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# An Appraisal of Legal Response towards Child Trafficking in Nigeria

By:

**ABDULRASAQ FUNSHO FATIMAH**

Lecturer in the Department of Private and Property Law, Faculty of Law, University of Ilorin, Nigeria  
E-mail: ftabdulrazaq@yahoo.com, bola.bashir@gmail.com, Mobile No: 08033736852

## 1.0.0: ABSTRACT

Child trafficking has now assumed a global phenomenon. The forms and dimensions with regard to the recruitment, transportation, harbouring or receipt of victims of trafficking involve the use of deception, coercion and violence. The menace is generally becoming alarming in Nigeria. There have been various laws both at national and international levels put in place to combat the prevalence of child trafficking. It is doubtful however, if these laws can adequately address the problem of child trafficking taking into consideration the various methods adopted by the people perpetuating this crime and inherent hindrances militating against punishing the offenders. Against the above background, this paper examines the national and international legal responses to the phenomenon of child trafficking. It also sets out to identify the problems, barriers, and dilemma against enforcement of these legal instruments in combating the menace of child trafficking with a bid to proffering solutions to the eradication of the practice. Particular attention is paid to the implication of child trafficking on the rights of a child. This paper concludes on the premise that there is the need for multi-sectoral approach in combating the practice of child trafficking and its negative impacts on the right of a child.

## 1.1.0: INTRODUCTION

Trafficking of children for the purpose of domestic service, prostitution and other forms of exploitative labour is a global phenomenon.<sup>1</sup> The International Labour Organization (ILO) National Child Labour Survey in 2003 estimates that there are approximately 15 million children engaged in child labour in Nigeria with 40% of them at the risk of being trafficked internally and externally for domestic and forced labour, prostitution, entertainment, pornography, armed conflict, and sometimes ritual killings.<sup>2</sup> Nigeria from available survey is a source, transit and destination country for child trafficking.<sup>3</sup> Currently, external trafficking of children do exists between Nigeria and Gabon, Cameroon, Niger, Italy, Spain, Benin Republic and Saudi Arabia.<sup>4</sup>

To this end, a number of factors have been identified as responsible for the practice of child trafficking. These factors are viewed from economic, socio-cultural, legal and political perspectives.<sup>5</sup>

This paper addresses the subject of child trafficking and the corresponding legal responses to combat the menace. Since child trafficking has close correlation with the rights of a child, this paper attempts to resolve the question with regards to legal identity of a child by exploring different legislative constructs of the identity of a child under different jurisdictions with a view to setting a universal and acceptable legal perspective of the identity of a child at least for the purpose of this discourse.

The root causes of child trafficking are also examined to serve as a guide for future responses to the practice of child trafficking. The paper concludes by examining and evaluating the various national, regional and international responses to combat child trafficking as well as the consequences of child trafficking in Nigeria.

<sup>1</sup> See 'UNICEF Information Sheet on Child Trafficking'. Available at [http://www.unicef.org/.../WCARO\\_Nigeria\\_Factsheets\\_ChildTrafficking.pdf](http://www.unicef.org/.../WCARO_Nigeria_Factsheets_ChildTrafficking.pdf) accessed on 02 December 2013.

<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> Abdulkadir, M.S., "Economic Crises, Poverty, Unemployment, Slave and Human Trafficking in Nigeria", (Paper presented at the International Colloquium on Slavery, Slave Trade and their Consequences, Abuja, Nigeria), in August 23<sup>rd</sup> – 26<sup>th</sup>, 2010.

### 1.2.0: LEGAL ANALYSIS OF THE IDENTITY OF A CHILD

The Convention on the Rights of the Child defines a child as 'every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.'<sup>6</sup> The Convention clearly specifies the upper age limit for childhood as 18 years, but recognizes that majority may be obtained at an earlier age under laws applicable to the child.<sup>7</sup> In other words, the Convention accommodates the concept of an attainment of majority at an earlier age, either according to the federal or state laws of a country, or personal laws within that country.<sup>8</sup> Pursuant to the definition of a child in the Convention on the Rights of the Child (CRC), the African Charter on the Rights and Welfare of the Child also maintained the same position when it defined a child to mean every human being below the age of 18 years.<sup>9</sup>

The Constitution of the Federal Republic of Nigeria stipulates 18 years as the age of maturity when it provides that persons below 18 years are not qualified renounce their citizenship.<sup>10</sup>

Thus, for the purpose of this paper, the definition of a child proffered by the Child Rights Act shall be adopted. Hence, regardless of any provisions contained in other statutes, a child, for the purpose of this presentation, is perceived as every human being (male or female) who is below the age of 18 years.

### 1.3.0: GENERAL OUTLINE ON THE RIGHTS OF A CHILD

Children do enjoy certain rights and protections which are duly guaranteed under the Convention on the Rights of the Child. The relevant rights and protections of the children as provided for under the Convention on the Rights of the Child include freedom from discrimination,<sup>11</sup> right to survival and development,<sup>12</sup> right to live with or be in contact with their parents,<sup>13</sup> freedom of expression,<sup>14</sup> freedom of thought, conscience and religion,<sup>15</sup> freedom of association,<sup>16</sup> right of access to information and mass media<sup>17</sup> and right to Education.<sup>18</sup>

### 1.4.0: GENERAL NATURE OF TRAFFICKING

Trafficking in person is the primary focus of this paper as against trafficking in goods. Trafficking in person has been perceived as a grave violation against humanity. Trafficking in person is a practice which has existed for almost 200 years and still endures in the contemporary time. It has also continued to attract international attention and concern due to its implication.<sup>19</sup>

According to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000,<sup>20</sup> trafficking means the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. The protocol goes further to define trafficking as the recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation.<sup>21</sup>

Several studies revealed that the purpose of human trafficking is mainly for sexual exploitation.<sup>22</sup>

According to UNODC report on human trafficking, the regions of the Commonwealth of

<sup>6</sup> See Article 1 of the Convention on the Rights of the Child of 2<sup>nd</sup> September, 1990 (hereinafter referred to as the Convention on the Rights of the Child).

<sup>7</sup> Ibid

<sup>8</sup> See 'Definition of the child' in India: First Periodic Report on the CRC, p. 43, available at <<http://www.wcd.nic.in/crcpdf/crc-2.pdf>> Accessed on 01 December 2013.

<sup>9</sup> See Article 2 of the African Charter on the Rights and Welfare of the Child of 29th November 1999.

<sup>10</sup> See section 29(4)(a) of the Constitution of the Federal Republic of Nigeria, 1999 (hereinafter referred to as the CFRN, 199 as amended).

<sup>11</sup> See Article 2 of the Convention on the Rights of the Child.

<sup>12</sup> See Article 6 of the Convention on the Rights of the Child.

<sup>13</sup> See Article 9 of the Convention on the Rights of the Child.

<sup>14</sup> See Article 13 of the Convention on the Rights of the Child.

<sup>15</sup> See Article 14 of the Convention on the Rights of the Child.

<sup>16</sup> See Article 15 of the Convention on the Rights of the Child.

<sup>17</sup> See Article 17 of the Convention on the Rights of the Child.

<sup>18</sup> See Article 28 of the Convention on the Rights of the Child.

<sup>19</sup> United Nations Office on Drugs and Crime. Trafficking in Persons: Global Patterns (Vienna, 2006)

<http://www.unodc.org/documents/human-trafficking/HT-globalpatterns-en.pdf> accessed on 02 December 2013.

<sup>20</sup> It is also known as the Palermo Protocol which is a supplement to the United Nations Convention against Transnational Organized Crime.

<sup>21</sup> Ibid

<sup>22</sup> Ibid

Independent States, Central and South-Eastern Europe, Western Africa and South-East Asia are most commonly reported as being regions of origin for human trafficking.<sup>23</sup> Countries in Western Europe, North America and Asia, in particular in West Asia, are reported more frequently as countries of destination. Countries of Central and South-Eastern Europe and Western Europe are highly reported as transit regions. Outside of Europe, South-East Asia, Central America and Western Africa are also frequently reported as transit sub regions.<sup>24</sup>

Disheartening is the fact that the menace of child trafficking is on the high side in view of the researches and efforts of the concerned international organizations.<sup>25</sup> According to the United Nations Anti-Trafficking Protocol,<sup>26</sup> trafficking in children is defined in the following words:

*The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation ...*

From a Nigerian perspective, child trafficking may come in any of the following in so far as they relate to a person under the age of 18 years.<sup>27</sup>

- a. Exportation out of or importation into Nigeria any under 18 years old person for prostitution by means of force or seduction.
- b. Procurement by any person of such person for illicit purpose with another person by means of deception, coercion debt bondage or any means whatsoever.
- c. Causing or encouraging the seduction of any person under 18 years.
- d. Procurement of any person under 18 years to have unlawful carnal knowledge with any other person either in or outside Nigeria.
- e. Promotion of foreign travel, of a person under 18 years, which promotes prostitution.
- f. Procuring defilement of any person under 18 years, either in or outside Nigeria, by threats, travel or administering drugs.
- g. Kidnapping from guardianship of any person under 18 years.
- h. Buying for the purpose of employment or immoral purposes.
- i. Unlawful forced labour of any person under 18 years outside Nigeria.
- j. Trafficking in slaves and slave dealing.
- k. Seduction or prostitution of person under 18 years by an adults.
- l. Attempt to commit any of the offences under Act is also punishable.

From the foregoing, child trafficking denotes removal of a child from his or her family environment in terms of child's transportation, illegal reception or sale, and placement into exploitative situation.<sup>28</sup>

#### 1.5.0: FUNDAMENTAL CAUSES OF CHILD TRAFFICKING

There is the general perception of tying the practice of child trafficking to restricted factors such as the need for cheap labour, bond labour, sexual exploitation, domestic work and host of others without considering the underpinning fundamentals of its causative. It is instructive to note however that these common attributable phenomena spring from certain occurrences. Thus, the root causes of child trafficking can be viewed from economic, socio-cultural and legal/political perspectives. Details of these fundamental are discussed below.

##### 1.5.1: Economic Causes

Economic gains motivate people to engage minors in production of goods and services. Global expansion of demands for goods and services which sometimes are fallback of globalization may push the need for more labour to be engaged in meeting these demands as may be dictated by the global market forces. It has been observed that the growing trend in the shortage of paid work particularly for the unskilled labour has created a situation whereby focus has been diverted.<sup>29</sup> Youth unemployment is

<sup>23</sup> Ibid

<sup>24</sup> Ibid

<sup>25</sup> UNESCO (2006) "Human Trafficking in Nigeria: Root Causes and Recommendations" in *Policy Paper, No. 14.2 (E)*. 2006. United Nations Educational, Scientific and Cultural Organization.

<sup>26</sup> See Article 3 (c) of the Universal Declaration of Human Rights of the December 10, 1948.

<sup>27</sup> See Yusuf D., 'Combating Trafficking of Children and Women under International and Nigerian Legal Regimes' in *Journal of Public and International Law*, Ahmadu Bello University, Zaria, pp. 164-165. See also Anti-Trafficking Act of 2003.

<sup>28</sup> Yusuf D., 'Combating Trafficking children and Women under International and Nigeria Legal Regimes' p. 165

<sup>29</sup> Abdulkadir, M.S., "Economic Crises, Poverty, Unemployment, Slave and Human Trafficking in Nigeria",

on the high side in many places of which no solution has been proffered to avert the consequences. The labour market for young women is often very restricted compared to that of young men.

More so, there is growing pressure of migration while many borders are becoming more and more impermeable. Economic restructuring is driving people from the countryside into the cities and from poorer to richer countries.<sup>30</sup> Workers are also moving into sectors such as tourism, the construction industry and agriculture, where there is a greater need for temporary labour.<sup>31</sup> As a result of the rapid urbanization fuelled by these trends, people from rural areas are being exposed to new income and consumption patterns. Migration to many high income countries is coming under increasingly strict regulation at a time when a growing proportion of guest workers and migrants are children and women.<sup>32</sup>

#### 1.5.2: Socio-Cultural Causes

The oppression of women and children within the family and social structures, in which women are subordinated to men, is another important reason why they fall prey to traffickers.<sup>33</sup> It is also a major motivating factor that boosts the demand for the trafficking of women and children (especially female) for sexual related services. Cultural stratification and status of women therein encourages discrimination and differential treatment based on gender preference. Not only do women and girls rarely enjoy the same opportunities as men and boys, they are the objects of discriminating attitudes and treatment.<sup>34</sup> They are often regarded from cultural perspective, as a burden to the family with little resources invested in their future development and economic empowerment.<sup>35</sup> Girls are frequently prevented from going to school in most rural areas in Nigeria.<sup>36</sup> Women have less say in family matters than men and in many cases cannot own or rent land.<sup>37</sup> Less important attention given to women and girls in the society and this gives room for them to easily fall prey of the antics of the traffickers.<sup>38</sup>

#### 1.5.3: Legal and Political Causes

The conspicuous lack of adequate legislation, functioning administrative machinery and effective judiciary are the facilitating factors encouraging the practice of human trafficking in this category.<sup>39</sup> As regards trafficking linked to various types of forced labour, it has been identified that lack of comprehensive provisions in national labour legislations especially on substantive proscription of forced labour, regulations and poor enforcement of same create serious problems with regards to the flight of the victims of this practice.<sup>40</sup> The effect of this development is most felt especially in the informal labour sector closely related to the private sphere such as domestic work.<sup>41</sup> A corollary to the above, is the inadequate penalties for sex traffickers and those who profit from the exploitation.<sup>42</sup> The likelihood of discovery of the crime seems remote due to lack of commitment in combating the crime by the enforcement agencies. In the event of apprehension of traffickers, prosecution of the offences is usually difficult to prove as the chance of obtaining conviction is very slim.<sup>43</sup>

#### 1.6.0: INTERNATIONAL AND NATIONAL RESPONSES TO COMBATING TRAFFICKING

Human trafficking is a subject of growing national and global concern. To this end, there have been various international agreements, studies and campaigns to address the problem.<sup>44</sup> The most

(Paper presented at the International Colloquium on Slavery, Slave Trade and their Consequences, Abuja, Nigeria), in August 23<sup>rd</sup> – 26<sup>th</sup>, 2010.

<sup>30</sup> Leinwand, D., 'Sex Tourists' Warned: Law is Watching in USA Today, February 19<sup>th</sup> 2004.

<sup>31</sup> Ibid

<sup>32</sup> Ibid

<sup>33</sup> Truong, T. and Angeles, B. (2005). *Searching for Best Practices to Counter Human Trafficking in Africa: A focus on women and children*. Report commissioned by United Nations Educational, Scientific and Cultural Organization (UNESCO).

<sup>34</sup> Cantwell, N. (2005) "Violence against Children without Parental Care," in *Global Future, Third Quarter*. Monrovia: World Vision, pp. 55-56.

<sup>35</sup> Ibid

<sup>36</sup> Getu, M. et al (2004) *Lending for Schools, Training Institutions and Vocational Training: Evaluation and Review*. Geneva: Ecumenical Church Loan Fund (ECLOF), p. 23.

<sup>37</sup> Cantwell, N., "Violence against Children without Parental Care," in *Global Future, Third Quarter*. Monrovia: World Vision, p. 60.

<sup>38</sup> Gabriel Temesgen, op cit.

<sup>39</sup> UNESCO (2006) "Human Trafficking in Nigeria: Root Causes and Recommendations" in *Policy Paper, No. 14.2 (E)*. 2006. United Nations Educational, Scientific and Cultural Organization.

<sup>40</sup> Ibid

<sup>41</sup> Perkins, W. (2005) "Vital Voices: Advocacy and service work of NGOs in the fight against human trafficking" in UN Chronicle Online Edition.

<sup>42</sup> Gabriel Temesgen, 'Root Causes and Solutions to Human Trafficking in Ethiopia' <http://www.aigaforum.com/.../root-causes-and-solutions-to-human-trafficking-in-Ethiopia.pdf> Accessed on 02 December, 2013.

<sup>43</sup> Ibid

<sup>44</sup> Sally Almandras, 'Human Trafficking: International Response' available at <http://www.parliament.uk/briefing-papers/sn03753.pdf> Accessed on 02

recent international legal instruments that have set the course for how to define, prevent, and prosecute human trafficking are the United Nations Convention against Transnational Organized Crime and its two related protocols: the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, and the United Nations Protocol against the Smuggling of Migrants by Land, Sea, and Air, which entered into force in 2003-2004.<sup>45</sup>

In support of enforcing these instruments, the United Nations Office on Drugs and Crime (UNODC) established the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) in 2007.<sup>46</sup> Most governments across the globe have positively responded to the global phenomena pursuant to these international agreements.<sup>47</sup>

It must be borne in mind that instruments that have earlier dealt with human trafficking in the past dated back to the abolition of slavery.<sup>48</sup> They include provisions within the Slavery Convention (1926) and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956).<sup>49</sup> Also, Additional tools of international law that include segments against the trafficking of persons include the Universal Declaration of Human Rights (1948), the International Covenants on Civil and Political Rights (1966), The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), and the Convention on the Elimination of all Forms of Discrimination Against Women (1979).<sup>50</sup> These international instruments therefore laid the foundation for the contemporary conventions and efforts to combat trafficking. These instruments majorly seek to prohibit trafficking, to investigate, prosecute and punish traffickers, and to protect victims.<sup>51</sup> Some of these international instruments as relevant to this paper are examined below.

#### 1.6.1: UNITED NATIONS CONVENTIONS

In Palermo in November 2000 the United Nations' General Assembly adopted the UN Convention Against Transnational Organized Crime and two optional protocols on trafficking in persons and smuggling of migrants.<sup>52</sup> Under the trafficking protocol,<sup>53</sup> the mutually parties agree thus:

- a. to criminalize trafficking offences (including organizing, directing, aiding, abetting, facilitating, or counseling the commission of an offence);  
provide assistance and protection for victims; and
- b. aim to prevent trafficking, through co-operative measures and information sharing.

The Convention entered into force on 29<sup>th</sup> September, 2003 while the trafficking protocol came into force three months later, on 25<sup>th</sup> December, 2003.<sup>54</sup> As of 20 July 2009 the optional protocol had 117 signatories and 132 parties.<sup>55</sup>

#### 1.6.2: ILO CONVENTIONS

International Labour Organization Conventions seeks to combat trafficking in persons for purposes of labour exploitation, particularly forced and compulsory labour as well as other slavery-like practices. There have been a number of ILO Conventions to this regards which include the followings:

- the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105);
- the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);
- the Private Employment Agencies Convention, 1997 (No. 181);
- the Discrimination (Employment and Occupation) Convention, 1958 (No. 111);

December, 2013.

<sup>45</sup>Lindsey King, 'International Law and Human Trafficking', TOPICAL RESEARCH DIGEST: HUMAN RIGHTS AND HUMAN TRAFFICKING, available at <http://www.nineword.com/.../international-law-and-human-trafficking-university-of-denver.html> Accessed on 02 December, 2013.

<sup>46</sup>Ibid

<sup>47</sup>Ibid

<sup>48</sup>Ibid

<sup>49</sup>Ibid

<sup>50</sup>Ibid

<sup>51</sup>Tom Obokata, *Human Trafficking, Human Rights and the Nationality, Immigration and Asylum Act 2002* [2003] EHRLR 4, pp 410-422.

<sup>52</sup>United Nations General Assembly Resolution 55/25 (15 November 2000)

<sup>53</sup>which is often referred to as the 'Palermo protocol'.

<sup>54</sup>Sally Almandras, 'Human Trafficking: International Response' available at <http://www.parliament.uk/briefing-papers/sn03753.pdf> Accessed on 02 December, 2013.

<sup>55</sup>These are those who have ratified, accepted, approved or acceded to the optional protocol.

- the Minimum Age Convention, 1973 (No. 138); and
- the Worst Forms of Child Labour Convention, 1999, (No. 182) adopted in June 1999.

#### 1.6.3: EU FRAMEWORK DECISION

In August 2002, the European Union Council of Ministers' Framework Decision on Combating Trafficking in Human Beings came into force, with a deadline of 1-August 2004 for implementation by EU Member States.<sup>56</sup> Framework Decisions are similar to EU Directives because they are binding on EU Member States in respect to the purpose it seeks to achieve. However, it leaves to national authorities the choice of form and method for implementation. It is therefore important to bring out Framework Decisions thus:<sup>57</sup>

"The Member States must punish any form of recruitment, transportation, transfer or harbouring of a person who has been deprived of his/her fundamental rights. Thus, all criminal conduct which abuses the physical or mental vulnerability of a person will be punishable. The victim's consent is irrelevant where the offender's conduct is of a nature which would constitute exploitation within the meaning of the proposal, that is, involving: the use of coercion, force or threats, including abduction, the use of deceit or fraud the abuse of authority or influence or the exercise of pressure, the offer of payment ..."

Pursuant to the Framework Decisions, instigation of trafficking in human beings and being an accomplice or attempting to commit the crime will be punishable with maximum penalty of not less than eight years imprisonment.<sup>58</sup> It is therefore incumbent upon the Council to ensure that the Member States have taken the necessary measures to incorporate the Framework Decisions into their national legislation.<sup>59</sup>

The EU Framework Decision has proven to be a very important international instrument when it comes to combating child trafficking.

#### 1.6.4: CONVENTION AGAINST THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

This is not specifically a convention against trafficking but rather it protects women against discrimination and attempts to guarantee their equality in all matters.<sup>60</sup> This Convention was held in 1979 and ratified by Armenia in 1993. While trafficking is not solely a gender issue, it is important that this convention is meant to be recognized and enforced to help protect one of the target groups of traffickers.<sup>61</sup> It is no doubt that discrimination against women is considered one of the factors that give impetus to human trafficking. It is in this light that the Convention defines discrimination as:

"... any distinction or exclusion or restriction made on the basis of sex which has the effect or purpose of nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."<sup>62</sup>

States Parties to the Convention are therefore mandated to take all appropriate measures, including legislation, to suppress all forms of traffic in women and their exploitation through prostitution.<sup>63</sup>

#### 1.6.5: CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

The United Nation Convention on the Rights of the Child was adopted in September, 1990. Since coming into effect of the Convention, it has served as the widely accepted international

<sup>56</sup> European Union Council Framework Decision 2002/629/JHA, Official Journal of the European Communities L 203 (1 August 2003).

<sup>57</sup> Sally Almandras, 'Human Trafficking: International Response' available at <http://www.parliament.uk/briefing-papers/sn03753.pdf> Accessed on 02 December, 2013.

<sup>58</sup> Ibid

<sup>59</sup> See Article 1 of the Framework Decisions.

<sup>60</sup> See 'International Conventions on Trafficking' available at <http://www.cimera.org/files/other/en/HumanTrafficking.pdf> accessed on 02 December 2013.

<sup>61</sup> Ibid

<sup>62</sup> See Article 1 of Convention on the Elimination of All Forms of Discrimination against Women adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 and entered into force on 3 September 1981, in accordance with article 27(1).

<sup>63</sup> Ibid, Article 6.

instrument guaranteeing the rights of the child globally. It also serves as the foundation for other United Nations member states to locally ensure reservation of the child rights in their respective jurisdictions. Thus, this Convention guarantees the basic human rights of children under the age of minority, civil, political, social and economic.

Having examined some of the international responses to child trafficking, it is also important at this juncture, to look at the national responses to child trafficking.

#### 1.6.6: NIGERIA

In August 2003 Nigeria enacted the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act. Prior to the passage of the Act, Nigeria depended on the relevant provision in the Criminal Code and Penal Code as applicable in the southern and northern states in Nigeria to deal with offences related to trafficking in humans.<sup>64</sup> Trafficking cases were dealt with under provisions of the law applicable to the offences of slave trading, prostitution, abduction, sexual exploitation, deprivation of liberty, and forced labour.<sup>65</sup> The most important elements of the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 are briefly outlined below.

The Act defines the act of trafficking as:

*"All acts involved in the recruitment, transportation within or across Nigerian borders, purchases, sale, transfer, receipt or harbouring of a person, involving the use of deception, coercion or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in forced or bonded labour or in slavery-like conditions".<sup>66</sup>*

More so, different sections of the Act define offences related to human trafficking. Sections 11–28 define the specific offences of exporting and importing minors for prostitution purposes; the procurement of minors (with or without their consent) for forced seduction/prostitution; procuring minors or causing or encouraging the seduction or prostitution of minors within or outside Nigeria; procuring any person for prostitution/pornography, drug trafficking or armed conflict; organizing foreign travel for prostitution; unlawful detention of any person with intent to defile; procuring/defiling of minors by means of threats, fraud or administering of hard drugs; kidnapping of minors from guardianship; kidnapping/abduction of persons for culpable homicide; buying and selling of persons for any purpose; unlawful forced labour; trafficking in slaves and slave-dealing.

It is interesting to note that even when the offences are committed abroad by Nigerians, the offenders are liable to punishment and forfeiture of assets in Nigeria upon their repatriation or return for "bringing the image of Nigeria to disrepute" in spite of having served an earlier punishment for the original offence abroad.<sup>67</sup> Alien offenders resident in Nigeria are also punishable under the Act by imprisonment and subsequent deportation.<sup>68</sup> Attempts to commit any of the substantive offences are punishable under the Act,<sup>69</sup> and corporate bodies and their management staffs are also punishable under the Act for attempts or commission of any of the offences created by the Act.<sup>70</sup> In terms of punishment, the Act makes provisions for sanctions ranging from heavy monetary fines, imprisonment with or without option of fines, forfeiture of assets, forfeiture of passport by convicted offenders.<sup>71</sup> Deportation or repatriation and liability for compensation to victims in civil proceedings. Jail terms range from 12 months (for attempts) to two years to life imprisonment depending on the degree of seriousness of the offence, while fines range from N50,000.00 (US\$ 379) and N200,000.00 (US\$ 1,517) for individual traffickers or managerial staff of corporate bodies.

In addition to the above provisions, the law creates an agency charged with the responsibility of enforcing, administering and managing the law prohibiting human trafficking and other related matters. The National Agency for the Prohibition of Traffic in Persons and other related matters (NAPTIP) is

<sup>64</sup> See Sections 274, 275, 276, 278, 279, 280 and 281 of the Penal Code Law applicable in Northern Nigeria. Note that relevant sections are also available under the Criminal Code Law applicable to Southern Nigeria.

<sup>65</sup> See 'United Nations Office on Drugs and Crime (UNODC)', Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo, September 2006.

<sup>66</sup> Ibid.

<sup>67</sup> See Section 25 of Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003.

<sup>68</sup> Ibid, Section 26.

<sup>69</sup> Ibid, Section 27.

<sup>70</sup> Ibid, Section 28.

<sup>71</sup> Ibid, Section 34.

charged with the enforcing and administering of the provisions of the Act;

NAPTIP working closely with Police, Immigration and Civil Society Organizations, has achieved the following results:<sup>72</sup>

- a. Investigating of over 64 cases in 2006;
- b. Prosecuting and securing conviction of 12 traffickers who are presently imprisoned since 2005;
- c. Some cases are currently going at different stages of prosecution in the law courts.

In terms of rescuing rehabilitating, NAPTIP has been able to rescue a total number of 757 victims between February 2004 and December 2006, including 6 babies. A total number of 73, 337 and 348 victims were rescued and counseled in 2004, 2005 and 2006 respectively.<sup>73</sup>

However, there are numerous challenges bedeviling the enforcement of anti-trafficking measures as well as the prevention of trafficking and the protection of victims. Porous and extensive borders hamper Law enforcement agent and immigration officers, lack of adequate funds to hire personnel and purchase equipment to conduct surveillance on the borders and proactive investigations into possible suspected areas of exploitation.<sup>74</sup> In fact in certain situation, officers usually report that they are being threatened by traffickers; they also that reported lack of information from the countries which had deported Nigerians hampered their further investigation.<sup>75</sup> There is a lack of networking among agencies. Nearly all the respondents complained that their units do not have copies of the new Anti-Trafficking Law and other relevant current legislation.<sup>76</sup> They also complained of shortage of manpower (specialists in particular) and adequate access to information on the phenomenon of trafficking. Much of the work in trafficking is hampered by the absence of adequate information on sponsors, traffickers, movement of victims, and other information from the general public as well as information from neighbouring countries. Lack of a central database has also hampered investigations and prosecutions.<sup>77</sup>

Another important piece of legislation protecting the rights of children is the 2003 Child's Rights Act. This is a comprehensive piece of legislation enacted by Nigeria in November 2003 which provides for the total well-being, protection and welfare of children in Nigeria.

It is instructive to note that Nigerian government, like most governments across the globe, has responded positively to combat the menace of child trafficking in the country by putting machinery in place. Notwithstanding the existence of specific legislation on trafficking in person and establishment of an agency to implement the law, the effects of child trafficking have continued to be felt among all and sundry.

#### 1.6.7: UNITED KINGDOM

In order to fulfill its obligations under the European Council Convention on Trafficking<sup>78</sup>, and to formalize the process of identifying people who have been trafficked to the United Kingdom (UK), the previous Labour government introduced the National Referral Mechanism (NRM). Anyone who is referred to the NRM by one of the designated 'first responders'<sup>79</sup> and who is believed by a 'competent authorities' to have reasonable grounds for a claim to having been trafficked is entitled to a 45-day 'reflection and recovery' period. During this time they can access services such as housing and medical care. Decisions as to who is a victim of trafficking are then made by the designated competent authorities. In the UK, these authorities are the UK Human Trafficking Centre (UKHTC) and the UK Border Agency (UKBA), the latter handles suspected victims of trafficking who have a current immigration application.<sup>80</sup>

<sup>72</sup> See UNICEF Information Sheet on Child Trafficking' [http://www.unicef.org/.../WCARO\\_Nigeria\\_Factsheets\\_Child\\_Trafficking.pdf](http://www.unicef.org/.../WCARO_Nigeria_Factsheets_Child_Trafficking.pdf) accessed on 02 December 2013.

<sup>73</sup> Ibid

<sup>74</sup> See 'United Nations Office on Drugs and Crime (UNODC)', Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo, September 2006.

<sup>75</sup> Ibid

<sup>76</sup> Ibid

<sup>77</sup> Ibid

<sup>78</sup> Like many European countries.

<sup>79</sup> First responders include: SOCA and UKHTC, local authorities, UKBA, POPPY Project, TARA Project (Scotland), Migrant Helpline, Kalayaan, Medaille Trust, Salvation Army, Gangmasters Licensing Authority, UK police forces, NSPCC/CTAIL, local authority children's services, Barnardo's, and the Northern Ireland Department of Health, Social Services and Public Safety.

<sup>80</sup> Myriam Cherti, (et al), 'The UK's Response to Human Trafficking Fit for Purpose?' available at [http://www.combattrafficking.eu/\\_/ippr-report-uk-s-response-human-trafficking-fit-purpose.pdf](http://www.combattrafficking.eu/_/ippr-report-uk-s-response-human-trafficking-fit-purpose.pdf) Accessed on 02 December 2013.

The Child Exploitation and Online Protection centre (CEOP) is responsible for ending the sexual abuse of children, including trafficked children.<sup>81</sup> The UKHTC and CEOP are now part of the Serious and Organized Crime Agency (SOCA).<sup>82</sup> Other specialist agencies include SCD9, a small specialist human trafficking division within the Metropolitan police that investigate and prosecute trafficking within London. The interdepartmental ministerial group on human trafficking is tasked with overseeing the implementation of the government's strategy, coordinating actions and monitoring<sup>83</sup> UK policy on human trafficking, and has also been proposed as fulfilling the primary responsibilities of an equivalent mechanism to a national obligation.<sup>84</sup> The group brings together ministers from various government departments, including the Home Office, Department of Health, Department for International Development and Foreign and Commonwealth Office.<sup>85</sup> However, the effectiveness of the group is called into question by the fact that it has only met twice since it was formed in May 2010.<sup>86</sup>

By its nature, trafficking is concealed from the authorities, but even when possible victims do come to their attention the process of identifying a victim of trafficking is often very challenging. Disclosure is rarely straightforward and often incomplete<sup>87</sup> for a number of reasons, including fear of retribution by traffickers or those involved in exploitation and the impact of trauma on memory.<sup>88</sup> Identification of victims is further complicated by the fact that many trafficked people face multiple exploitative situations, of which only some may reflect trafficking specifically. There are significant 'grey areas' to be looked into.<sup>89</sup>

### 1.6.8: UNITED STATES OF AMERICA

The United States, in combating trafficking, prohibits all forms of trafficking in persons through criminal statutes that were enacted over 150 years ago in the wake of the U.S. Civil War.<sup>90</sup> These statutes specifically outlawed slavery and involuntary servitude.<sup>91</sup> In 2000, the U.S. Congress also passed landmark legislation which gave birth to the Trafficking Victims Protection Act of 2000 (TVPA).<sup>92</sup> Specifically, the TVPA gave impetus to U.S. law by making human trafficking a crime against an individual thereby allowing the U.S. government to focus on victims of trafficking.<sup>93</sup> The government now provides funding to assist victims and issues a Trafficking (T) visa, created under the law, to provide protection and permanency to foreign born victims. Despite the staggering numbers of victims of this horrific crime, the numbers of traffickers caught and punished for their crime is pitifully low.<sup>94</sup> For instance, in 2009, the U.S. Department of Justice's Human Trafficking Prosecution Unit charged 114 individuals and obtained 47 convictions in 43 human trafficking prosecutions.<sup>95</sup> The average prison sentence imposed for federal trafficking crimes in 2009 was 13 years, and prison terms imposed that year ranged from two months to 45 years.<sup>96</sup>

### 1.7.0: THE EFFECTS AND CONSEQUENCES OF CHILD TRAFFICKING IN NIGERIA

The method employed by traffickers in getting to their victims includes psychological manipulations and coercion among other possible methods. These treatments are aimed at destroying the victims' physical and psychological defenses which directly or indirectly effects on the victims.<sup>97</sup>

<sup>81</sup> Ibid

<sup>82</sup> Ibid

<sup>83</sup> Ibid

<sup>84</sup> Ibid

<sup>85</sup> Ibid

<sup>86</sup> This group also has representation from the Scottish parliament and the Wales and Northern Ireland assemblies.

<sup>87</sup> Myriam Cherti, (et al), op cit.

<sup>88</sup> Chandran P., (ed) Human Trafficking Handbook: Recognizing Trafficking and Modern-Day Slavery in the UK, (LexisNexis Butterworths, 2011) p.2.

<sup>89</sup> Korzinski M., 'Identifying and Responding to Trauma in Victims of Trafficking and Exploitation' in Chandran P., (ed) Human Trafficking Handbook: Recognizing Trafficking and Modern-Day Slavery in the UK, LexisNexis Butterworths, 2011, pp.4-5.

<sup>90</sup> Myriam Cherti, (et al), 'The UK's Response to Human Trafficking Fit for Purpose?' available at <http://www.combattrafficking.eu/.../ippr-report-uk-s-response-human-trafficking-fit-purpose.pdf> Accessed on 02 December 2013.

<sup>91</sup> See '2010 Trafficking in Persons Report: United States of America Narrative' available at <http://bangui.usembassy.gov/.../2010-trafficking-in-persons-report-us-narrative.pdf> Accessed on 19<sup>th</sup> October, 2013

<sup>92</sup> See '2010 Trafficking in Persons (TIP) Report' available at <http://www.state.gov/documents/organization/142984.pdf> accessed on 02 December 2013.

<sup>93</sup> Ibid, The Act provided the U.S. government the framework to respond to the plague of human trafficking in the United States.

<sup>94</sup> Sara Feldman, 'The United States' Response to Human Trafficking: Achievement and Challenges' The United States Conference of Catholic Bishops/Migration and Refugee Services, April 2011.

<sup>95</sup> Sara Feldman, 'The United States' Response to Human Trafficking: Achievement and Challenges' The United States Conference of Catholic Bishops/Migration and Refugee Services, April 2011.

<sup>96</sup> i.e. 21 labour trafficking and 22 sex trafficking.

<sup>97</sup> See '2010 Trafficking in Persons (TIP) Report' available at <http://www.state.gov/documents/organization/142984.pdf> accessed on 02 December, 2013.

<sup>98</sup> See '2010 Trafficking in Children: Psychological and Social Policy Perspectives', CHILD DEVELOPMENT PERSPECTIVES, Yvonne Rafferty, 'The Impact of Trafficking on Children: Psychological and Social Policy Perspectives.pdf' available at [http://www.researchgate.net/.../227954065\\_The\\_Impact\\_of\\_Trafficking\\_on\\_Children\\_Psychological\\_and\\_Social\\_Policy\\_Perspectives.pdf](http://www.researchgate.net/.../227954065_The_Impact_of_Trafficking_on_Children_Psychological_and_Social_Policy_Perspectives.pdf)

### 1.7.1: Emotional Well-Being

The experiences associated with trafficking can lead to lasting psychological challenges. This is because, while in captivity, children experience physical and emotional trauma associated with removal from their families, homes, and communities; their subsequent encounters involve substantial harm through physical, emotional, and sexual abuse.<sup>98</sup> Thus, children who experience physical and sexual abuse are more likely to experience adverse emotional outcomes, including anxiety and depression, lower self-esteem, social isolation, symptoms of posttraumatic stress disorder (PTSD), substance abuse, and suicide.<sup>99</sup>

### 1.7.2: Physical Health Problems

Victims of child trafficking experience inhuman living conditions, inadequate diet and hygiene, beatings and abuse, neglect, and denial of their basic human rights to health care and protection, resulting in lasting health problems.<sup>100</sup> Victims of commercial sexual exploitation are further threatened by unsafe sexual practices, heightening risks of unwanted pregnancies, unsafe abortions, complications from frequent high-risk pregnancies, and sexually transmitted diseases, including HIV/AIDS.<sup>101</sup>

### 1.7.3: Behavioural Outcomes

Adverse behavioural outcomes, including attachment difficulties, mistrust of adults, antisocial behaviour, and difficulties relating to others, have been reported among children who were trafficked. Some younger children resort to self-harm to regain a sense of control through pain, whereas older children detach themselves from the harsh realities they have endured by abusing alcohol or drugs.<sup>102</sup> Research has linked hostile and aggressive behavior in children who were physically abused to the aggressive manner in which they are treated.<sup>103</sup>

### 1.8.0: CONCLUSION

Unequivocally, human trafficking is a complex issue. No wonder international legal instruments have been implemented to assist or rescue trafficking victims and to combat this worldwide epidemic.<sup>104</sup> To this end, even states that are not a party to the United Nations Convention against Transnational Organized Crime and its two related protocols are obligated to protect the rights of trafficked persons under provisions in the Universal Declaration of Human Rights, which comprises customary international law.<sup>105</sup> Regional efforts are promising, although, the issue of compliance and enforcement of anti-trafficking laws seems to be problematic, but not impossible to overcome. States must therefore honestly recognize their role in combating this world-wide epidemic, because trafficking continues to negatively impact on millions of people every year.

In compliance with the international instruments, several governments have enacted laws to criminalize trafficking and protect the victims.<sup>106</sup> Nigeria has also responded positively to combat trafficking in the country through the enactment of Nigeria enacted the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act in 2003. The Act has successfully empowered NAPTIP to arrest, prosecute and protect the victims of trafficking in the country. However, despite Nigeria's efforts at eradicating human trafficking within its borders, there is much more that can and

Accessed on 02 December 2013.

<sup>98</sup> Mitchels, B., 'Developing effective communication with children victims of violence and trafficking. Practical handbook for social workers, police, and other professionals. UNICEF and UNMIK/ Government of Kosovo Ministry of Labour and Social Welfare', available at [http://www.childtrafficking.org/pdf/user/handbook\\_lets\\_talk\\_a5\\_eng.pdf](http://www.childtrafficking.org/pdf/user/handbook_lets_talk_a5_eng.pdf) accessed on 02 December 2013.

<sup>99</sup> Nelson, E. C., Heath, A. C., Madden, P. A. F., Cooper, M. L., Pinwiddie, S. H., Bucholz, K. K., et al., Association between self-reported childhood sexual abuse and adverse psychosocial outcomes. Archives of General Psychiatry, 2002, 59, 139-145.

<sup>100</sup> See the International Labour Organization-International Programme on the Elimination of Child Labour, 2001. Trafficking of children: Problem and emerging Responses Worldwide, Bangkok, Thailand, available at <[www.unicef.org/violencestudy/pdf/2002\\_traff\\_unbearable\\_en.pdf](http://www.unicef.org/violencestudy/pdf/2002_traff_unbearable_en.pdf)> accessed on 02 December, 2013.

<sup>101</sup> Mitchels, B., Developing effective communication with children victims of violence and trafficking. Practical handbook for social workers, police, and other professionals. UNICEF and UNMIK/ Government of Kosovo Ministry of Labour and Social Welfare.(2004, available at <[http://www.childtrafficking.org/pdf/user/handbook\\_lets\\_talk\\_a5\\_eng.pdf](http://www.childtrafficking.org/pdf/user/handbook_lets_talk_a5_eng.pdf)> accessed on 02 December 2013.

<sup>102</sup> Ibid

<sup>103</sup> Kaplan, S. J., Pelcovitz, D., & Labruna, V., Child and adolescent abuse and neglect research: A review of the past 10 years. Part 1: Physical and emotional abuse and neglect. Journal of the American Academy of Child & Adolescent Psychiatry, 1999, 38, 1214-1222.

<sup>104</sup> Lindsey King, 'International Law and Human Trafficking', TOPICAL RESEARCH DIGEST: HUMAN RIGHTS AND HUMAN TRAFFICKING, available at <http://www.nineword.com/.../international-law-and-human-trafficking-university-of-denver.html> Accessed on 02 December, 2013.

<sup>105</sup> Ibid

<sup>106</sup> For example, Trafficking Victims Protection Act of 2000 (TVPA) in United States and Trafficking in Persons (Prohibition) Law Enforcement and Administration Act in Nigeria, among other countries.

should be done. The various factors responsible for human trafficking highlighted above need to be adequately addressed. Thus, human trafficking will only be reduced if the Nigerian government wages serious war against poverty and corruption. This is because, once traffickers discover that law enforcement officials are less likely to accept payoffs to protect their illegal activities, they will be forced to jettison the act.

More so, by combating corruption, funds that are currently going into the pockets of government officials can be added to the public coffers and used to invest in education and economic development within Nigeria. This will lead to increased opportunities for economic advancement within the country, reducing the need for women and young girls to seek employment and educational opportunities outside of their communities or country. By taking the foregoing aggressive stance, Nigeria can lead by example and be a leader in the fight against human trafficking in Africa.