

# Challenges in Investigating and Prosecuting Trafficking In Persons' Cases in Nigeria

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## ABSTRACT

The war against trafficking in persons in Nigeria is by no means an easy one. Several measures have been employed in ensuring that trafficking is brought to a halt in Nigeria. The efficacy of these measures, this work contends, extends to effective investigation and prosecution of trafficking in person's cases. Regrettably, investigation and prosecution of trafficking in persons' cases in Nigeria have faced a plethora of challenges, thereby making realization of the objectives of the consciously institutionalized mechanisms for combating trafficking in person in Nigeria, far from being wholly realized. The paper concludes that with a much more effective legislation on human trafficking, effective and efficient law enforcement agent and agencies in place, the challenges in investigating and prosecuting Trafficking in Persons' Cases in Nigeria would be overcome.

**KEY WORDS:** Challenges, Investigating, Prosecuting, Trafficking, Persons, Efficacy.

## INTRODUCTION

Human trafficking is a crime with low risk and very high profits and it violates the basic human rights of victims. It is a complex and difficult issue to tackle. The magnitude and extent of human trafficking in Nigeria was under estimated until recently when publications were made in electronic and print media. So many factors have encouraged this menace in our society. Internal trafficking was fuelled by urbanization and economic crises. Families in rural areas gave out their children to more fortunate members of their families to take to cities. Over time, the desperation and ignorance of these rural families were exploited by the urban settlers. In the last two decades there has been an increase in the internal trafficking of Nigerian women and children especially from rural communities to cities. Trafficking to cities is predominantly for exploitative domestic work, farm labour and prostitution. International trafficking from Nigeria comes from all parts of the country, but some States tend to provide more trafficked persons than others.

European countries like Italy, Belgium and Spain are destination countries for Nigerians. The Middle East is another destination, especially Libya and Saudi Arabia. Immigration records have helped debunk the erroneous impression that human trafficking for prostitution does not occur in the northern part of Nigeria.<sup>1</sup>

Nigeria is also a transit country, for distribution of trafficked person to West Africa. As a destination country, Nigeria receives Togolese women, young girls and children from Benin, Liberia, Mali and Burkina Faso. Over the years, *Buzu* women<sup>2</sup> from Niger Republic have been trafficked into affluent homes in Northern

<sup>1</sup> Mohammed Ali Mashi, Deputy Superintendent of Immigration services (DSI), presented a paper at a workshop in Bauchi, organized jointly by Nigerian Immigration Services and UNICEF, from the Immigration Service Report, "Start from March 2002 – April 2004, the Saudi Arabia Authorities deported 9,952 women and 1,231 underage unaccompanied children. Investigations revealed that majority of the women deported from Saudi Arabia are from: Kano, Borno, Adamawa, Yobe, Nasarawa, Plateau, Niger, Kebbi, Kwara, Sokoto, Katsina, Zamfara, Jigawa, Gombe, Bauchi and Taraba States".

<sup>2</sup> *Buzu* is another word for Tuareg.

Nigeria to serve as household helpers and concubines.<sup>1</sup>

It is in the light of these, that the paper seeks to address the challenges of curbing the menace of human trafficking in Nigeria. These challenges include lack of adequate and effective legislation, challenges of law enforcement agencies, investigation and prosecution of cases of human trafficking. Nigeria's policy on international, regional and bilateral agreements and memorandum of understanding. These challenges include:

### **LACK OF ADEQUATE AND EFFECTIVE LEGISLATION ON HUMAN TRAFFICKING**

The Federal Government of Nigeria, in its effort to stem the rising tide in human trafficking in Nigeria, passed into law the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003.<sup>2</sup> While this law is important in the fight to bring an end to human trafficking in Nigeria, there are, however, some areas of the Act that need to be re-examined.

Some of these inadequacies include the fact that the Prohibition of Trafficking in Persons Act recognizes the problem of trafficking in Nigeria, but it falls short of the standards set in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and Children, 2000 which Nigeria zealously ratified but has not domesticated and falls short of the various international human rights obligations and standards for the treatment of trafficked persons.<sup>3</sup>

Article 3 of the UN Protocol defines trafficking as:

... the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 in Section 50, however defines trafficking as:

Trafficking includes all acts and attempted acts involved in the recruitment, transportation within or across Nigerian, borders, purchases, sale, transfer, receipt or habouring of a person involving the use of deception, coercion or

<sup>1</sup> Human Trafficking in Nigeria: Root Causes and Recommendation. UNESCO Policy Paper. 2004-2005, p. 23.

<sup>2</sup> The Women Trafficking and Child Labour eradication Foundation (WOTCLEF), a non-governmental organization founded by the wife of the former Vice President of Nigeria, Mrs. Titi Atiku Abubakar, initiated the bill into the House of Representatives in 2000. This bill was signed into law on the 14<sup>th</sup> of July, 2003.

<sup>3</sup> The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children Supplementing the United Nations Convention Against Transnational organised Crime (Palemo Protocol) was adopted 15<sup>th</sup> November 2003. So far 141 countries as at October 31, 2010 are State Parties. Nigeria ratified this protocol on 28<sup>th</sup> June, 2001. 41 African Countries have ratified the protocol. The Trafficking in Persons Protocol requires ratifying State parties to take effective and comprehensive action to prevent and combat trafficking in persons, protect and assist the victims as well as prosecute and punish traffickers.

debt, bondage for the purpose of placing or holding the person whether for or not in voluntary servitude (domestic, sexual or reproductive) in force or bonded labour or in slavery-like condition.

An analysis of the definition of human trafficking under the Nigerian Anti-Trafficking Act, 2003 shows that there is a fundamental lacuna because of the absence of the phrase “for the purpose of exploitation” as entrenched in the UN Protocol. This phrase qualifies the offence. It then, becomes difficult for prosecutors to gain conviction because of the absence of the vital ingredients of the offence which qualifies the acts and means of trafficking. NO EXPLOITATION NO TRAFFICKING!

There is a narrow focus on sexual exploitation. The Act is deficient in its coverage of the offences of trafficking in the sense that it is preoccupied with the situation of women and girls and sexual offences and ignores the wider problem of trafficking in men and children for other purposes<sup>1</sup> (such as migrant smuggling, conspiracy, forgery, criminal threats and intimidation, criminal oaths, deception and receiving of payments, corruption in the trafficking pathway, sale of babies, child abuse, child sexual molestation, child rejection i.e. witchcraft children, illegal adoptions, organ trafficking, early and forced marriages). All these offences are not prosecuted.

The Protocol enjoins State parties to criminalize attempts.<sup>2</sup> This has been replicated in the Anti-Trafficking Law in Nigeria.<sup>3</sup> The question that readily comes to mind is technically how do you prove that someone has ‘attempted to exploit’ a victim. This may be possible in theory but difficult in practice. In practice, prosecutors will be put to the strictest proof of such intention to exploit which is why they don’t even attempt to charge attempt. In the case of *Attorney-General of the Federation v. Sarah Okoya*,<sup>4</sup> the accused procured a total of six girls whom she induced to travel with her to Cotonou in the Republic of Benin under the pretext that they were going there enroute to Spain where they were to work for her as hair dressers and shop-assistants in her saloon and shops. She collected various sums of money from them supposedly to procure traveling documents and plane tickets and took them before a native doctor in a shrine to administer oaths of allegiance and faithfulness in their dealings with their “Madam” after their arrival in Spain. Upon their arrival in Cotonou, however, the accused stationed them in a hotel and told them point blank that they had to prostitute themselves for their sustenance. The girls ganged up and rebelled against the accused and with the help of the hotel manager, they fled to the Nigerian Embassy in Cotonou. At the close of the case, the learned trial judge found the accused guilty of the offences charged under Section 19(1) (b) (Kidnapping from guardianship), but not guilty of the offences charged under Section 15(a) (Procurement of any person for Prostitution, pornography) and Section 16 (Foreign travel which promotes prostitution) of the Act; rather the court found the accused guilty of attempt to commit the offences charged under Sections 15(a) and 16, under Section 27(1) of the Act.

According to the court;

... in my view for the offence of procurement for prostitution to be complete, the prostitution for which the girls were procured or offered must have taken

<sup>1</sup> Nigerian Anti-Trafficking Laws: A Guide for the Public and Policy Makers. (Global Rights: Partners for Justice Mac Arthur Foundation, July, 2004) p. 15.

<sup>2</sup> Article 5.2(a) UN Protocol.

<sup>3</sup> S. 27(1) TIPLEA 2003.

<sup>4</sup> *Op. cit.*

place. Since the girls repulsed and aborted the prostitution intended by the accused, the accused will only be liable for attempting to procure or use them for the act. She will therefore be liable to conviction for an attempt by virtue of Section 27(1) of the Act.

It is difficult to understand the interpretation given to the provision of Sections 15(a) and 16 of the Act by the learned judge. The court itself explicitly admits that the only reason why prostitution purposes for which the accused procured the girls and organized their foreign travel to Cotonou failed was because the girls refused to cooperate with the accused. It is submitted that the refusal of the girls to help actualize the purpose of the accused does not detract from the fact that the offences had been committed. The provisions of Sections 15(a) and 16 of the Act do not require that the prostitution must actually take place but that the reason for procuring and organizing the foreign travel is for prostitution purposes.

From the judgement given by the learned judge in the above case, encouraging the criminalization of attempt will only not actually deter traffickers from trafficking, because all that they (traffickers) will get is a lesser sentence when in the real sense of it the trafficked victim only escaped being violated per chance. It is hoped that the reasoning in this case would not be a precedent for future cases. This also, attests to the fact that the conviction rate of traffickers remains very low and punishment do not reflect the seriousness of the crime. Human trafficking is a crime with low risks and very high profits and it violates the basic human rights of victims.

There is no comprehensive coverage of the offences of human trafficking in the Anti- trafficking Act of 2003. In Nigeria, issues that relate to human trafficking can be found in the Criminal Code, Penal Code, Labour Act, Immigration Act, Child Rights Act and some recent State laws prohibiting prostitution. There is however, an imperative need to tackle the problem of scattered legislation on a holistic basis, taking into account its various dimensions.

## **CHALLENGES OF LAW ENFORCEMENT AGENCIES**

Law Enforcement Agencies have the responsibilities to protect citizens and enforce their fundamental human rights. Their response to trafficking in persons in Nigeria appears slow. These efforts extend across national boundaries because Nigeria is a signatory to various International Agreements which prohibit human trafficking.

These agencies are made up of the National Agency for the Prohibition of Traffic in Persons (NAPTIP), Nigeria Police, Nigeria Immigration Service, Ministry of Justice and the Courts. The Nigeria Immigration Service usually hands over victims and traffickers intercepted at entry and exit points to NAPTIP for further action, whilst the police on conclusion of investigation hand over case files and suspects for prosecution. This is because NAPTIP has lawyers who work in the NAPTIP legal department. While, there have been a number of convictions, quite a number of cases have been successfully investigated and are presently in court, law enforcement agents/agencies still encounter repeated difficulties in actually identifying victims of human trafficking, providing them with needed services and assistance, prosecuting traffickers and enabling environment for combating human trafficking. The challenge is compartmentalized below.

- (i) **Failure to Identify Victims** – Because of a constrained view of what constitutes trafficking law enforcement agents often fail to recognize exploited persons as victims of trafficking. Many international victims are brought into the country illegally; with traffickers using their illegal entry as a form of control. Such victims are usually unaware of their rights as victims; do not understand the laws or the language spoken. All these factors help to control the victim and keep the crime and the victim hidden. Victims are often kept in isolation, with no freedom of movement; contact with the outside world is controlled by the traffickers and often limited to those working for the trafficker. Victims depend on the traffickers and may not even consider themselves to be victims rather they often see themselves as migrants whose journeys have gone horribly wrong,<sup>1</sup> which makes identification difficult (use of the internet by traffickers to ‘recruit’ victims, has made it even more difficult to fight the crime). Traffickers rely on a victims fear as a way to keep the victim hidden. This includes fear of law enforcement agents and an inability to trust those in positions of authority; fear of retaliation against the victim or his/her family and fear of anyone finding out what has happened to the victim. The hidden nature of the crime is a major obstacle, law enforcement agents and service providers acknowledge that lack of awareness of the crime of human trafficking compounds the problem. The experiences in the field suggest that, across communities, most people do not believe that human trafficking exists in today’s society and in particular, in their communities victims are viewed as foreign born, young females forced into prostitution. There is an overall lack of knowledge and understanding that human trafficking can occur domestically, (there is a lack of comprehensive understanding of the crime of human trafficking and its victims. Specifically, the lack of focus on domestic servitude cases, male victims, labour trafficking and organ trafficking). Even though, there is an increase in the awareness of human trafficking, such a full and complete understanding of human trafficking remains a challenge. Another challenge to identify victims is the lack of acknowledgement by some law enforcement agents and service providers that someone is a victim of trafficking. There are instances. When victims are viewed as undocumented or illegal immigrants and treated as criminals and subjected to deportation in other cases victims were viewed first as prostitutes and charged with solicitation and placed in jail or detention.<sup>2</sup>
- (ii) **Providing Needed Services and Assistance to Victims** – Due to the fact that almost all trafficking victims are far away from home, they are in need of a vast array of social services and support –

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<sup>1</sup> Victims do not identify themselves as victims: others do not view victims as victims. Many victims, whether international or domestic do not believe that they are a victim of a crime. This is often due to their lack of education and understanding of human trafficking and their lack of awareness of their rights as a victim. But according to law enforcement and service providers who worked with victims, victims are frequently told by their traffickers that they are to blame for their predicament and that they are the criminals who will be deported or arrested if caught. And due to their past and current experiences many victims believe this portrayal of reality presented by the traffickers. In other situations, the victim has come to depend on her trafficker and view the trafficker as her protector in some cases boyfriend in these cases, the victim not only does not see him/herself as a victim but they do not believe their traffickers has done anything wrong. When a victim does not view himself/herself as a victim, the interactions with law enforcement and others trying to help them are often negative and sometimes hostile. This was especially the case with domestic minor victims of sex trafficking.

<sup>2</sup> These cases serve to reinforce the message of traffickers that the victims will be treated as criminals if they come to the attention of authorities, buttress the perception of victims that they are to blame and enhance the power and control of traffickers over their victims.

medical care, housing, transportation, interpreters, counseling and legal advice. In Nigeria, a dearth of trained psychotherapists and counselors greatly undermine the ability to ensure the comprehensive rehabilitation of victims of human trafficking also very few service are intended for trafficking victims. Where such services exist, they usually are tailored to victims of trafficking for sexual exploitation. Nigeria has thirty-six (36) states and a Federal Capital Territory but there are only seven (7) government-funded shelters for trafficked victims. These shelters do not have enough facilities to cater for the needs of trafficked victims. Shelters exist in State capitals not in the communities where most of these victims are trafficked from. The other law enforcement agencies (Police, Immigration) treat trafficked victims as criminals, instead of treating them as victims.

- (iii) **Lack of Co-ordination Among Law Enforcement Agencies to Tackle Human Trafficking Case** – A lot of government agencies are charged with enforcing human trafficking laws or laws relating to human trafficking, immigration, investigating and prosecuting criminal cases. There appears to exist a rivalry between immigration and the police as to which agency has jurisdiction in trafficking matters and who should handle repatriated or returnee victims. Each agency is doing its utmost best to shield the other away from their operations and to hide information from each other. A lack of co-ordination among these agencies may lead to inadequate protection of the rights of victims of human trafficking. Due to the nature of the crime (human trafficking), there is need for these agencies to work together.

There appears to be a lot of politics also in deciding who should be involved. For example, we observed that Interpol is no longer a member of the Task Force on Human Trafficking. Given that human trafficking is an international crime, this appears strange. There is also, very little collaboration between Nigerian law enforcement agencies and those of transit countries and destination countries.

- (iv) **Enabling Environment to Tackle Human Trafficking** – Law enforcement agents are constrained by the absence of an enabling environment for combating human trafficking in Nigeria. This can be observed in:

- a) **Lack of Effective Border Patrol** – The control and monitoring of borders is crucial to ensure effective prevention, but policy responses in this area are complex. The borders of Nigeria are permeable and are largely uncontrolled. Victims are trafficked in large numbers in buses to Nigeria's neighbouring countries in transit to other parts of Africa, Europe and United States. Also as a result of the ECOWAS, free movement, the borders are highly porous facilitating easy cross-border movement.<sup>1</sup> Corrupt practices of officials at the border posts also paves easy passage for traffickers and their victims. We observed that there are not enough officers to man these borders and scarce resources allocated at Federal level to border police and the immigration service, in terms of materials like vehicles, radio equipments and training. Most borders are manned manually not electronically; there also exist a lot of illegal borders.
- b) **Inadequate Funding of Anti-Trafficking Activities** – Very little budgetary provisions are made for anti- trafficking.
- c) **Lack of Equipment and Facilities** – Anti-trafficking units are sandwiched into tiny cubicles

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<sup>1</sup> All that a person needs to move across West African countries is a passport to show that he/she is a West African citizen not a visa.

for use as offices with barely enough space for a table and a chair.

- d) **Lack of Data on Human Trafficking** – The exact number of people trafficked annually through the Nigerian borders is unknown. We believe, this may be due to a variety of factors, due to the illegal nature of the phenomenon, reluctance of victims to publicly denounce their traffickers for fear of repercussions on them and their families and the low priority given by government to research activities and a data collection in this field: lack of proper definition of trafficking, in persons as contained in the Nigerian Anti- trafficking Law, and other related laws (Criminal and Penal Codes Immigration Laws). Consequently, law enforcement agencies are still mixing data on trafficking in persons, smuggling in migrants and irregular immigration. Another problematic issue is that data on adult and child victims are sometimes not separated because the age of the victim is not recorded, while in fact it would be very important to know if the victims are children, teenagers or adults, different statistics are held by different law enforcement agencies. Lack of proper data makes it very difficult for law enforcement agencies to know the number of people who may have used the services of traffickers or about the number of individuals working for the criminal group involved in trafficking activities and the number of persons trafficked. There is a need to create a database on human trafficking that should be accessible to all agencies. This would assist policy makers to take concrete steps to stem the tide of human trafficking.

## CHALLENGES IN INVESTIGATION AND PROSECUTION

Investigation is very important if we are to succeed in the fight against human trafficking as initial actions taken in investigation are crucial to the ultimate success of prosecutions. Without a proper investigation there would neither be discovery nor evidence to indict traffickers. Investigation could be termed as probing into the cause of an action. It takes one into the root of the truth and unravels hidden things, making one to know the causes, reasons and means of action taken.

Investigation especially for legal action is purely an affair of such agency(ies) given the statutory right or authority to carry out such assignment. In relation to human trafficking, the Act<sup>1</sup> empowers any police, customs, immigration or Chairman of the Agency or any officer of the agency authorised by regulation on that behalf to arrest any person whom he has reason to believe has committed any of the offences in the Act.

We have found out a lot of challenges faced by these law enforcement agencies, when investigating cases of human trafficking, include:

- (a) **Victims Cooperation** – Gaining the cooperation of victims as witnesses can be challenging. Often, because of their distrust of police in their home countries, trafficking survivors fear, law enforcement agents are concerned that they will be treated as criminals, incarcerated or deported.<sup>2</sup>
- i) In court, a victim of human trafficking is a relevant witness in a criminal trial against his/her trafficker. Apart from the fact that he/she is the relevant evidence of exploitations against the traffickers. The challenges in getting the victim to testify in court are quite enormous some

<sup>1</sup> S. 35(1) TIPLEA 2003.

<sup>2</sup> Heather J. et al, Prosecuting Human Trafficking Cases: Lessons learned and Promising Practices. [www.fbi.gov/publications/leb/2007/april.2007/april/2007/eb.htm#page24](http://www.fbi.gov/publications/leb/2007/april.2007/april/2007/eb.htm#page24). last accessed 14<sup>th</sup> December, 2014.

victims have for the fear of appearing before an ‘awesome’ judge, clad in wig and gown and/or standing before the public in an open court to bare their “sordid” experiences refuse to cooperate with investigators even when they feel bitter against their traffickers, some, for the fear of the effect of voodoo or visitation of the consequences of the blood oath they were forced to swear to before a shrine. This is due to strong belief in the blood oath of secrecy. The oath is meant to intimidate the victims to obedience, subservience and “loyalty” to their master, to ensure full exploitation of the victim without fear of detection by the law enforcement officers. The items of this oath usually before a shrine, includes in most cases the fingernails clippings of the victims, the last menstrual smears, public hair strand, nude picture of the victims and sometimes a piece of kolanut soaked in victims blood and eaten by the victims.<sup>1</sup> A victim so bonded will not even, under pains of detention or imprisonment, expose their traffickers for the fear of the consequences of the visitation of the blood oath.

- ii) Fear of reprisal attack from traffickers. Victims, after they had been rescued, fear the traffickers believing in their awesome power to decapitate at will if seen to be co-operating or helping in the investigation of the case against them. For this reason, victims are usually scared to help investigators.
  - iii) Fear of stigmatization by the victims or their parents. In most cases and usually in sexual exploitation cases victims once rescued would prefer to lick their wounds in secret rather than to bare it in public in the subsequent trial in public for the whole world. The perceived shame and stigmatization thereafter deter victims or their parents to cooperate with law enforcement officers in the investigation and prosecution of the trafficker.
- (b) **Lack of Knowledge of Trafficking Issues** – The lack of knowledge of trafficking issues exhibited by some law enforcement prosecutors, and judges hearing cases made identifying cases, bringing them to trial, and prosecuting.
- (c) **Ineffective Communication** – Language barriers and victim’s unwillingness or inability to talk about their traumatic experiences may hamper investigation and prosecution of cases. Investigators who are fluent in the language of the person they are interviewing and have cultural affinity with the person may have more success. Investigators and prosecutors can gain the trust and cooperation of victims and witnesses by showing compassion and making them feel comfortable.
- (d) **Lack of Funding** – The limited availability of funding and personnel resources on the part of law enforcement officers to investigate cases and gather evidence and on the part of prosecution to prepare for and prosecute cases was noted earlier, as a significant challenge. Additionally, the limitation on resources available to provide needed services to victims is also a challenge that has direct impact on the issue because unstable victims are not able to effectively contribute to the prosecution of cases.
- (e) **Lack of Connection with Immigrants Communities** – This was seen as a barrier because the lack of connections with immigrant communities specifically was attributed to one of the reasons for why appropriate services were not readily available to victims. Investigators are often required to work in

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<sup>1</sup> Statement of a rescued victim to NAPTIP Officials after the recovery of the parcel containing all these items and the arrest of the chief priest of the shrine where she was bonded to the shrine before she was taken out of the country (July 7, 2007).



settings unfamiliar to them and in communities which distrust law enforcement authorities (such as ethnic neighbourhoods which are socially and culturally difficult for investigators to access). Organizations experienced in working with law enforcement agencies can be an important resource during investigations in settings where trafficking occurs. The nature of these crimes requires appropriate social and cultural orientation to effectively gather criminal intelligence and arrest perpetrators.

### **Nigeria's Policy on International, Regional and Bilateral Agreements and Memoranda of Understanding**

Nigeria has ratified, acceded/succeeded and is signatory to a number of international conventions which are directly or indirectly related to trafficking. These include:

- a. Slavery convention, 1926<sup>1</sup> to which Nigeria acceded on 26<sup>th</sup> June 1961.
- b. The Universal Declaration of Human Rights 1948<sup>2</sup> which prohibits among other things, slave trade in all forms, servitude slavery or slave like practices.
- c. Supplementary Convention on the abolition of slavery the slave trade, and institutions and practices similar to slavery, 1956 to which Nigeria succeeded on 26<sup>th</sup> June 1961.
- d. Convention on the Rights of the Child, 1989 which enjoins state parties to take all appropriate national bilateral and multilateral measures to prevent the abduction of the slave or traffic in children for pay purpose of in any form. Nigeria signed this convention on 26<sup>th</sup> January 1990 and ratified same on 19<sup>th</sup> April 1991.
- e. Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography, 2000. It expressly deals with the subject of trafficking and enjoins state parties to take all appropriate measures to protect the rights and interests of child victims of the prohibited practices at all stages of the criminal justice process. Nigeria signed the protocol on 8<sup>th</sup> September 2000 but is yet to ratify it.
- e. Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, 2000. It expressly deals with the subject of trafficking and enjoins state parties to take all appropriate measures to protect the rights and interests of child victims of the prohibited practices at all stages of the criminal justice process. Nigeria signed this protocol on 8<sup>th</sup> September 2000 but is yet to ratify it.
- f. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 2000. Nigeria also signed this protocol on 8<sup>th</sup> September 2000 but is yet to ratify it.
- g. Convention on the Elimination of all Forms of Discrimination against Women, 1981 enjoins state parties to take all appropriate legislative and other measures to suppress all forms of traffic in women and exploitation of the prostitution of women. Nigeria signed and ratified this convention on 23<sup>rd</sup> April 1984 and 13<sup>th</sup> June 1985 respectively.
- h. Convention Against Transnational Organized Crime 2000 which criminalizes *inter alia*, participation in an organized crime group, laundering of proceeds of crime, corruption of public officials and

<sup>1</sup> Slavery, Servitude, Forced Labour and Similar institutions and Practices Convention, 1927, 60 L.N.T.S. 253 of March 9, 1927.

<sup>2</sup> G.A. Resolution 217A(III) of 10<sup>th</sup> December, 1948.

- obstruction of justice. It also enjoins state parties to take all appropriate legislative and other measures too establish the criminals defined in the convention, regulate and supervise the operation of banks and other financial institutions with regard to money laundering, check corruption, prosecute and impose properly acquired from criminal activities and establish the liability of legal persons in the commission of any of these defined in the convention Nigeria signed and ratified this convention on 13<sup>th</sup> December 2000 and 28<sup>th</sup> June 2001 respectively.
- i. Protocol Against the Smuggling of Migrants by Land, Sea and Air Supplementing the United Nations Convention Against Transnational Organised Crime 2000<sup>1</sup> which was made for the purpose of combating and preventing the smuggling of migrants as well as to promote cooperation among states parties to adopt legislative and other measures necessary to establish as criminal the smuggling and exploitation of migrants. Nigeria signed and ratified this protocol on 13<sup>th</sup> December 2000 and 27<sup>th</sup> September 2001.
  - J. Protocol to Present, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementing the United Nations Convention Against Transnational Organized Crime, 2000 which defines trafficking in persons and is applicable to the prevention, investigation and prosecution of trafficking cases where they are transnational in nature. Nigeria Signed and ratified this convention on 13<sup>th</sup> December 2000 and 28<sup>th</sup> June 2001 respectively.
  - k. African Charter on Human and People's Rights already domesticated through the African Charter on Human and People's Rights (Enforcement) Act.<sup>2</sup>
  - l. Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003.
  - m. ECOWAS Convention on Mutual Assistance in Criminal Matters 1992.
  - n. Memorandum of Understanding Between Nigeria and Republic of Benin on August 14 2003, the Federal Republic of Nigeria and the Republic of Benin signed a Memorandum of Understanding on Cross Border Issues, pledging cooperation on Cross-border crimes, smuggling, human trafficking and drug trafficking. Under this agreement, both countries are to cooperate in the areas of law enforcement, joint border patrols, detection, investigation and prosecution of crimes including human trafficking and extradition of criminals pursuant to the existing quadripartite Extradition Treaty between Nigeria, Benin, Ghana and Togo.
  - o. Memorandum of Understanding between Nigeria and Italy signed on November 11 2003 relating to cooperation between the Attorney General of the Federal Republic of Nigeria and the National Anti Mafia Bureau of Italy in combating trafficking in persons and other related organized crime and laundering of the proceeds from crime.

The above convention and memoranda of understanding represents the legislative policy tools at the disposal of Nigeria to combat human trafficking when backed by the requisite political and legislative will to honour treaty obligation they demand. However, Nigeria's policy on international treaties is that a treaty validly entered into by Nigeria can only be part of Nigeria's domestic law by the process of specific adoption, i.e.

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<sup>1</sup> G.A. Resolution 55/28, Annexure III, 55 U.N. GAOR Supp. (No. 49) at 65, U.N. Doc. A/45/49 (Vol. 1) (2001).

<sup>2</sup> Cap. A9 LFN, 2004.

domestication by local enabling laws.<sup>1</sup> Section 12(a) of the 1999 Constitution,<sup>2</sup> also provides that no treaty between the Federation and any other county shall have the force of law except to the extent to which the National Assembly has enacted any such treaty into law. The effect of this policy is that though Nigeria is a party to these conventions and protocols with respect to her international obligations in the comity of nations, the provisions of those conventions and protocols do not have a binding force in Nigeria unless and until they are specifically enacted into her domestic laws. If, that is the case, Nigeria has not domesticated these agreements. Of what relevance are all these anti-trafficking conventions and protocols listed above and to which Nigeria is a party, to trafficking victims in Nigeria?

## CONCLUSION

Trafficking in persons for various forms of exploitation is one of the fastest growing areas of international criminal activity and it is of increased concern to Nigeria. Victims are deceived by traffickers with the promise of work in legitimate occupations in Nigeria and countries of destination. Eventually, victims find themselves trapped into forced prostitution, domestic servitude and various forms of exploitation that constitute a contemporary form of slavery. They are eventually exposed to occupational health problems and are at high risk of attendant physical, social and psychological injury.

Due to dangers associated with this modern day slavery, the Nigerian government is involved in the fight to stop human trafficking but it has not succeeded due to several challenges that exist. Consequently, this paper focuses on the challenges faced by the government agencies in combating the unlawful trade. The major challenges identified were weak legislation on human trafficking, ineffective and inefficient law enforcement agencies and agents, challenges of investigation and prosecution of cases. The globalization of the world economy has however facilitated the heinous act beyond and across borders, especially from poorer to wealthier countries.

It has been observed that Nigeria has acquired the reputation of a key player in human trafficking as internal and cross-border trafficking exists in the country cutting across all the six geo-political zones. Nigeria's borders are porous; law enforcement agencies/agents are insufficiently trained and equipped to respond adequately to the complex nature of human trafficking; victims are not adequately catered for, and traffickers are not adequately prosecuted. In response, the Federal Government put in place legislative measures and organizational devices, such as the Trafficking in Person (Prohibition) Law Enforcement and Administration Act and National Agency for the Prohibition of Trafficking in Person (NAPTIP). There also exist law enforcement agencies who are involved in the struggle.

Nevertheless, trafficking in person is still a social malaise and highly organized crime perpetrated and perpetuated by and through powerful and clandestine syndicate at national and international levels. Therefore, despite these measures, human trafficking is still rampant in Nigeria.

Consequently, government and non-governmental organizations need to network constantly with regional and international organizations to combat trafficking.

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