies for the prosecution. Since inception, the Agency has secured the conviction of 721 offenders prosecuted in various Courts across the country. During the trials, the Constitution of the Federal Republic of Nigeria (1999) as amended, the Administration of Criminal Justice Act 2015 and the Evidence Act are often referred to in the prosecution of cases.

III. PRACTICES

The process of trafficking in persons begins with the abduction or recruitment of a person(s) and countries with the transportation of same from one place to the other. In case of transnational trafficking, the process continues with the entry of the individual into another country. While in the case of internal trafficking, victims are moved from one state in Nigeria to another. After recruitment, victim(s) are sometimes taken to shrines where they meet with a juju priest (witch doctor) and oaths are administered on them. They will be requested to bring some of their personal items such as fingernails, pubic hair, menstrual pads, etc. Some are given raw heart of chicken to eat and drink the blood. Others have incisions made on their bodies. All these are done to instil fear in the victim(s) to deter them from running away from their madams and to fulfil their side of the agreement. Most times, victims are not told the exact job they are going for or to do. Some of them will be told that they are going to work as hair stylists or as a sales girl, but on getting to their destination, which could be a European or African country, the victim(s) travel document will be seized and their movement restricted or monitored by their madams before they are forced into prostitution, in which their madam will receive the proceeds. They are equally to pay back all their madam spent on them while bringing them to their destination, which results into bonded slavery, so also because of the clandestine and transnational nature of the crime, the traffickers are usually members of a well sophisticated and organized group that are also involved in money-laundering, drug trafficking, smuggling of migrants, weapons and fire-arm dealings.

There was a case that a particular victim was recruited and trafficked to Burkina Faso for prostitution. The victim was recruited in a remote area in Edo State, Nigeria, and was sexually exploited until she gained her freedom and started recruiting girls for the same purpose. She came back to her country and recruited girls by informing them that they will work in salon as hair stylist, whereas she knew they were going to be exploited sexually. It was when the girls got to Burkina Faso that she introduced them into prostitution. Among the girls she recruited were two of her cousins who were under the age of 18 years at the time they were recruited. The two girls (her cousins) refused to engage in prostitution, and there was a very great fight that alerted the police. They were all arrested in the process and taken to the police station where afterward they were deported, NAPTIP was alerted and they were arrested at the airport and brought to the Agency. The matter was then prosecuted and the trafficker bagged ten (10) years' imprisonment, while the victims were counselled, rehabilitated and empowered.

There are two factors that encouraged the act of Trafficking in Persons, and they are classified into push

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and pull factors. They are as follows: (a) Poverty; (b) Harmful social practices; (c) Desire to earn a living; (d) Greed; (e) Ignorance / illiteracy; (f) Parental neglect / loss of cultural and family values; (g) Peer pressure; (h) Adult male "conspiracy" against women and children; (i) Gender-based violence; (j) Lack of opportunities / unemployment; (k) Globalization; (l) Conflicts etc; (m) High profits; (n) Low profits; (o) The strength of foreign currencies; (p) Need for low skilled labour; (q) Economic stability.

The insecurity trending recently in Nigeria has also triggered a lot of Trafficking in Persons cases. Most people who wish to move out of the country become vulnerable and are at the mercy of traffickers who used the advantage to lure people into all forms of exploitation which includes: (a) Labour exploitation; (b) Bonded labour; (c) Domestic work; (d) Sexual Exploitation; (e) Military conscriptions; (f) Forced marriages; (g) HIV/AIDS; (h) Illicit Adoption; (i) Sports; (j) Begging; (k) Organ Removal/Harvesting; (l) Rituals.

Trafficked victim(s) are taken into plantations, mines, quarries or are made to engage in hazardous conditions such as handling chemicals and pesticides operating dangerous machines or isolated within destination countries and are fearful of reporting the abusive work conditions to authorities. Most children are trafficked into bonded labour, while advance payments are given to parents, which are often structured payments so that "expenses" or interest are deducted from the child's earnings in such amounts that it is nearly impossible to repay the debt or "buy back" the child. The International Labour Organization (ILO) estimated that a majority of such children are girls.

Parents and children are often lured by promises of education and good jobs, but once trafficked, the victims' identification papers are locked up. They are dependent on their exploiters for safety, food and shelter, and most endure harsh working conditions, e.g. no health care and working long hours with little pay. Trafficked victims also work in brothels, massage parlours, prostitution rings or strip clubs, or are used to produce pornographic materials.

Trafficked children are also conscripted into the military to join fighting forces uses messengers, porters, cooks, "wives" (that provide sexual services to the officers) and as spies. Some of them are also used as camel jockeys, or what they called golf boys. They are often brutalized by their exploiters, deprived of their salary and food and mentally and physically abused.

The following are prevalent in various regions of Nigeria:

- a. Northern region of Nigeria – begging, child/forced marriage.
- b. North Central – prostitution, domestic servitude
- c. South-South – prostitution, domestic servitude especially in Ebonyi State and forced labour.
- d. South West – Domestic servitude (though mainly consumers)

IV. CURRENT SITUATION

It is of great concern that due to the advancement in technology and new trends of traffickers modus operandi in the recruitment of vulnerable citizens, other forms of exploitation were introduced in arrears where a particular form of exploitation was being carried out in the past. For instance, Edo state which was known for trafficking in persons for sexual exploitation now engaged in the buying and selling of babies.

Recruitments are also done on YouTube, Instagram, Facebook etc., where advertisement for fake job opportunities were made to deceive people to fall into their trap. Other forms of trafficking are orphanage trafficking, where children in orphanages are being trafficked for purposes of labour exploitation, cryptic pregnancy, organ harvesting etc. Internal trafficking is more prevalent and prominent in Nigeria currently, and traffickers travel to the grassroots/remote area and recruit underage children after deceiving their parents that the children will be registered in school. But rather they will be given out to different people for different purposes of exploitation, most especially labour exploitation.

V. SOLUTIONS

The Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 is in the process of being amended to include stiffer punishment for traffickers and to also accommodate more provisions to tackle new trends of trafficking in persons. There is also training and retraining for officers in combating the crime of human trafficking. There will be aggressive sensitization in schools, villages, markets and on social media. Both print and electronic media play a very big role in informing the citizenry on the ills of trafficking in persons. Furthermore, unemployment should be tackled by providing job opportunities for youths and to also avail those in business with soft loans or grants. The issue of gender-based violence, barbaric and harmful practices should be squarely addressed. Also, this JICA training is going to help the situation because, working with people from other countries, experience will be gathered to proffer far reaching solutions. Hence all hands have to be on deck towards the successful eradication of trafficking in persons in Nigeria and the world at large.