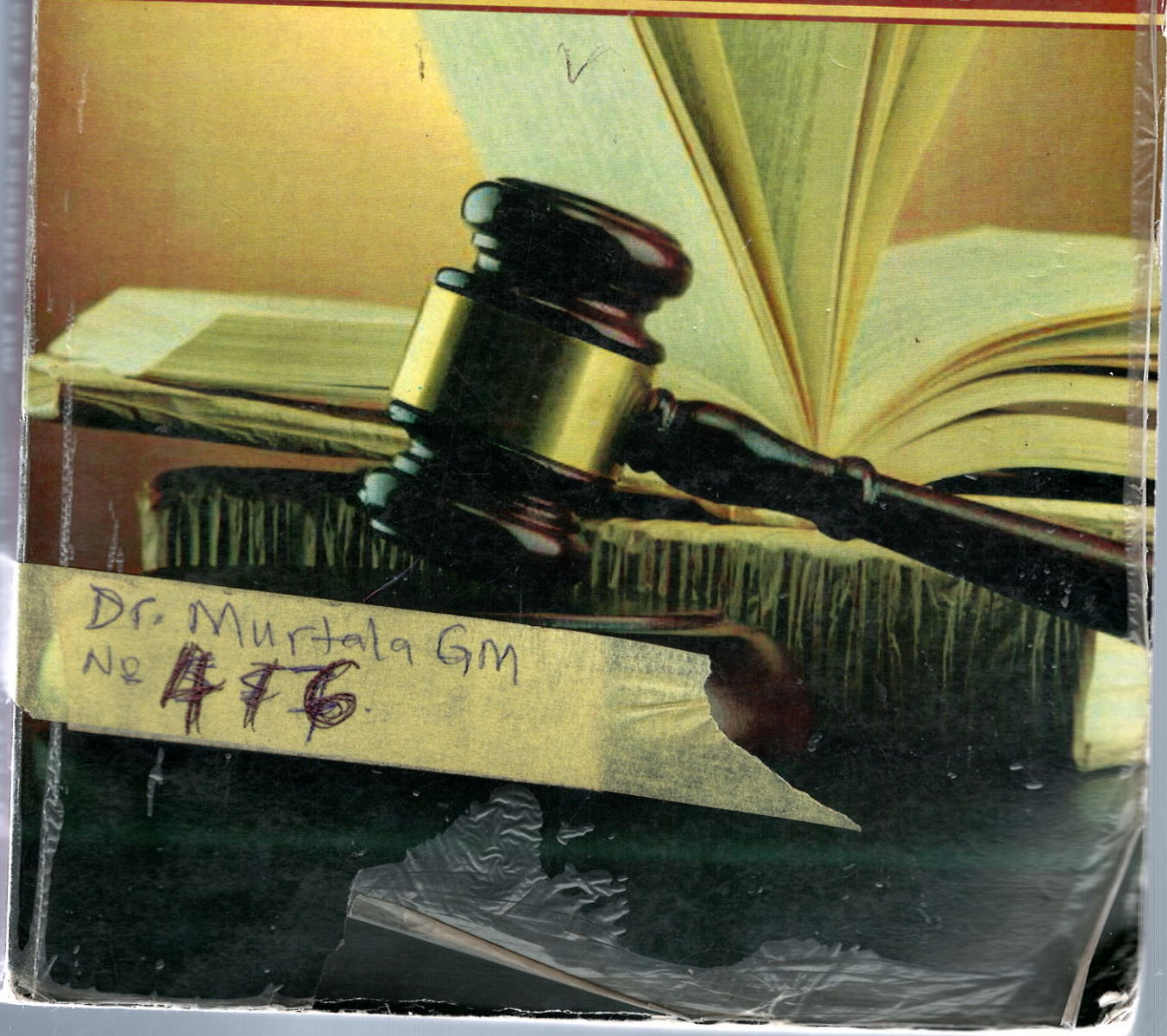
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APPRAISAL OF THE LEGAL FRAMEWORK AGAINST CHILD TRAFFICKI NG IN NIGERIA

By

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1.0 Introduction

Nigeria just like any other country in the world is facing the menace of child trafficking. The menace has assumed an alarming dimension particularly from the 1980s despite various legislative and administrative measures put in place by the government. Traffickers have evaded all efforts put in place to address the menace. Available record reveals that child trafficking is the third largest crime after drug trafficking and financial fraud in the world today.[300] It should be noted that Nigeria is among the top eight countries with the highest rate of child trafficking in the world.[301]

2. Despite the fact that Nigeria is a signatory to many international and regional instruments aimed at fighting child trafficking, there are existing national laws in Nigeria which are supposed to protect children trafficking. These laws among other things include the Child's Right Act of 2003, Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2015 (as amended), the Children and Young Persons Act 1959, the Immigration Act 1990, the Criminal Code 1916 and the Penal Code 1960, as well as other states legislation on human trafficking. These laws jointly prohibit child trafficking in all its ramifications. However, despite these greatly increased legislative and policy by the Government, the impact is little or none at all in addressing or controlling the scourge of child trafficking in Nigeria. The effect of child trafficking on the social and economic development of Nigeria and its people cannot be overemphasized. Child trafficking has proved to be a serious problem to the Nigerian nation, international organizations and partners. The paper intends to study the various laws enacted by the Nigerian government to fight human trafficking (children inclusive) with a view to see the extent to which the laws have addressed issue of child trafficking in Nigeria, identify its weaknesses and suggest necessary changes needed.

2:1 Definition of a child

The word "Child" has been defined differently in both the local and international instruments dealing with the rights and welfare of the children in Nigeria depending on purpose for which it was made. A child is statutorily defined as a person under the age of 14 years, while a young person is a person under the age of 17 years but who has

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[300] Rabiu, Sani Shatsari "Criminal Prosecution of Human Traffickers in Nigeria: Progress and Challenges within the National Agency for the Prohibition of Trafficking in Person", Vol. 2 No. 1, (2010), *Bayero University Journal of Public Law*, at 44

[301] Adams Odunayo "Travails of Nigerian Women Prostitutes in Italy" Naija.com, available at http://www.naij.com/346157-photos-travails-of-nigerian-women-prostitutes-in-italy.html accessed on 20/12/2014

attained the age of 14.[302] This age ceiling in Nigerian law is lower than the age standard in international instruments. Furthermore, recent findings on children have shown instances where traffickers lie about the age of trafficked victims to beat security agencies;[303] other definitions are made to include:

(a) A child under seven (7) years is not criminally responsible for an act or omission; however, there is a rebuttable presumption that under twelve (12) years cannot commit a crime.[304]
(b) Juvenile Justice: The Children and Young person's Law differentiates between the child and young person. It is below 14 years for the former, while the latter is not to exceed 17 years.[305]
(c) Voting Rights: The age is fixed at 18 years.[306]
(d) Marriageable age: This depends on the type of marriage being contracted e.g. under the Matrimonial Cause Act 1970;[307] As at common law is 16 years; under the Customary and Islamic law, it varies from place to place.[308]
(e) Right to acquire land: the minimum age is 18 years.[309]
(f) Contractual age: The Infant Reliefs Act 1874[310] and Infant Reliefs law defines infant as any person below the age of 21 years.
(g) Right to be member of Limited Liability Company: If the members are not more than two it is fixed at 18 years.[311]

Be that as it may, the Child Right Act defines a child as a person under the age of eighteen (18) years. And age of majority means the age at which a person attains the age of eighteen.[312] For all intents and purposes therefore, a child as envisaged in this article is simply refers to a person who is below the age of 18 years.

2. 2 Child Trafficking

Trafficking encompasses the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power 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.[313] At a minimum, exploitation implies the prostitution of others or other forms of sexual exploitation,

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[301] See Ladan, M.T., "Rights of the Child in Nigeria: An Overview", being a paper presented at a two-day workshop on Human Rights, 4th-5th August 1997. See also Section 2 of the Children and Young Persons Act Cap. 32 Laws of Nigeria and Lagos, 1958.

[302] See Ladan, M.T. p. 5.

[303] Section 30 of the Criminal Code Act Cap.38 Laws of Federal Republic of Nigeria, 2004; however, it is 10 years under section 50 of the Penal Code Cap 38 and 41 Laws of the Federation of Nigeria 2004

[304] Section 2, Children and Young Person Law Cap 25 Lagos; Cap 22 Oyo; Cap 21 Ogun; Cap 21 Northern Region of Nigeria

[305] See Section 12(1) (b) of the Federal Republic of Nigeria Electoral Act 2010

[306] Section 3(i)(e) only states age of majority which is 21 years.

[307] Some custom specify 12 or 13 years.

[308] See Section 7 of the Land use Act Cap. 202 Law of the Federal Republic of Nigeria 1990

[309] A Statute of general application but , Ondo, Ogun Oyo and defunct Bendel state has passed their own Infant Laws

[310] See Section 20 of The Company and Allied Matters Act Cap 59 Laws of the Federation of Nigeria 1990.

[311] Section 277 of the Nigeria Child right Act, 2003.

[312] Marsh, K., Sarmah, R., Davies, P., Froud, E., Mallender, J., Scalia, E., Munton, T., Zurawan, a., Powlton, I., & Tah, C., (2012). An evidence assessment of the routes of human trafficking into the UK; March 2012, Occasional Paper 103; retrieved October 29 2015; https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115923/occ103.pdf

forced labour or services, slavery or practices similar to slavery, servitude or the removal of human organs such as kidney.[314]

3.0 Pre-Colonial Laws on Child Trafficking in Nigeria

Mindful of the vulnerable nature of children which have subjected them to all forms of abuse and exploitation, the Nigerian government in a bid to secure children against all forms of abuses had during its early stages of development put some legislative measures in place to fight the menace. The paper under this heading will attempt to look at some of these laws with a view to identifying its weaknesses and suggest possible areas of improvement.

3.1 Children and Young Persons Law 1958

The Children and Young Persons Law was enacted for the Federation and Lagos. It was contained in Chapter 32 of Laws of the Federation 1958 that has its commencement date as 1st July 1946. It makes provision for the welfare of the young persons and the treatment of young offenders and for the establishment of juvenile courts. The CYPL has differentiated between a child and young person.[315] The child is a person who is below the age of 14 years while the young person is above 14 years but below 18 years.[316] The CYPL is a special code of law and procedure put in place to handle cases involving juvenile as against the conventional courts. The use of juvenile justice system was meant to protect the child from the cumbersome, harsh and overly technical nature of procedure in the ordinary courts. This practice help in providing protection to victim of trafficking who usually do not volunteering information about traffickers for fear of been attack. The adversarial criminal justice system in Nigeria has made the practice subject of attack because victim of child trafficking who are usually subjected to all kind of threat both physical and spiritual find it difficult to open up in open court to give evidence required to prove the crime against traffickers. Consequentially, the removal of the juvenile justice system from the criminal justice system is bound to expose the juvenile offenders to uncontrollable injustice all under the pretext of protecting their interest.[317]

3.2 The Criminal Code 1916 (CC)

This is one of the early pre-colonial laws enacted in Nigeria which among other things imposes criminal sanctions against crimes like prostitution, human trafficking among others. Before the enactment of the National Agency for the Prohibition of Trafficking in Person law in 2003, matters relating to child trafficking are found scattered in different laws in Nigeria which include the Criminal Code.

3. It was stipulated under the Criminal Code that, any person including parents or guardian who has the legal custody of a girl under the age of 13 years old, who causes or encourages the seduction or unlawful sexual relation or causes the prostitution of such a child is guilty of an offence and attract 2 years imprisonment.[318] Also, the Criminal Code power to punish is extended to cover person who procure a young girl

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[314] Ibid

[315] Section 2 of the Children and Young Person Law 1958

[316] Ibid

[317] Bisi Olateru-Olagbegi and Anne Ikpeme "Review of Legislation and Policies in Nigeria on Human Trafficking and Forced Labour: International Labour Organisation, Abuja 2006, at 24

[318] Section 222(A) of the Criminal Code, (hereinafter referred to as "CC")

under the age of 18 years for purposes of having carnal knowledge with her either in Nigeria or abroad,[319] and causing a young girl to become a prostitute or make her to reside in a brothel as a prostitute either in Nigeria or abroad.[320] It is also an offence and punishable under the CC to use threat, intimidation or false pretence to acquire a child for unlawful sexual relations whether in Nigeria or abroad.[321] Furthermore, it attracts similar punishment to exploits female prostitutes for a living,[322] or to conspire with another person to induce or lure a young girl through deceive or pretence to have sexual intercourse between her and any man.[323] Equally, no person should use threat to intimidate or put another person under fear so as to make him to engage in acts such as prostitution, exploitative labour, etc,[324] or subject a person into slavery.[325]

4. Having seen the above provisions of the Criminal Code, this study is of the view that the penalties provided by the CC for offences that constitute human trafficking are inadequate. This is because, human trafficking offences under the Criminal Code are regarded as misdemeanors with penalties for the offenders between two to seven years, which is considered insufficient to deter those contemplating committing the offence.

3.3 The Penal Code 1960

The Penal Code (hereinafter known as PC) is one of the early laws enacted during the late era of colonialism in Nigeria; it came into force on the 30th September, 1960.[326] Penal Code applies in the northern part of Nigeria which is predominantly occupied by Muslims. The enactment of the law was influenced by the Sudanese criminal code, which was also promulgated based on the Indian penal code.[327] The Penal Code provisions have identified offences of human trafficking and cover the interest of children as young as 14 years for boys, and 16 years for girls against all form of exploitative gains.[328] Comprehensive as the provision of the Penal Code may be, coupled with successes recorded in the area of providing protection to children against all forms of exploitation including trafficking, the following glaring inadequacies have been identified which requires immediate solution through amendment of the Penal Code, and merging of all laws on child trafficking in Nigeria.

3.4 The Labour Law

The historical development of labour law in Nigeria is one that sprouted out of its colonial history which the British practiced and bequeathed to the post-colonial independent Nigerian government [329] It was under this system that formal and semi-formal relationships was established with the British in particular and the Europeans in general. Such relationships led to the introduction of wage employment in a formal

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[319] Section 223 of the CC
[320] Section 222(2)(3)(4) of the CC
[321] Section 224 of the CC
[322] Section 225(A) of the CC
[323] Section 227 of the CC
[324] Section 366 of the CC
[325] Section 369 of the CC
[326] Bisi Olateru-Olagbegi and Anne Ikpeme "Review of Legislation and Policies in Nigeria on Human Trafficking and Forced Labour: International Labour Organisation, Abuja 2006. at 18
[327] Ibid
[328] Section 271-273 of the Penal Code.
[329] Adebisi, Moses Adesola, "History and Development of Industrial Relations In Nigeria: Hybridity of Western Models Versus Military Interventionism Culture" (2013) Mediterranean Journal of Social Sciences Vol. 4 No 14, at 687

industrial setting in Nigeria which is governed by labour law.[330] Although the Labour Law was not enacted to primarily deal with child trafficking, it has provided strong support against all form of exploitative means against children in Nigeria. It is for the above reason that the law need to be strengthened to provide support mechanism in fighting child trafficking. The law states that:

"any person who requires any other person, or permits any other person to be required, to perform forced labour contrary to section 34 (1) (c) of the Constitution Federal Republic of Nigeria shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N1, 000 or to imprisonment for a period not exceeding two years, or to both"[331]

Despite the above provision of the Labour Law, it has not achieved much in addressing and protecting the Nigerian child who are mostly the victim. This can be attributed to insufficient penalty imposed against violators of the law. Hence, as a result of that, there has been declined in the performance of labour officers in the recent past.[332]

It is submitted that, although, the Nigeria Labour law is not the main law dealing with human trafficking, there is need for the law to be strengthened so as to provide support mechanism in fighting human trafficking. This is by amending the law to address the problems highlighted above and provide for more severe punishment to the offenders to deter others from committing the offence with emphases on the point stated below;

1. Giving equal right to women to participate in national development by removing all barriers to be employed in all sector of the economy like their men counterpart.

4.0 Post Colonial Laws to Control Child Trafficking in Nigeria

Although there are some laws put in place in Nigeria to protect children against all forms of exploitation including trafficking before her independence in 1960 as discussed earlier in this paper, these legislative measures were further strengthened by some legislation which were specifically enacted after independence to fight the menace which is referred to as post-colonial laws, which will form the bases of our discussion under this heading.

4.1 The Constitution of the Federal Republic of Nigeria

According to the Privy Council, in *Minster of Home Affairs V. Fishe*,[333] the term Constitution has been defined as "a legal instrument giving rise, among other things, to individual rights capable of enforcement in a court of law. However, the constitution was defined by the Nigerian Supreme Court in *People Democratic Party V. Independent National Electoral Commission*[334] as "the organic law or grand norm of the people." It is the Law through which other laws drive their legitimacy. Any law in Nigeria which is in consistent with the provision of the constitution is null and void to the extent of its inconsistency.[335] While, it seeks to provide the machinery of

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[330] Ibid

[331] Section 73(1) Nigeria Labour Act

[332] Bisi Olateru-Olagbegi and Anne Ikpeme "Review of legislation and policies in Nigeria on Human Trafficking and Forced labour: 2006, at 31

[333] *Minster of Home Affairs V. Fisher,* (1980) Ac at.319

[334] *P.D.P V. I.N.E.C.* (1999) 11 N.W.L.R. (pt.626) at 200

[335] Section 1 (3) of the Constitution of the Federal Republic of Nigeria 1999 (hereinafter referred to as "the Constitution)

government, it also gives rights and imposes obligations on the people it is meant to govern.

5. Although the history of the Nigeria Constitution has been without any formal attempt by the colonial masters to safeguard human right, the 1960 independence Constitution adopted Universal Declaration on Human Right. Subsequently this has been maintained in all the Nigerian Constitution. The 1999 Constitution committed itself to the promotion of good governance and welfare of all persons to the principles of freedom, equality and justice.[336] Since the adoption of the Universal Declaration on Human Right in 1948, Nigeria has not only acquired global status and importance but have grown tremendously both in conception and content.[337] Chapter IV of the 1999 Constitution[338] has made adequate provisions in form of fundamental rights which children are also beneficiaries. The fundamental rights include right to life,[339] right to dignity of human person,[340] personal liberty,[341] fair hearing,[342] etc. These rights are often being violated in cases of child trafficking and their provisions in the constitution make them legally enforceable when violated. To be more specific, reference has to be made to some sections of the constitution of the Federal Republic of Nigeria which is against child trafficking. To this end, the Constitution provides that the security and welfare of the people shall be the primary purpose of the Government.[343] Equally, the Constitution also requires that the state social order should be based on the idea of freedom, equality and fairness. In order to achieve this, the sanctity of human life and dignity must be given utmost respect. Furthermore, children, young persons and the aged should be protected against any form of exploitation, moral and material neglect.[344]

6. The inclusion of the above sections[345] in the Constitution is a welcome development. This is because it has been able to address issue of social objectives and rule of law adequately. The section guarantees equality of rights, obligation and opportunity before the law as well as independence, impartiality and integrity of courts of law.[346] This was further re-echored in the case of State UP V. *Chaurasia*[347] where the Supreme Court held that the state must protect its weaker citizens, by ensuring that no exploitation of the poor or ignorant exist. This position was exemplified by the Nigerian Government when it established the legal Aid Council to enhance the rule of law through the provision of free legal assistance and advice to the needy.[348]

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[336] Jacob A. D. "Human right protection in Nigeria: The past, present and goals for role actors for the future (2013) Journal of law, policy and globalization vol. 14 at 1
[337] Ibid
[338] See Section 33-43 of the Constitution
[339] Section 33 of the Constitution
[340] Section 34 of the Constitution
[341] Section 35 of the Constitution
[342] Section 36 of the Constitution
[343] Section 14 (2) (b) of the Constitution
[344] Section 17 of the Constitution
[345] Ibid
[346] Chijioke, H. Orji, Jerry, Edemeka and Sasi, Jaja *Juriscope: Explaining the 1999 Constitutic* Harcourt, Lawquest Limited 1999) at 48
[347] AIR (1989) SC. 19
[348] Sebastine Tar. Hon *Constitutional Law and Jurisprudence in Nigeria* (Port Harcourt: Pearl Publish

7. In relation to the protection of child trafficking and related matters in Nigeria, the Constitution further provides that:

"Every individual is entitled to respect for the dignity of his person and accordingly:

(a) No person shall be subjected to torture or to inhuman treatment or to degrading treatments;

(b) No person shall be held in slavery; and

(c) No person shall be required to perform forced or compulsory labour."[349]

This means that no person including children should be denied of his right to human dignity by subjecting him to any form of ill-treatment or dehumanized condition including sexual exploitation and trafficking. This position was deliberated in the case of *Uzoukwu V. Ezeonu*[350] where the court held that no person should be subjected to any form of slavery.

Furthermore, the Nigeria Constitution also frowns against all forms of child exploitation that fringes on the child's right to personal liberty,[351] freedom of movement,[352] as well as right to be free from all forms of inhuman treatment, slavery torture etc.[353] It is also important to point out here that the right of victim of trafficking to institute a legal action has also been recognized under the Nigerian Constitution. A victim of trafficking can institute an action in a court of law challenging infringement of any of his right as provided under the constitution.

The Constitution of Federal Republic of Nigeria provides that;

(1) Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress

(2) Subject to the provisions of this Constitution, a High Court shall have original jurisdiction to hear and determine any application made to it in pursuance of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement within that State of any right to which the person who makes the application may be entitled under this Chapter.

(3) The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section.

(4) The National Assembly:

(a) may confer upon a High Court such powers in addition to those conferred by this section as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by this section; and

(b) shall make provisions-

(i) for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this Chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim, and

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[349] Section 34 of the Constitution

[350] *Uzoukwu V. Ezeonu* (1991) 6 NWLR (pt. 200)) at 708

[351] Section 35 of the Constitution

[352] Section 41 of the Constitution

[353] Section 34 of the Constitution

(ii) for ensuring that allegations of infringement of such rights are substantial and the requirement or need for financial or legal aid is real.[354]

The above right and privileges provided under the Nigeria Constitution could be the foundation for the protection of the rights of Nigerian child against all forms of exploitation including trafficking.

4.2 The Trafficking in Person Prohibition Law Enforcement and Administration Act 2003,

The Act originated from a private bill presented to the Nigerian National Assembly, by the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), in 2001. A Non-governmental Organization (NGO) with nationally recognized advocacy, formed by the then wife of the vice President of Nigeria, Hajiya Titi Atiku Abubakar; The National Assembly passed the Bill into law on 7th July 2003 and was assented to by the then President of the Federal Republic of Nigeria, Chief Olusegun Obasanjo, on the 14th July 2003.[355] The Act establishes the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), significantly, to harmonize all anti-human trafficking laws in Nigeria so as to confront the common enemy which is human trafficking including children through investigating and prosecuting trafficking offenders while rehabilitating trafficking victims. The Act was purposely enacted in order to domesticate the United Nation Trafficking Protocol to prevent, suppress and punish trafficking in person, especially women and children which Nigeria had ratified in 2001.[356]

NAPTIP Act has undergone two amendments since its enactment in 2003 to 2016. The first amendment was in 2005, while the second amendment was in 2015. All the amendments were aimed at straightening the Act so as to adequately and effectively fight child trafficking in Nigeria. Despite these amendments, the overall performance of NAPTIP Act is still not satisfactorily. Although the amendment was able to enlarge its scope in area of investigation, prosecution of human traffickers, treatment of trafficked persons as well as seizure of properties and forfeiture,[357] that were hitherto identified as challenges facing the Act in fighting the menace of child trafficking in Nigeria, but still there exist some weaknesses in the Act which hinders adequate operation of the NAPTIP Act in fighting the menace of child trafficking in Nigeria. There is the urgent need to further amend the Act so as to tackle the emerging challenges as well meet up the current realities which were not addressed by the 2015 amendments. By so doing, the agency (NAPTIP) will be able to achieve its desire for wiping out child trafficking in Nigeria.

8. The following areas are some of the challenges which have not been covered by NAPTIP Act in the 2015 amendment, hence the need to further amend the Act to cover these areas:

1. Baby harvesting: It is important to point out that, child trafficking in Nigeria is traditionally known for exploitative purposes such as prostitution, begging, domestic

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[354] Section 46 of the Constitution

[355] Rabiu Sani Shatsari "The the Trafficking of Women and Children in Nigeria, an Analysis of the New Anti-Trafficking Legislation and its Application" (2011) *Jurnal Undang-undang*, at 85

[356] Ibid.

[357] Trafficking in Person (Prohibition) law enforcement and Administration Act 2015. Explanatory memorandum of Appendix iv

servant etc. However, in recent past human trafficking in Nigeria have metamorphosed into what is called "Baby harvesting"[358] The first case of baby harvesting or baby factory was reported in 2006 and since then it has been increasing by the day like a wild fire. In May 2008 alone, about 25 teenage girls were intercepted in Enugu. Between June and October 2011, about 49 teenage girls were rescued from a baby factory in Abia and Lagos state of Nigeria. While between May and July 2013 over 53 teenage girls and 11 babies were arrested by the police in Enugu and Abia state of Nigeria. This demonstrates how rapid the menace is spreading.

9. Under this type of modernized form of child trafficking, teenage girl and young women are deceived by traffickers to the so called baby factory with empty assurances for job, while those who got pregnant through extra marital means come voluntarily to the factory for either safe abortions or delivery. Other young girls come to the factory voluntarily and later impregnated by men who are specially employed for that purpose. The newly born babies are then either sold out to interesting public or sometimes disappeared through mysterious means or even dash out to childless couples or religion orphanages [359] The NAPTIP Act been the principal law which is enacted to purposely address cases of human trafficking in Nigeria cannot therefore be said to cover cases of baby factory which is viewed strange to the law and implementers of the law. It is therefore questionable whether NAPTIP can effectively combat the "baby factories" phenomenon. Section 21 of the Act provides;

"Any person who buys, sells, hires, lets or otherwise obtains the possession or disposal of any person with intent, knowing it to be likely or having reasons to know that such a person will be subjected to exploitation, commit an offence and is liable on conviction to imprisonment for a term of not less than 5 years and a fine of not less than N2, 000,000.00"

Looking carefully at the law will tell you that it only concern with selling or buying of another person for exploitative means. The question therefore is, can the phenomenon of baby harvesting fall under this category? Particularly situation where such children given out free to a childless couple or to a religion orphanages as the situation sometimes in baby factory? Will such a situation fall under the provision of the above section? It is the writer opinion that this type of situation has not being envisaged by the drafter of this law which makes it to fall outside the realms of the Act. To further buttress this argument, it is the submission of the writer that mere mentioning of the word "sale or buy" of a person in the Act alone is not enough. Because the word "sale or buy" are generic in nature which cannot be construed to cover phenomenon like "baby harvesting" which we consider more complicated than the word "sale or buy" of a person simpliciter as envisaged by the NAPTIP Act.

2. Lack of financial autonomy: Financial Autonomy has been defined as the ability to make your own decisions without being controlled by anyone else.[360] The

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[358] Svetlana S. Huntley "the Phenomenon of Baby Factories in Nigeria as a New Trend in Human Trafficking" International Database I.C.D. brief 3 October, 2013

[359] Ibid

[360] Cambridge Dictionary online, available at http://dictionary.cambridge.org/dictionary/english/autonomy, accessed on 1st September, 2015

NAPTIP Act 2015[361] provide for the appointment of Director-General to head the agency as against Executive secretary in the former Act, who shall be the Chief Executive Officer of the agency, but this elevation or change in nomenclature did not extend to cover financial autonomy of the agency. The power of the agency to access fund for its general administration is still vested in the Attorney General and Minister of Justice.

The Act provides:

"The minister shall make regulations and issue guidelines for the management of the fund provided for the Agency."[362]

The Act further provides:

"...Provided that where it is expedient, and subject to the approval of the minister, the Director General shall have power to disburse monies, not exceeding N500, 000.00."[363]

The combine effect of these provisions means that the Director General of NAPTIP who is also the Chief Executive Officer of the agency cannot do anything without the approval of the minister including routine activities of the agency like fuelling of operational vehicles, generators etc.[364] This has hampered the agency in discharging so many of its duties as provided under the law. This is because, the duties of the agency among others, requires constant monitoring of the activities of traffickers across Nigeria through gathering of intelligent, and due to the secretive nature of the operation of traffickers, it requires lot of intelligence gathering through travelling across the length and breadth of Nigeria and neighbouring countries, and this requires a lot of money that must be available on demand. Furthermore, power of the agency to investigate and prosecute suspected traffickers requires money which will be used to invite witnesses both within and outside Nigeria and their upkeep during the pendency of the trial. All these requires readily available fund without necessarily waiting for approval from outside.

10. The provision of the Act which tie the power of the agency to acquire money to perform its routine activities under the whams and caprices of the Attorney General/minister of Justice is hindering the smooth performance of the agency. This is because the Attorney General/minister of Justice, who is already choked up with many other state responsibilities, may not have time to attain to daily demand of the agency, and this will hamper the effective performance of the agency.

4.3 Child Right's Act 2003

The Child Rights Act (hereinafter known as CRA) was enacted in 2003 by the National Assembly of Nigeria. The Act is contained in Chapter 50, Laws of the Federation of Nigeria (LFN), 2004. In the Act, the word "child" has been defined as one who is below the age of eighteen (18) years old.[365] It categorically provides that such a child's best interests shall remain paramount in all considerations.[366] A child

[361] Section 3(d) of the NAPTIP Act 2015
[362] Section 67(3) of the NAPTIP Act 2015
[363] Section 68 of the NAPTIP Act 2015
[364] Section 5 of the NAPTIP Act 2015
[365] Section 227 of the Child Right Act
[366] Section 1 of the Child Rights Act

shall be given such protection and care as is necessary for its well-being, retaining the right to survival and development and to a name and registration at birth.

11. The CRA is enacted for the purposes of protecting human rights of children in general and those who are victims of trafficking in particular.[367] The Act covers a very wide range of areas which include the protection and care of a child, right of a child to survival and development, freedom of association and peaceful assembly, prohibition of child marriage, prohibition of child betrothal, unlawful sexual intercourse, and the treatment of offenders among others.[368]

The Act which has 278 sections and 11 schedules was aimed at providing a uniform standard throughout the country; whether this has been achieved or not is another question that needs to be answered altogether. This is because only 23 states out of the 36 states in Nigeria have adopted the Act in their respective state laws thereby making it inadequate to provide all the necessary care, protection and rehabilitation required for children victims of all forms of exploitation including child trafficking throughout Nigeria. The Act was intended to repeal the Children and Young Persons Act and has broadened the law in relation to children's rights and responsibilities of children, protection of the rights of children, wardship of children, fostering, adoption, guardianship, institutional treatment, custody, supervision and care, survival and protection of Nigerian children.[369]

4.4 Immigration Act 1990

The Nigeria Immigration Act (hereinafter known as NIA) is one of the various national laws put in place by the Nigeria Government that assist in fighting child trafficking. Although the Act is not primarily enacted to fight child trafficking, it frowns at all forms of child trafficking in Nigeria, and to achieve this, it has undergone various changes since the immigration service was separated from the Nigeria Police Force (NPF) in 1958. Since then, the Act was able to provide good legislative provisions that match international and global practice in the implementation of modern migration management and criminalises child trafficking[370] Furthermore, the Immigration Act has continued to go through changes to accommodate emerging phenomena such as aliens control and border patrol management, issuance of all Nigerian travel documents among other functions. In their effort to perform their statutory functions the Nigeria Immigration Service has been able to arrest a number of child traffickers and their kingpin. This was disclosed by the controller of the Immigration Services who is in-charge of Katsina State, Nigeria. He stated that, 37 people have been arrested and arraigned before the courts for various offences relating to human and child trafficking in Nigeria.[371]

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[367] Sule, D. Israel "Relevance of CRC/CRA/CEDAW to Rehabilitation and Re-integration of Victims of Trafficking being a Paper Presented at a Training Workshop for Social Workers and Security Personnel in the Effective Care Services for Victims of Human Trafficking in Collaboration with UNICEF, held at Police Officers Mess Bumpai, Kano on 18th-21st September, 2006

[368] Ibid

[369] Bisi Olateru-Olagbegi and Anne Ikpeme "Review of Legislation and Policies in Nigeria on Human Trafficking and Forced Labour: International Labour Organisation, Abuja 2006. P.20

[370] Ibid

[371] Emmanuel Ogbumuo, "Immigration Arrests Human Trafficking Kingpin, 5 victims In Katsina" Premium times of 6th January, 2015

12. However, despite this laudable effort by the Nigeria Immigration Services in cracking down human traffickers, there exist also bad elements among the agency that sabotaging its good intention in fighting child trafficking. Many in the anti-trafficking movement see Nigerian Immigration official as the major leak in the bid to drive the human merchants underground.[372] Most of the persons interviewed in the course of this research were of the view that child trafficking has continued to thrive in Nigeria because of collusion between some security agents such as the Immigration officers, embassy officials, airline officials and traffickers.[373] These officials often take bribes in exchange of, or facilitating a smooth passage across the borders for traffickers and their victims.[374] In fact, one of the top officials of the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) also corroborated the above statement, where she raised the same concern and stated that:

It is sad that some officials are colluding with traffickers. It is a confirmation of the widely held belief that you can get anything done in Nigeria as long as you are ready to pay a bribe.[375]

Worthy of mention here is the efforts put in place by the Nigerian Government through NAPTIP in collaboration with other countries like US, France, Belgium, Italy, Spain, United Kingdom, Ireland and Netherland to investigate cases of child trafficking ring in the country yielded some positive results. Thus, 56 Nigerians, including Immigration officers were arrested.[376] Mohammed Babadede, the NAPTIP's Director of Investigation has equally confirmed the operation, when he said;

All I can tell you is that all those implicated are being investigated. And the Comptroller-General of Immigration is not even ready to cover them up. I will also like to tell you that our investigations have shown that traffickers are well-heeled as they have money to corrupt airliners, immigration officials and several other agencies in order to get through. They give bribes to people to procure both genuine and fake passports and visa with which to ship out their victims out of Nigeria.[377]

It has also been observed at a consultative session held on January 2006 in Jos, the capital city of Plateau state, Nigeria, that, for the fight against child trafficking to achieve meaningful result, all the affected anti trafficking agencies must enter into a partnership and collaborative exercise. As rivalry, lack of effective training, research and intelligence gathering among the law enforcement agencies cause nothing other than hurdles against the fight against child trafficking in the country.[378] Furthermore, ineffectiveness in applying the child trafficking laws by security agencies, lack of awareness, fund, cooperation among the security agencies, corruption, weak data base

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[372] Ibid

[373] Mohammed Ali Mashi (Retired Immigration Officer, Former NAPTIP Zonal Officer and Proprietor of Global Improvement of Less Privileged people Initiative with Headquarter in Kano, Nigeria) Interview by Author, Kano: Kano state Nigeria, Date 20th July, 2014.

[374] Musikilu Mojeed, "How Immigration Officials and Voodoo Aid Human Trafficking Business in Nigeria" Prime Times of 6th January, 2015

[375] Veronica Umaru, (National Coordinator for Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) Abuja, Nigeria) Interview by Author, Abuja: Nigeria on 7th September, 2014

[376] Musikilu Mojeed, " How Immigration Officials and Voodoo aid Human Trafficking Business in Nigeria" Prime Times of 6th January, 2015

[377] Ibid

[378] Olaide A. Gbadamosi International Perspective and Nigeria Laws on Human Trafficking (Benin City: Edo State, All Nation Press, 2006), at 113

on both traffickers and victim, as well as effective legal and social environment that provide protection to the rights of trafficked victims have been identified as factors responsible for the raise in child trafficking in Nigeria.[379] Importantly, inadequate international and regional agreements against child trafficking, poor awareness on the typology and effects of child trafficking have also been identified as the key factors that militate against the eradication of child trafficking in Nigeria.[380]

5.0 FINDINGS

The study has shown that, although Nigeria as a nation has made tremendous effort toward fighting child trafficking through enactment of laws and putting various administrative policies in place, these measures have achieved very little in that direction. Nigeria is still a source, transit and destination country for child trafficking. This has been largely due to the identified weaknesses in the laws as well as current and emerging realities. Traffickers capitalised on the weaknesses of the laws and come up with new forms of trafficking such as baby harvesting to remain in the business of child trafficking.

2. The study have found that the term trafficking have not been defined in Criminal Code, as child trafficking offences are regarded as misdemeanours.
3. The Penal Code is only able to address issue of internal trafficking of women into Nigeria, which however is silent on external trafficking.[381] This has exposed the weaknesses of the law.
4. The study has also identified the inability of the Labour Law to cover cases of domestic workers as a serious problem, because this falls under the informal sector. Similarly, other important factors militating against effective performance of labour law in Nigeria is the limited number of labour officers coupled with lack of training of the officers so that they can effectively perform their function to match current realities[382]

6. 0 CONCLUSION

Child trafficking in Nigeria has involved both criminal and social complexities. It takes different dimension which are dealt with separately by distinct legislations that were both enacted during the pre-colonial era to more specific post colonial laws such as the Children and Young Persons Law, Penal Code, Criminal Code, Labour law, Immigration law, Child Right Act and Trafficking in Persons (Prohibition) Law Enforcement and Administration Act. The catastrophic effects of child trafficking in Nigeria are not only restricted to the child, but also his family as well as the society at large. Child trafficking has been identified as a criminal act with serious social and economic consequence on the victim and the society at large. The Nigerian Government has taken a bold step to be among the few countries in Africa which have not relent in her efforts to fight the menace by enacting various laws to fight against the scourge. Despite the great efforts made by the Nigeria Government in curbing the menace, child trafficking continue to be on the raise. This may not be unconnected with the identifiable inadequacies of the law which could be traced to the early laws on

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[379] Ibid
[380] Ibid
[381] Section 276 of the PC
[382] Svetlana S. Huntley "the Phenomenon of Baby Factories in Nigeria as a New Trend in Human Trafficking" International Database I.C.D. brief 3 October, 2013

child trafficking like the Criminal Code which considered child trafficking a mere misdemeanor to specific law on child trafficking like Trafficking in Person (Prohibition) Law Enforcement and Administration Act, 2015 as amended which fail to cover some emerging phenomenon like baby harvesting. These have made the laws to be described as not adequate and effective to fight child trafficking in Nigeria.

7.0 RECOMMENDATION

The study therefore recommend for the immediate amendment of all the existing laws on child trafficking in Nigeria particularly the NAPTIP Act so as to provide for a legal regime and policies that is adequate in ensuring the prevention of child trafficking, identifying the root causes of child trafficking as well as meeting up with current and emerging realities with a view to addressing them.

13. All the 36 states in Nigeria should adopt and adapt the Child Right Act for domestication as state law.
14. Laws on child trafficking should be harmonized in Nigeria with the aspect which deals with juvenile justice system retain.
15. Section 2 of the CYPL which distinguishes child from young person should be deleted and new section inserted which will be in conformity with both international and national laws which defines child as a person who has not attained the age of 18 years.[383] This will assist those charges with the responsibility of enforcing these laws to have a uniform definition of who is a child to enable them plan well.
16. The immigration law should be amended so that measures toward fighting corruption are inserted. This can be done through the inclusion of whistle blower protection measures in the law.

[383] Section 275 of the Child Right Act, 2003