

## Review

# Human trafficking in Nigeria: Implication for human immune deficiency virus and acquired immune deficiency syndrome (HIV/AIDS) pandemic

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**Human trafficking is largely a form of slavery. The international awareness of the crime has over the years increased. Nigeria is a country of origin, transit and destination for human trafficking. This paper attempts to articulate the potential vulnerability of the victims, appraise the link between trafficking and human immune deficiency virus/acquired immune deficiency syndrome (HIV/AIDS) pandemic, assess the potency of the Nigeria legal instruments to curb human trafficking and recommend possible solutions. Because of unemployment, victims are frequently lured with promise to get a job with fat pay. Trafficking victims are exposed to unprotected sexual intercourse with multiple partners. They are also hired for pornography and bestiality. These experiences make them vulnerable to sexually transmitted diseases (STDs), HIV/AIDS and other female reproductive health challenges. The Nigeria local laws and the international conventions and protocols, which she is signatory to, all have legal potencies to curb trafficking. Therefore fighting trafficking in Nigeria is all encompassing because it requires a need for synergy of efforts to create public awareness of the crime, address the poverty situation in the country, create employment for the youths, reinforce relevant national laws, organize counseling, rehabilitation and reintegration programme for the victims and allow them access to government subsidized services for HIV/AIDS and other female reproductive health care programmes.**

**Key words:**Nigeria, human immune deficiency virus/acquired immune deficiency syndrome, human, trafficking, pandemic.

## INTRODUCTION

Human trafficking, like money laundering, advanced fee fraud, cyber scams and illicit trade in arms and narcotics has elicited a great concern as a contemporary social problem worldwide (Poulin, 2004). It is considered to be the third largest source of profit for organized crime apart from drugs and arms (UNHCR, 2000). In 2007, marking the 200 year anniversary for the abolition of slavery, the United Nations' researchers and other experts agreed that approximately 800,000 persons are trafficked across the world countries borders each year. The researchers and experts also concurred that human trafficking is nothing but organized crime with the total market value

estimated at about \$32 billion (South African Government Information, 2009). The international awareness of the scourge of human trafficking has over the years increased considerably. The illegal trade occupies a prominent position among the social ills that pervade the Nigerian Society (Ofuoku, 2010). While it may appear that the problem seems more endemic in the southern part of the country, there are indications that no part of the country is completely immune from this social malaise that has ravaged many countries in the world (UNICRI, 2004). Human trafficking is largely a form of modern slavery on account of its resemblance to the Trans Atlantic Slave Trade. Slavery as an institution was abolished in the 19th century, and the 1948 Universal Declaration of Human Rights prohibiting slavery or servitude recognizes the rights of all human beings to live

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a life of freedom and dignity. Since the abolition of slave trade, more than two centuries ago, about 300 international protocols and conventions prohibiting and criminalizing slavery and slave trade in any form, have been signed and adopted by nation states (Goliath, 2008; Time Magazine, 2001). But the recent global economic crunch, poverty, social and political conflicts, wars, natural disasters and the contemporary climate change have profoundly influenced the alarming dimension with which people are being pulled-up as clients for human traffickers (UNHCR, 2000). This alarming increase in human trafficking and the social, political and economic ills that it engenders have induced considerable attention of the international community such as the United Nations Organization (UNO), International Labour Organization (ILO), International Organization for Migration (IOM), United Nations Office on Drug and Crime (UNODC) and the United Nations Children and Education Fund (UNICEF), among others.

The United Nations protocol to prevent, suppress and punish human trafficking, especially women and children, defined human trafficking as “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 abuse of power or of a position, of vulnerability, or of the giving or receiving of payment of benefit to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at minimum, the exploitation of prostitution, of others or other forms of sexual exploitation, forced labour or services, servitude or the removal of organs” (South African Government Information, 2009). Nigeria, Italy, Spain, Thailand and Belgium are the countries heavily affected by the problem of human trafficking in minors and girls for sexual exploitation. This sexual exploitation includes exploitation of prostitution, pornography and bestiality (UNICRI, 2004). Since sex constitutes an important source of transmitting human immune deficiency virus and acquired immune deficiency syndrome (HIV/AIDS), human trafficking has generated serious concerns that have provoked interest of this paper to articulate the potential vulnerability of the victims. To properly situate this objective for intellectual discussion, this paper shall attempt to provide a theoretical framework for the study, an in-depth social appraisal of the link between trafficking and the HIV/AIDS pandemic, assess the potency of the Nigerian legal instruments available to curb human trafficking and also recommend possible solutions to the problem of human trafficking in Nigeria.

## **THEORETICAL FRAMEWORK**

Since the industrial revolution of the eighteenth century, sociologists have vigorously developed a body of empirical studies that spurred the structural application of

theories of crime. The intellectual crystallization of the novel theoretical perspectives of theories of crime is very complex. However, the general consensus is that none of these approaches is sufficient enough to singularly explain the totality of the phenomenon of crime. This is because where one theory explains the cause or origin of crime; others may be explaining the prevalence of crime. An important fact necessary to consider is the long tradition of sociological analyses of functionalist, internationalist and Marxist perspectives.

### **The functionalist perspective**

The functionalist perspective analysis of crime emphasizes the acceptance that shared norms and values of the society form the basis of social order, and that when these norms and values are broken, the individual has committed a crime and so, a deviant. Such deviant is considered a threat to social order and should therefore be seen as a threat to the larger society. The social control mechanism, such as the police and the court are necessary to keep crime at check and protect social order. Finally, crime is an inevitable part of society and it has a positive function essentially because it suggests that something has gone wrong with the society. Emily Durkheim, a prominent member of this school of thought argues the presence and inevitability of crime in all aspects of social life. That crime is an integral part of all healthy societies. It is inevitable because not every member of the society can be equally committed to the norms and values of the society. This is because individuals are exposed to different influences and circumstances. As such, they may not all be equally committed to conforming to the norms and values of society. Durkheim argues further that the function of punishment is not to stop crime but rather to maintain the strength in the collective sentiments expressed in the shared norms and values of society. This view was taken up and developed by Robert K. Merton, another notable member of the school.

Merton's social structure and anomie theory argues that society creates crime by identifying cultural goals and institutionalized means of achieving these goals. This is a value consensus meaning that all members of the society share this value system. By this, the society ends up creating five modes of behavior namely: conformity, innovation, ritualism, retreatism and rebellion. Conformity occurs when people accepts both the cultural goals and institutionalized means of achieving the goals. Such behavior forms the bedrock of social order. At the other extreme, rebellion rejects both the cultural goals and the institutionalized means of achieving the goals. Like Durkheim, Merton concludes that society itself creates the phenomenon of crime because since people are placed at different position in the social structure (for example, they differ in terms of social class) and different

life chances to realize the shared value, there is the propensity for some people to reject the rules of the game and strive for success by other alternative means of crime. When the rules defining the means of achieving success are thus broken, the result is a situation which Merton calls anomie.

### **The interactionist perspective**

It explains the aspect of crime which has been largely ignored by the functionalist school. The interactionist perspective focuses on the interaction between the potential criminal and the agencies of social control which define him or her as criminal. The interactionist perspective also examines the importance of the meaning which the various actors bring into how and why certain individuals are defined as criminals and the effects of such definition upon their future actions. That the definition of crime is negotiated and formed in the interactions between the actors involved. Thus, the criminality of an act is not necessarily derived from the content of the act but the way people define and react to it. This view was further developed by Howard Becker's labeling theory. Becker argues that the society is the creator of crime and it does so by identifying certain act as crime and thus creating a situation for the act to be committed. Then the society turns round to label those who commit these acts as criminals. The labeled individuals typically find themselves rejected and isolated by law abiding people. Rejection and isolation push stigmatized individuals toward people who share similar or some fate. Then they participate in a criminal sub-culture as a way of gaining emotional support and personal acceptance.

### **Marxist perspective**

It sees the prevalence of crime from the material basis of society. That capitalism is characterized notably by inequality in wealth and power between individuals and this inequality is the root cause of crime. The Marxist sees power as largely being held by those who own and control the means of production (the Bourgeoisie who are themselves the ruling class). That the capitalist society reflects the relationship between the bourgeoisie and the proletariat, and the definition of crime in general reflects and serve the interests of the ruling class. According to the Marxists, laws are not expressions of value consensus but rather a reflection of ruling class ideology and the general commitment to law on the part of the members of the society as a whole is an aspect of false class consciousness. A sociologist like Livingston worked on this ideological framework and adopted the concept of under class. According to him, the underclass is similar to Marx's concept of proletariat. That the underclass

experience material deprivation, inequality, marginalization and social exclusion. His argument is that under class criminality is a consequence of material deprivation, inequality, marginalization and social exclusion. That is to say, because of material deprivation, unequal access to opportunities, marginalization and social exclusion, there is a greater pressure on the underclass within the social structure to deviate and commit crime. So far, the theory of crime is not a single and all restricted theory. It has several ideological perspectives that allow wide application, relevance and acceptance of the act of trafficking in persons as a crime, immoral and as something strongly disapproved or which the society finds impossible to tolerate. Since the decline of oil boom in Nigeria and the global economic crunch, the attendant struggle for survival by some Nigerians have found vent in crimes like drug and arms dealings, advanced fee fraud and human trafficking, among others. Human trafficking as a crime is both a spontaneous phenomenon and a product of the capitalist society characterized by exploitation and reinforced by poverty, inequality, marginalization, limited opportunities or life chances and social exclusion of the victims.

In Nigeria, a great importance is attached to success and relatively little importance is given to the accepted ways of achieving the success. This situation provides a huge tendency to reject the rules of the game and strive for success by any alternative means of crime such as human trafficking. Crime is thus one of the most ambiguous concepts in sociology and related fields. Yet, crime can be defined as an act (omission or commission) punishable by law or which the state has set a penalty for.

### **HUMAN TRAFFICKING IN NIGERIA AND THE HIV/AIDS PANDEMIC**

From all account, Nigeria is a country of origin, transit and destination for human trafficking (Mashil, 2005). The dynamics of human trafficking in Nigeria are considerably geographical in nature and involve internal and cross-border trafficking. The cross-border context of human trafficking in Nigeria is presented by syndicates that procure travel documents, transportation fare and accommodation for the women and girls who are desperate to leave the country in search of greener pastures in Europe, America, Saudi Arabia and South Africa. These vulnerable women and girls easily become prey for the traffickers. The lure to find a lucrative job abroad and earn a fat pay becomes clearly irresistible because of the devaluation of the Naira and the humiliating pangs of poverty in the country. It is only on arrival at their destination that the women and girls are confronted with the harsh realities that they have been deceived, and are ultimately lured or coerced into commercial sex. While the accurate statistics of the total

number of women and girls trafficked into sex industry are difficult to obtain, in 2001, the number of Nigerian women working in the sex industry in Italy alone was about 10,000; a more recent conservative estimate put the figure at roughly 20,000 (Italy, 2011; UNICRI, 2004). Trafficking is essentially a gender biased phenomenon because many of trafficking victims are women and girls. The implication is that these women and girls are frequently recruited for sexual exploitation. Arising from this are various health hazards that the victims are exposed to through unprotected sexual intercourse, which their clients are more ready to pay for. Trafficking victims are forced to endure intercourse with multiple partners. They are also hired for pornography and bestiality. These conditions are experiences that make the women vulnerable to multiple abortions, sexually transmitted diseases (STDs) and other female reproductive health challenges that are increasingly responsible for the spread of HIV/AIDS (Burkhalter, 2003). More so, violence is also common in commercial sex and particularly prevalent when a woman is forcibly subjected to sex against her will. Injuries and abrasions sustained from this could heighten her physical vulnerability to HIV transmission. Especially also, the vulnerability of trafficking victims to sexually transmitted diseases (STDs) and HIV/AIDS is further compounded by their inability to receive timely medical test, treatment, counseling and prevention services because they want to evade immigration laws (Burkhalter, 2003).

Human trafficking and the spread of HIV/AIDS appear to be linked in many ways; confirming this, Burkhalter (2003) notes that the Human Rights Watch reported in its presentation at the 1997 Regional Meeting on Trafficking in Women in Asia and Pacific, that more than 90% of all non-hemophilic cases of HIV/AIDS in Naano and Ibaraki involved foreign migrants who are probably victims of trafficking, working in the sex industry. When a trafficking victim is infected with the virus (HIV), the virus slowly destroys the body immune system and thereafter, the symptoms of AIDS begin to gradually manifest. This is the stage of full-blown AIDS. At this stage, the infected victim now becomes even more vulnerable to all kinds of infections such as incessant cough, skin infections and unexplained weight loss among others (UNAIDS, 1997). HIV/AIDS is a deadly disease. Chomba and Piot (1994) reported that AIDS epidemic has significant economic, social and physical implications. Especially, when a woman contracts the disease, she does not only experience pains, discomfort, confusion and other motherly challenges but there are serious implications for the society as well. IOM (2002) reports that it is typical for victims of trafficking to show symptoms reported by those who have experienced torture such as psychosomatic reactions, psychological reactions, psychoactive substance abuse and dependence, social reactions and psychophysical consequences of STDs or injuries.

Trafficking victims also experience other forms of

psychological and physical abuse. Yukoshko (2009) reports that victims are more likely to experience fear, guilt, sense of betrayal, lack of trust, suspicion, sense of apathy, shame, withdrawal, resignation to fate, hopelessness, extreme form of submissiveness, maladaptation, and a sense of loss of personal autonomy; initiative and integrity. The report also adds that victims tend to turn to drugs, as well as being much more likely to inflict self injury or even commit suicide. Yet also, victims stand the risk of being arrested, face detention, prosecution and deportation. The fastest growing prisons in Italy, France, Spain, the Netherlands, United States, Saudi Arabia and South Africa are the ones for the immigrants trafficked for sexual exploitation (UNHCR, 2000) most probably from Nigeria.

### **Legal instruments for human trafficking in Nigeria**

Human trafficking is a crime against all known laws. It contravenes both natural and sacred laws. Because of the cross-border nature of the crime of trafficking and in order to suppress these practices and bring perpetrators to justice, the response at national and international levels have put in place a number of laws, treaties, conventions and protocols dealing with human trafficking (Goliath, 2008). It is true that some of these legal instruments may not specifically address or mention trafficking, however, it is useful to observe that certain elements of these legal instruments revealed that trafficking has always been seen as not different from slavery, being primarily for sexual exploitation or forced labour (Goliath, 2008). At the international level, there are a number of treaties, laws, protocols and conventions that Nigeria is signatory to. Prominent among these are the United Nations Convention on the Declaration of Human Rights (1948); the United Nations Convention on Elimination of All Forms of Discrimination Against Women (1979); the United Nations Convention on the Rights of the Child (1989); the International Labour Organization (ILO) Convention on Forced Labour and Minimum Wage (1999); the United Nations Optional Protocol to the Convention on the Rights of the Child, especially on the Sales of a Child, Child Prostitution and Child Pornography (2002); and the United Nations Convention Against Transnational Organized Crime (2000). Others include the African Charter on Human Rights (1980); the Protocol on the Rights of Women in Africa (1981); Africa Charter on the Rights and Welfare of the Child (1990), and the Economic Community of West Africa States (ECOWAS) Declaration and of Action against Trafficking in Persons (2001). At the national level, the 1999 constitution provides for the respect and dignity of human persons. It provides in section 34(1) that no person shall be subjected to torture, in human or degrading treatment or held in slavery or required to perform compulsory labour.

The rights of the citizens to the dignity of the human person against slavery, servitude, forced labour, prostitution and other forms of sexual exploitation is also enshrined in the criminal Code of the Southern Nigeria (Cap 42, 1990) and the Penal Code of the Northern Nigeria (Cap 89, 1963); Labour Act (Cap 198, 1990); and the Trafficking in Persons Law Enforcement and Administration Act (2003). The anti-human trafficking act is the most recent and crucial because it specifically addresses human trafficking. This anti-human trafficking law was a laudable move that culminated in the establishment of the National Agency for Prohibition of Trafficking in Persons (NAPTIP). There are several provisions (Sections 11 to 29, 32 and 46) of the anti-human trafficking act of NAPTIP prescribing different punishment ranging from one year to life imprisonment for serious offences such as exportation or importation of girls under the age of 18 years for prostitution, forced labour, servitude or removal of organ by means of threat or use of force or other forms of coercion, abduction, fraud or deception. The seriousness of this law is underscored by its section 61(1) which provides for: where an offence under the act is committed by any citizen or person granted permanent residence in Nigeria, s/he may be prosecuted in respect of such offence as if it was committed in any place within Nigeria. This law also vests the power to arrest, search and seize on police, immigration, custom and National Agency for Prohibition of Trafficking in Persons (NAPTIP) officials. Similarly, the federal and state high courts have concurrent jurisdiction to try any of the offences under the law.

### **Some of the prosecuted crimes of human trafficking in Nigeria**

Since the National Agency for Prohibition of Trafficking in Persons (NAPTIP) came into existence on 8th August, 2003, it has taken charge of investigating and prosecuting all crimes connected with or relating to trafficking in persons in consultation with the attorney general of the federation. So far, about 100 persons have been convicted in connection with human trafficking. Some of the landmark conviction includes the following, among others (NAPTIP, 2009).

Title of case: Attorney General of the Federation Vs Jean Adjayi (M), Gilbert Ganysiode (M) and Alake Iroko (F).  
Charge No: HCL/2C/05.

Jurisdiction: High Court of Justice, Ogun State Ilaro.

Nature of offence: Two of the traffickers are from Benin Republic and the third a Nigerian. They were charged with recruitment of 4 girls from Ghana and Togo and subjected them to various forms of sexual abuse in Nigeria.

Conviction: The first and second accused persons were convicted to 7 years imprisonment each. Bu the third

accused person was discharged and acquitted for lack of evidence.

Title of case: Attorney General of the Federation vs. Franca Edith Asiboja (F).

Charge No: B/BIC/05.

Jurisdiction: High Court of Justice (Court 4) Edo State, Benin City.

Nature of offence: The accused was charged with trafficking of six girls from Edo State, Nigeria to Burkina-Faso for the purpose of prostitution.

Conviction: The accused person was sentenced to five years imprisonment without an option of fine.

Title of case: Attorney General of the Federation vs. Esther Asuqwo (F), Simeon Umabong Love (M) and Peace Okoro (M).

Charge No: ID/112C/05.

Jurisdiction: High Court of Justice (Court 36) Lagos, Ikeja.

Nature of case: The accused persons were charged with recruitment of prostitution and allowing underage girls to be in brothel for the purpose of prostitution.

Conviction: The accused persons were each sentenced to 5 years imprisonment without an option of fine.

Title of case: Attorney General of the Federation vs. Joseph Sunday Effong (M).

Charged No: FHC/Uy/70c/07.

Jurisdiction: Federal High Court, Akwa-Ibom, Uyo.

Nature of case: The accused person was charged with having custody of an 11 year old girl as a house help, seduction and having canal knowledge of the girl.

Conviction: The accused was sentenced to 20 years imprisonment without an option of fine.

Title of case: Attorney General of the Federation vs. Nneka Orji Okoro.

Jurisdiction: Federal High Court, Ebonyi State, Abakaliki.

Nature of case: Kidnapping, stealing and sexual assault of 18 months old baby.

Conviction: The accused person was sentenced to 14 years imprisonment without option of fine.

Title of case: Attorney General of the Federation vs. Sammuell Emwirovhanhko.

Charge No: B/20c/04.

Jurisdiction: High Court of Justice, Edo State, Benin City.

Nature of case: Recruitment and organizing foreign travel to promote prostitution. The accused was arrested in Kano while attempting to traffic some girls to Spain through Libya.

Conviction: The accused was sentenced to five years imprisonment without an option of fine.

Following these evidences, it is possible to aver that the laws in Nigeria have the legal potencies to provide

investigation, prosecution and stiff penalties for the traffickers. This is so because, depending on the circumstances of a particular case, a person suspected of being involved in trafficking of persons for the purpose of slavery, sexual exploitation, forced labour, servitude or removal of organs by means of threat or use of force or other forms of coercion, abduction, fraud or deception, may be charged and punished if found guilty. Nigeria prohibits all forms of trafficking. The 2003 Trafficking in Persons Law Enforcement and Administration Act was amended in 2005 to increase the penalty for trafficker. The Act prescribes a penalty of 5 years imprisonment for labour trafficking, 10 years imprisonment for trafficking children for forced labour, begging or hawking and a maximum of life imprisonment for trafficking women and girls for sexual exploitation, pornography and bestiality. These penalties are sufficiently stringent enough but the congestion of courts and porous borders again pose a considerable problem. The heinous crime in some cases is facilitated by unscrupulous security officers who provide cover and issue fake documents to ensure easy passage for the victims in some of Nigeria international airports and land borders. Sometimes, the powerful syndicates operate with the collaboration of physician who diagnose victims for the purpose of being smuggled out, a magistrate who signs away unsuspectingly those victims and the parents who do not ask questions or simply lack understanding of the ailment, which their wards are being diagnosed. Worst still, the syndicates also operate through the internet dating/marriage network, immigrant lottery visa or as football agents recruiting players for the European soccer clubs.

The negative effects of this crime, which proceeds are in billions of dollars, are obviously inimical to national development, sub-regional integration efforts and the country's international image. It is therefore clear that trafficking is not only a human rights problem but also a development problem. It is a development problem because economic deterioration, poverty, population, displacement, discrimination in female education and low value placed on women and girl child, all continue to conspire to provide a source for poor and vulnerable individuals upon whom traffickers prey.

## CONCLUSIONS AND RECOMMENDATIONS

The menace of human trafficking is damaging, disastrous and devastating to the victims, the family and the society at large. Specifically, trafficking leaves the victims with psychological; social and health problems such as HIV/AIDS. Also, victims of human trafficking are exposed to human rights violation, physical abuse, racial harassment, extortion, exploitation, destitution, arrest, detention, imprisonment and deportation. Following this, fighting against human trafficking in Nigeria is all encompassing because it requires a need for synergy of efforts to promote public awareness of the crime, evolve

strategies of rescue mission, counseling, rehabilitation and reintegration of victims. The women and young girls who are in search of the golden fleece abroad should be properly orientated through education on their potential exposure to the risk of violent, abuse and contracting the dreaded HIV/AIDS. Much is required also in the area of counseling, rehabilitation and reintegration. Victims, most of whom are traumatized, disoriented and haunted by their experience should first undergo counseling before rehabilitation and subsequently adequate reintegration into the society through vocational skills training such as tailoring, hairdressing, cosmetology, computer/secretarial studies, etc. The counseling, rehabilitation and reintegration programme should also include allowing victims of trafficking access to government subsidized services for HIV/AIDS and other female reproductive health care programmes. To effectively fight human trafficking in Nigeria, efforts should also be made to address the grinding poverty, human wretchedness and negative cultural practices that are largely the root of the problem. Parents and guardians should also be mindful of porous propositions by dubious tour operators seeking to encourage bogus oversea trips for their young daughters.

Considering the noble position the media, religious bodies and traditional rulers occupy in the society, they are expected to play a pivotal role in the war against human trafficking. Government in particular should make the country attractive to citizens especially the youths through qualitative public education, job creation and provision of social infrastructures, which often constitute the push factor for emigration. Since women and girls are the most vulnerable to trafficking, the federal government is expected to reinforce relevant national laws and international conventions and protocols that protect the rights and privileges of individuals against trafficking. Law enforcement agencies like the Nigeria Police Force (NPF), Nigeria Immigration Services (NIS) and Nigeria Custom and Exercise (NCE) could also assist the National Agency for Prohibition of Trafficking in Persons (NAPTIP) with intelligence and logistic support to fight the crime. Members of the public also owe a duty to NAPTIP by providing information to help NAPTIP to track down suspected trafficking syndicates. Above all, since globalization has influenced and aggravated human trafficking, just as other transborder crimes, the necessity for closer cooperation and collaboration between Nigeria and other countries to nip the crime in the bud cannot be underestimated.

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