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RECOMMENDED CITATION: David Oluwagbami & Oluwakemi Omojola (2021) “International Cooperation as an Anti-Trafficking Measure in Nigeria” Volume 23 Issue 4, Makerere Law Journal pp494-522

INTERNATIONAL COOPERATION AS AN ANTI-TRAFFICKING MEASURE IN NIGERIA

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Abstract

Human trafficking is one of the most dehumanizing forms of organized crime. It often has transnational characteristics. Nigeria is a centre of human trafficking. It is an origin, transit and destination country for trafficked persons. Global Slavery Index (2018) Report ranked Nigeria 32/167 of the countries with the highest number of victims. International cooperation in curbing this crime dates back to the early 1900 when agreements and conventions for the suppression of slavery, trafficking in women and children were put in place. Although Nigeria has a legal and institutional framework in place, there are indications that the country requires further cooperation with other countries to suppress human trafficking significantly. The need for further cooperation is reflected in the 2020 Trafficking in Persons (TIP) Report, where Nigeria was downgraded from Tier 2 to Tier 2 Watch List. Using doctrinal research, this paper examines international cooperation as a vital plank in fighting the scourge of human trafficking effectively. The paper finds that despite progress made in recent times, more effort is required in international cooperation in the areas of law enforcement and prosecution in order to enhance the fight against human trafficking in Nigeria. The paper makes relevant recommendations to that effect.

1.0 INTRODUCTION

Characterized by shrinking space, time and disappearing borders, the present era of globalization has brought about mass human migration.¹ The global community continues to experience unprecedented numbers of illegal migrants. People smuggling and trafficking networks have become a major part of transnational organised crime and more complex in their operations than ever before. This has threatened the integrity of States' borders, national security, national sovereignty and the rule of law.²

The process of trafficking involves the movement or transportation of persons from one place to another whether internally or externally and is dehumanizing. It also violates the dignity and integrity of the human person

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¹ Severino Gana, 'International Cooperation In Combating Trafficking In Human Beings and Smuggling of Migrants' https://www.unafei.or.jp/publications/pdf/RS_No62/No62_13VE_Gana.pdf [accessed 28 January 2021]

² Ibid.

as well as the criminal justice system of any given country.³ Victims are trafficked for sexual exploitation, forced labour, forced begging, forced marriage, as child soldiers, and for the removal of organs. Women make up 49% and girls 23% of all victims of trafficking. Sexual exploitation is the commonest form of exploitation (59%) followed by forced labour (34%). Most victims are trafficked within their countries' borders while those trafficked abroad are moved to the richest countries.⁴

The fight against human trafficking is a priority of the global community. In order to effectively accomplish this task; states and international organisations apply systematic measures of international cooperation.⁵ For years, the media has been awash with horrifying stories of Nigerian women trafficked to Europe for sexual exploitation and migrants trapped in Libya in slavery-like conditions or dying as they cross the Mediterranean Sea.⁶ Human trafficking is considered the third most lucrative organised crime business after financial fraud and drug trafficking in Nigeria.⁷

Nigeria has taken some positive steps to address the widespread problem of trafficking in persons. It has endorsed most international instruments on human trafficking and has played a key role in the Economic Community of West African States (ECOWAS) anti-human trafficking initiatives.⁸ The

³ Alemika Emily, Ifeakandu Ibe, An Examination of the Elements of Transportation, Enslavement and Exploitation in Trafficking in Human Beings under International and Nigeria Anti-Trafficking Laws. *Beijing Law Review*. (2019)
< <https://m.scirp.org/papers/abstract/95531> > [accessed 24 November, 2020]

⁴ UN World Day against Trafficking in Persons
<https://www.un.org/en/observances/end-human-trafficking-day>
[accessed 28 January 2021]

⁵ Yuliia Chornous, Svitlana Pylypenko, Olga Vakulyk, Hanna Bidniak, Anatoliy Ostapchuk, Current Challenges of International Cooperation in the Area of Human Trafficking Countering. *International Journal of Advanced Science and Technology*, 29 (8s), 2344 -2353

⁶ 116 Nigerians Trapped in Libya Slave Camps - Presidential Aide,” *Premium Times*, August 6, 2018,
<https://www.premiumtimesng.com/news/top-news/279000-116-nigerians-trapped-in-libya-slave-camps-presidential-aide.html> [accessed 6 August 2020]

⁷ Sani Ibrahim, Sani Halim, Adlina Himmah, Zatul, A Review of Human Trafficking Issues in Malaysia and Nigeria. *Pertanika Journal of Social Science and Humanities*
<https://migrationresearch.com/item/a-review-of-human-trafficking-issues-in-malaysia-and-nigeria/521673> [accessed 6 August 2020]

⁸ Aderanti Adepoju, Femke Van Noorloos, Annelies Zoomers “Europe’s Migration Agreements with Migrant-sending Countries in the Global South: A Critical Review, (2010)

government of Nigeria has implemented programs to help survivors of trafficking. This is through family tracing and reunification, shelters, counselling, access to health care, skills training, business set-up, and financial support. These programs are largely implemented through the National Agency for the Prohibition of Trafficking in Persons (NAPTIP). It collaborates with a broad network of local non-governmental organisations and international donors.

The 2020 Trafficking in Persons report downgraded Nigeria from Tier 2 to Tier 2 Watch List. This meant that the country did not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. For instance, at the peak of the Covid-19 lockdown, the media was replete with the story of 150 Nigerian girls trafficked to Lebanon. They were rescued by the Nigerian Mission in Lebanon only after their video footage seeking assistance from the government went viral.⁹ Without a doubt, the country needs to redouble her efforts in the area of international cooperation in order to meet minimum standards for the elimination of human trafficking significantly.

As clearly stated by the Nigerian Liaison Magistrate to Spain, criminal groups are not encumbered by inconveniences such as differences in legal systems and regulations. International cooperation is therefore the only way to ensure that criminal networks are dismantled, victims find restitution and perpetrators are brought to justice.¹⁰

It is against this backdrop that this paper seeks to examine international cooperation as an anti-trafficking measure in Nigeria. This paper is divided into five parts including the introduction. Part one is dedicated to

https://dspace.library.uu.nl/bitstream/handle/1874/353968/Author_manuscript_Adepoju_van_Noorloos_Zoomers_Europe_s_migration_agreements.pdf?sequence=1&isAllowed p. 7 [accessed 17 November 2020]

⁹ Premium Times
<https://www.premiumtimesng.com/news/top-news/409312-another-71-nigerian-women-trafficked-to-lebanon-arrive-home.html>
[accessed 6 August 2020]

¹⁰ UNODC,
<https://www.unodc.org/nigeria/en/press/world-day-against-trafficking-in-persons-nigerian-liaison-magistrates-close-the-gap-between-eu-and-africa-in-prosecuting-human-trafficking-cases.html>> [accessed 6 August 2020]

conceptual clarification of human trafficking and international cooperation. Part two explores human trafficking in Nigeria. The legal aspects of international cooperation to combat human trafficking are considered in part three. Part four is dedicated to considering the gaps in International cooperation while part five suggests a way forward and concludes the paper.

1.1 CONCEPTUAL CLARIFICATION

1.1.1 Human Trafficking

Human trafficking affects both adults and children. It takes the form of sexual exploitation, forced labour, domestic servitude, organ harvesting, amongst other emerging forms of exploitation.¹¹ It has now been generally accepted that at the core of human trafficking is the exploitation of people.¹² The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol),¹³ supplementing the United Nations Convention against Transnational Organized Crime (Organised Crime Convention) defined human trafficking as:

“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, or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. 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.”¹⁴

Article 3(b) further states that the consent of a victim of trafficking in persons to the intended exploitation set forth in sub paragraph (a) of this article shall be irrelevant where any of the means set forth in sub-paragraph (a) have been used.

¹¹ May Ikeora, *Interstate Cooperation and Anti-Trafficking: Assessing Existing Approaches Between Nigeria and the United Kingdom* <https://hydra.hull.ac.uk/assets/hull:8602a/content>> [accessed 6 August 6 2020]

¹² <https://www.peacepalacelibrary.nl/ebooks/files/356625206.pdf> [accessed August 6, 2020]

¹³ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000 (Palermo Protocol)

¹⁴ Article 3 (a) Palermo Protocol.

Section 81 of the Trafficking in Persons (Prohibition), Enforcement and Administration (TIPPLEA) Act 2015 (As Amended)¹⁵ has similar provisions with the definition provided in the Palermo Protocol. It however includes reproductive involuntary servitude as a purpose of trafficking. This is reflective of the numerous baby factories that have been discovered in the country.¹⁶ The tentacles of human trafficking have evolved over time and emerged in new forms. One such new form is the creation of baby factories. Baby factories involve the abuse of pregnant women for the sale of their new born children on the black market.¹⁷

There are three key elements in these definitions: (1) act, (2) means and (3) purpose. The first element refers to the main conduct of trafficking, that is, recruitment, transportation, transfer, harboring or receipt of trafficked people. The second element explains how these victims are transported. Traffickers use coercion and/or deception to traffic people from one place to another. This suggests that there is no genuine consent on the part of victims.

The second element is closely interlinked with the first as they both constitute the actus reus of trafficking. The third element, 'purpose' refers to the reasons why people are trafficked. Traffickers transport victims to be exploited in sex and non-sex industries.¹⁸

¹⁵ Trafficking shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in forced or bonded labour, or in slavery-like conditions, the removal of organs or generally for exploitative purposes.

¹⁶ Obaji, Survivors of Nigeria's 'baby factories' share their stories <https://www.aljazeera.com/features/2020/5/3/survivors-of-nigerias-baby-factories-share-their-stories> [accessed 6 August 2020]

¹⁷ Yinka Olomajobi, Ajoke Oluwakemi Agbetoba (2020) The Abyss of Baby Factories in Nigeria, *Women & Criminal Justice*, 30:4, 220-242, DOI: [10.1080/08974454.2019.1664329](https://doi.org/10.1080/08974454.2019.1664329)

¹⁸ Tom Obokata, Human Trafficking in Africa, Jalloh, C., Clarke, K., & Nmehielle, V. (Eds.). (2019). *The African Court of Justice and Human and Peoples' Rights in Context: Development and Challenges*. Cambridge: Cambridge University Press. doi:10.1017/9781108525343 <https://www.cambridge.org/core/books/african-court-of-justice-and-human-and-peoples-rights-in-context/human-trafficking-in-africa/9CDA6F771919FB283583F5C4196678B0/core-reader>>

Human trafficking is not to be confused with migrant smuggling. The Protocol against the Smuggling of Migrants by Land, Sea and Air (2000),¹⁹ defines smuggling as:

“the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”

The absence of the ‘means’ and ‘purpose’ elements in the definition for smuggling suggests that those smuggled willingly take part in this process, that smuggling ends as soon as migrants reach their destinations; and that smugglers do not have intention to exploit them or have no knowledge that they will be exploited by others.²⁰ Obokata cautions that it is difficult sometimes to make a clear distinction between trafficking and smuggling. The latter can be the beginning of the former, and many migrants experience a wide variety of abuses during their journey. Physical abuse, sexual violence as well as loss of life (e.g. drowning at sea) are some of the clear examples of this.²¹

1.1.2 International Cooperation

International cooperation has extended to all areas from trade and finance to security, environment, education and health issues. International cooperation does not only mean mutual aid among governments and institutions from different countries, although this may happen often.²² International cooperation is a wider notion. It means working together. It means that governments and institutions do not make individual decisions and take individual action. Behind this phenomenon is the fact that an increasing number of issues, which until recently were treated by

[accessed 16 November 2020]

¹⁹ Article 3, Resolution A/RES/55/25 of 15 November 2000.

²⁰ Obokata, (n17).

²¹ *ibid*

²² E. Sato International Cooperation: An essential Component of International Relations DOI: 10.3395/reciis.v4i1.345en

governments as national matters, have acquired more direct and immediate dimensions and implications for other nations.²³

International cooperation in criminal matters is an essential prerequisite to combat trafficking in persons. A significant proportion of trafficking in persons cases are transnational and even those cases within a single jurisdiction may involve victims or offenders with origins outside that jurisdiction. For example, forty-eight percent of trafficking victims identified in France were Nigerians.²⁴

2.0 HUMAN TRAFFICKING IN NIGERIA

Nigeria is a country of origin, transit and destination for victims of trafficking. As a country of origin, traffickers recruit victims from rural areas for exploitation in commercial sex and forced labour in domestic work in urban cities such as Lagos, Aboekuta, Ibadan, Kano, Kaduna, Calabar, and Port Harcourt.

Women and girls are victims of forced labour in domestic service and sex trafficking while boys are victims of forced and bonded labour in street vending, domestic service, mining, stone quarrying, agriculture, textile manufacturing, and begging. Traffickers operate baby factories often disguised as orphanages, maternity homes, or religious centres where traffickers hold women against their will, rape them, and force them to carry and deliver babies.²⁵

As a transit nation, women from West African countries traverse Nigeria en route Europe and the Middle East, where traffickers force them into commercial sex. Nigeria's ports and waterways around Calabar are transit points for West African children subjected to forced labour in Cameroon, Equatorial Guinea, and Gabon.

²³ Eiti Sato, International cooperation: an essential component of international relations <file:///C:/Users/HP/AppData/Local/Temp/698-2869-1-PB.pdf> [accessed 18 November 2020]

²⁴ <https://www.state.gov/reports/2020-trafficking-in-persons-report/nigeria/> [Accessed 20 August 2020]

²⁵ *ibid*

Labour traffickers fraudulently recruited IDPs displaced by Middle Belt violence and exploited them in domestic service; there were also unconfirmed reports unknown perpetrators sexually exploited IDPs in the Middle Belt. As in past reporting periods, NGOs reported that Nigerians travelled to Togo for child sex tourism.²⁶ As a destination country West African children are subjected to forced labour in Nigeria, including in granite and gold mines. There are reports of traffickers coercing Togolese victims to work in palm wine production in rural Nigeria.

Nigeria is the first country in Africa to enact a law on human trafficking and has endorsed most international instruments on human trafficking.²⁷ It has also entered into various bilateral agreements and memoranda of agreement on immigration matters.²⁸ Edo, Delta, Ondo, Ekiti and Lagos States have also formed taskforces against human trafficking.²⁹

The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) has improved awareness, investigation, and prosecution of trafficking cases, and identification, protection, and assistance for survivors since its establishment. There is also a Victims of Trafficking Trust Fund to provide humanitarian and financial aid for victims. NAPTIP, with the support of the United Nations Office on Drugs and Crime (UNODC), and funding from the Government of Switzerland officially kicked-off the process to develop a new National Action Plan against human trafficking in Nigeria.³⁰

According to the 2020 Trafficking in Persons Report³¹, NAPTIP implemented some measures at the international airport in Lagos and coordinated with the

²⁶ UNODC Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo

²⁷ Adepoju, Aderanti, van Noorloos, Femke , ZoomersAnnelies, Europe's Migration Agreements with Migrant-Sending Countries in the Global South: A Critical Review PY

²⁸ Victoria Nwogu ,Nigeria Human trafficking and Migration <https://www.fmreview.org/peopletrafficking/nwogu> [accessed 23 January 2021]

²⁹ <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/nigeria/> [accessed 23 January 2021]

³⁰ UNODC, <https://www.unodc.org/nigeria/en/press/naptip-kick-off-process-to-develop-a-new-national-action-plan-against-human-trafficking.html>> [accessed 25 November 2020]

³¹ <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete->

aviation sector to raise awareness about human trafficking and available resources for trafficking victims. The Ministry of Labour and Employment regulates private employment agencies and thus instituted a licensing requirement for labour recruiters. Each of the nine NAPTIP zonal commands and headquarters in Abuja operates hotlines for trafficking victims; the hotlines are staffed 24 hours, the hotline staffs speak English and the relevant local languages for the region.

NAPTIP'S first quarter report for the year 2020³² revealed that a total of three hundred and seventy cases were reported. Of these, one hundred twenty one were successfully investigated. The Agency received, for legal opinion, seventy three cases. Twenty three were successfully charged in court. The most reported cases in the period were alleged offences of foreign travel that promoted prostitution, with seventy three cases followed by alleged cases of child abuse with thirty nine.

Alleged cases of procurement of persons for sexual exploitation and buying or selling of human beings for any purpose were thirty seven. The least reported were cases of recruitment of persons below 18 years for prostitution. Recruitment of persons under 18 years for pornography or brothel, fraudulent entry of persons, illegal adoption among others with the recorded the highest number of victims with two hundred and four victims.

This is followed by 13-17years olds with one hundred and thirty five victims. The least age range was 0-12years, with fifty eight (58) victims. Out of the three hundred and ninety seven (397) victims rescued in this first quarter of 2020, three hundred and twenty four (324) were females while seventy three were males.³³

³² 062420-FINAL.pdf [Accessed 17 September 2021]
NAPTIP First Quarter Report
<https://www.naptip.gov.ng/wp-content/uploads/2020/10/2020-first-quarter-report.pdf> [accessed 24 March 2021]

³³ NAPTIP First Quarter Report
<https://www.naptip.gov.ng/wp-content/uploads/2020/10/2020-first-quarter-report.pdf> [accessed 24 March 2021]

The foregoing state of human trafficking in the country is caused by interrelated “push” and “pull” factors contribute to making people more vulnerable to human trafficking. Some “push” factors include, poverty, gender inequity, unemployment, limited access to education/social programs, political instability, war and conflict situations. Other “pull” factors include increased demand for inexpensive labour and/or exploitative labour practices, as well as the promise of money and what is portrayed as, or believed to be, a better life. Increasingly, the anonymity of the Internet also helps fuel trafficking by creating conditions that enable online luring and trafficking of girls and women for the purposes of forced prostitution.³⁴

3.0 INTERNATIONAL COOPERATION AGAINST HUMAN TRAFFICKING

3.1 The Legal Basis for International Cooperation against Human Trafficking

Section 12(a) of the 1999 Constitution 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 is that though Nigeria is a party to several 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.

On the other hand, Section 5 of the Trafficking in Persons (Prohibition) Enforcement and Administration (TIPPLEA) Act, 2015 (as Amended),³⁵ empowers NAPTIP to conduct research and strengthen effective legal means of international cooperation to suppress trafficking in persons; implement all bilateral and multilateral treaties and conventions on trafficking in persons that Nigeria has adopted. It provides further for strengthening co-operation and conduct joint operations with relevant law enforcement and

³⁴ OWJN, What is Human Trafficking?
<https://owjn.org/2018/06/what-is-human-trafficking/> [accessed 24 March 2021]

³⁵ TIPPLEA Act No.4 (2015)

security agencies, international authorities and other relevant partners in the eradication of human trafficking.

Cooperation runs silently and loudly across all the international instruments. Indeed, this cooperative element dovetailed into the treaties that emerged to protect humans from becoming the object of trafficking for various immoral and illegal purposes. The U.N. General Assembly on International Cooperation in Combating Organized Crime, noted clearly that the General Assembly:

requests the Committee on Crime Prevention and Control to consider ways of strengthening international cooperation in combating organized crime, taking due account of the opinions of Governments, international organizations and non-governmental organizations, as well as opinions expressed at and decisions taken by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and to submit its views, through the Economic and Social Council, to the General Assembly at its forty-seventh session.³⁶

The spirit of cooperation pervades the provisions of the following key anti-human trafficking treaties;

- 1) The United Nations Conventions Against Transitional Organised Crime 2000;³⁷
- 2) The Convention for the Suppression of Trafficking in Persons and of the Exploration of the Prostitution of Others, 1951³⁸;
- 3) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Crime (Palermo Protocol).

Articles 8, 9 and 13 of the 1951 Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others provide that human trafficking offences are extraditable. It also permits prosecution in the offender's country where the offender is not extraditable

³⁶ Resolution 45/123 of 14th December 1991, resolution (paragraph) 3

³⁷ Resolution 55/25 of 15 November 2000

³⁸ Resolution 317 (IV) of 2 December 1949

or extradited having travelled back to his country of origin; and lastly the use of letter of request.³⁹

The Palermo Protocol, 2003 has similar provisions for international cooperation in Articles 8, 9, 10, and 11 among others. In these articles, elaborate provisions are made in respect of repatriation of victims of trafficking in persons; information exchange and training as well as cooperation on border measures.⁴⁰

Others relevant Conventions are Convention on the Elimination of All Forms of Discrimination against Women,(CEDAW) 1979, Convention on the Rights of the Child (CRC)1991 and the International Labour Organization's Convention No. 29 on Anti-Forced Labour, 1930 International Cooperation in Combating Organized Crime, 1990.⁴¹ The Prevention of the Smuggling of Aliens, 1993,⁴² and Naples Political Declaration and Global Action Plan against Organized Transnational Crime, 1994⁴³ are also instructive.

All these instruments have several things in common. One of them is the call for cooperation among the members of the United Nations towards solving the problems that motivated the General Assembly to adopt the Protocol against the Smuggling of Migrants by Land, Sea and Air 2000.⁴⁴ Others are to prevent and combat the smuggling of migrants, as well as promote cooperation among countries⁴⁵ while protecting the rights of smuggled migrants. Also included in article 7 of the Protocol is a declaration that effective action to prevent and combat the smuggling of migrants requires cooperation, the exchange of information and other appropriate measures.

The Rome Statute of the International Criminal Court, 2002 in part 9 provides that States Parties shall, in accordance with the provisions of the Statute, cooperate fully with the Court in its investigation and prosecution

³⁹ entered into force July 25 1951, Articles 8, 9, 13

⁴⁰ Ibid, Articles 9-11

⁴¹ UNGA Resolution 45/123 of 14th December 1990

⁴² UN General Assembly Resolution No. 48/102 of 20th December 1993

⁴³ UN General Assembly Resolution 49/159 of 23 December 1994

⁴⁴ A/RES/55/25

⁴⁵ Article 2

of crimes within the jurisdiction of the Court. ⁴⁶ Article 5 (a) of the Declaration on the Elimination of Violence against Women, 1993 states that the organs and specialized agencies of the United Nations system are to:

(a) Foster international and regional cooperation with a view to defining regional strategies for combating violence, exchanging experiences and financing programmes relating to the elimination of violence against women;⁴⁷

At the regional level, the Libreville Common Platform for action to fight Child Trafficking for exploitative labour purposes in West and Central Africa signed in Libreville, Gabon on 24th February 2000, the 2001 Plan of Action.⁴⁸ It created an ECOWAS Coordination Unit to liaise with National Task Forces, and provided for protection and support of victims, cooperation between border control agencies.

In January 2002, Ministers from West and Central African States met in Yamoussoukro, Cote D'Ivoire at an "African specialized meeting on Child Trafficking and Exploitation in West and Central Africa. They agreed to exchange of information and intelligence on criminal matters, encourage States to work with international development partners to establish national databases that contain disaggregated criminal data, establish anti-child trafficking committees in each State.⁴⁹ Another important cooperation instrument in combating human trafficking is the African Union Convention on Cross-Border Cooperation 2014, which stipulates the areas of cooperation to include security, crime prevention, and socio-economic development.⁵⁰

3.2 THE DYNAMICS OF INTERNATIONAL COOPERATION

3.2.1 Types of International Cooperation

⁴⁶ N. Document 2187, U.N.T.S 90, entered into force July 1, 2002

⁴⁷ Resolution 48/104 of 20 December 1993

⁴⁸ UNICEF, "Child Trafficking in West Africa, Policy Responses", <https://www.unicef-irc.org/publications/pdf/insight7.pdf> [accessed 14 September 2021]

⁴⁹ Bisi Olateru-Olagbegi and Anne Ikpeme , Review of legislation on Trafficking and Forced Labour in Nigeria https://www.ilo.org/wcmsp5/groups/public/---ed_norm/pdf [accessed 13 February 2021]

⁵⁰ Article 3

International cooperation against human trafficking comprises two types, formal and informal. These two types can be used together depending on each case. In many cases, informal channels can be used at any early stage of an investigation or prosecution process, while a formal request is made later. The most important rule when making an informal request is to ensure that any informal request is made and executed lawfully.⁵¹

3.2.1.1 Informal Cooperation

Informal cooperation refers to the exchange of information that occurs directly between law enforcement and regulatory agencies with their foreign counterparts.⁵² It is also known as police-to-police and agency-to-agency cooperation. Informal cooperation is a separate, less rule-bound international crime cooperation tool.

This international cooperation tool can be used prior to the commencement of court proceedings such as conducting surveillance or taking voluntary witness statements. In circumstances where force is not required, it is usually faster, cheaper and easier to obtain information or intelligence on an informal basis than via formal mutual assistance channels.⁵³ Some examples of informal cooperation tools include

- taking voluntary witness statements;
- conducting voluntary witness interviews;
- taking voluntary witness testimony via a video link facility;
- hosting foreign police who are conducting inquiries;
- sharing intelligence, conducting physical surveillance and
- obtaining criminal records, or obtaining publicly available material.⁵⁴

3.2.1.2 Formal Cooperation

⁵¹ Martin Polaine, *Transnational Bribery/Corruption Investigations: Some Practical Guidance on Improving Procedures for Mutual Assistance and Mutual Legal Assistance*, in *Making International Anti-Corruption Standards Operational: Asset Recovery and Mutual Legal Assistance*, Regional Seminar for Asia Pacific, p. 3, (ADB / OECD and Basel Institute on Governance, 2007)

⁵² https://www.unodc.org/documents/human-trafficking/TIP_module6_Ebook.pdf [accessed 14 September 2021]

⁵³ https://www.unodc.org/documents/humantrafficking/ASEAN_Handbook_on_Inter [accessed 14 February 2021]

⁵⁴ UNODC Informal Cooperation Channels : Australia

Formal cooperation could be based on existing bilateral or multilateral agreements, including agreements on mutual legal assistance in criminal matters, on extradition, or on the Organized Crime Convention, depending on the jurisdiction of the countries involved.

A formal letter of request is made when an official investigation is under way or during the judicial proceedings.⁵⁵ Examples include: posting liaison officers to facilitate cooperation with the host government's law enforcement officers in criminal investigations, bilateral and multilateral agreements and arrangements on law enforcement cooperation and on the sharing of law enforcement information, cooperation within such structures as the International Criminal Police Organization (INTERPOL).⁵⁶ Some examples of formal cooperation tools are:

i) Mutual Legal Assistance

Mutual legal assistance is the process countries use to provide and obtain formal government-to-government assistance in criminal investigations and prosecutions. Mutual legal assistance is sometimes also called 'mutual assistance' or 'judicial assistance'.⁵⁷

The type of mutual legal assistance that countries will provide to one another is subject to national law, treaties and other international arrangements. Legal basis for mutual legal assistance may be found in bilateral or multilateral treaties; domestic law or a combination of these sources. The state making the request is usually referred to as the 'requesting state', whilst the state to whom the request is made is the

⁵⁵ https://www.unodc.org/documents/human-trafficking/TIP_module6_Ebook.pdf [accessed 14 February 2021]
https://www.unodc.org/documents/human-trafficking/Basic_Training_Manual_e-book_E_Module_8_10-54402_June_2010.pdf [accessed 14 February 2021]

⁵⁶ UNODC ,Basic training manual on investigating and prosecuting the smuggling of migrantshttps://www.unodc.org/documents/human-trafficking/Basic_Training_Manual_e-book_E_Module_8_10-54402_June_2010.pdf [accessed 14 February 2021]

⁵⁷ COE, Mutual Legal Assistance Manual <https://rm.coe.int/mutual-legal-assistance-manual-eng/1680782927> [Accessed 24 December 2021]

‘requested state’. It is designed for the gathering of evidence, not intelligence or other information.⁵⁸ Legal assistance maybe requested for:

- taking evidence or statements;
- locating and identifying witnesses and suspects;
- effecting service of judicial documents;
- executing searches and seizures of property;
- examining objects and sites;
- providing information, evidentiary items and expert evaluations;
- providing originals or certified copies of relevant documents and records;
- identifying or tracing proceeds of crime, freezing and seizing and confiscating proceeds of crime;
- facilitating the voluntary appearance of persons in the Requesting State;
- transfer of prisoners to give evidence;
- giving or taking of evidence through telecommunications technology;
- enforcement of foreign confiscation order

ii) Extradition

Extradition is the formal name given to the process whereby a country asks another country to return an individual to face criminal charges or punishment in the requesting country. In the case of *George Udeozor v Federal Republic of Nigeria*,⁵⁹ the court defined extradition as the process of returning somebody, upon request, accused of a crime by a different legal authority to the requesting authority for trial or punishment.

It is an important component of an effective criminal justice response to trafficking in persons.⁶⁰ Suspected traffickers sometimes wanted for prosecution in one country can flee to another country. This may be because

⁵⁸ ibid

⁵⁹ CA/L/376/05

⁶⁰ Sibylle Kapferer , The Relationship between Extradition and Asylum, <https://www.unhcr.org/protection/globalconsult/3fe84fad4/5-interface-extradition-asylum-sibylle-kapferer.html> [accessed 14 September 2021]

they are nationals of that other country, or because they have deliberately taken steps to avoid prosecution or sentencing by fleeing to another country.

The rules around extradition also seek to impose safeguards in order to ensure that the individual whose extradition is being sought will be protected from human rights abuse. It is important to note that the extradition process is not one in which guilt or innocence is determined. It is the Courts of the requesting state that will ultimately make such a determination.⁶¹ Trafficking and related crimes must be extraditable offences. States are obliged to ensure that the applicable legal framework enables extradition for trafficking related offences.⁶²

3.3 CHALLENGES OF INTERNATIONAL COOPERATION

International cooperation whether formal or informal has challenges that inhibit effective coordination amongst states. Some of these challenges are discussed below.

i. Lack of Trust

For information sharing to succeed, there must be trust. Building trust is a process of change that requires strong leadership, clear laws and guidelines and advanced technologies to ensure that information sharing serves its purpose and operates consistently with national values.

Lack of trust also plays out in situations where awards and recognition for outstanding performance is given in the fight against crime, law enforcement officers do not want to see them stolen by the authorities of a neighbouring country. There is also the risk of leaks and corruption, in this regard information is not shared with counterparts across the border and if shared at all it is at the last possible moment.⁶³

⁶¹ ASEAN handbook on International Cooperation
https://www.unodc.org/documents/human-trafficking/ASEAN_Handbook_on_International_Legal_Cooperation_in_TIP_Cases.pdf
[accessed 14 September 2021]

⁶² Article 16

⁶³ Kauko Aromaa and Terhi Viljanen (eds) International key Issues in Crime Prevention and Criminal Justice

ii. Different Legal Systems and enforcement structure

International cooperation can be hindered by differences in legal systems. The internationalisation of investigations can lead to situations in which detectives or other law enforcement officers carry out investigative actions in the sovereign territory of a neighbouring country without knowledge of the laws and enforcement structure of the neighbouring country.

Achieving an understanding of the varying and complex legal requirements for making a successful formal request from jurisdiction to jurisdiction can be a daunting task for officers willing to engage in international co-operation. These legal uncertainties increase the time required and the administrative burden placed upon agencies when making a request.⁶⁴

iii. Bureaucracy

Bureaucratic complexity is a further obstacle to cooperation. Bureaucracies often work slowly and inefficiently, especially large ones. Rotation of personnel, inefficient information sharing mechanisms, and other factors account for such deficiencies. The requirement of authorisation or permission from other government bodies in order to engage in co-operation activities limits international cooperation.⁶⁵

iv. Lack of Coordination

One of the main challenges in the field of suppression of transnational human trafficking is the lack of coordination among law enforcement agencies of the relevant countries. Often when a victim is rescued and a trafficker is arrested in the country of destination, no information is given to the country of origin.

Thus, the trafficker in the country of origin is not arrested and prosecuted. Likewise, when a victim returns home and the authorities in the country of

https://www.peacepalacelibrary.nl/ebooks/files/HEUNI_gq4fgo83lmb.pdf [Accessed 2 March 2021]

⁶⁴ OECD <https://www.oecd.org/competition/InternEnforcementCooperation2013.pdf> [accessed 2 March 2021]

⁶⁵ OECD <https://www.oecd.org/competition/InternEnforcementCooperation2013.pdf> [accessed 16 March 2021]

origin are informed of the trafficking and exploitation, no information is sent to the country of destination. In some cases, the information is shared with the other country involved, but without victim information and details about the traffickers and exploitation. The authorities do not have enough information to make an arrest or initiate a criminal case.⁶⁶

v. Inadequate Capacity Building

A further challenge to effective international cooperation is the lack of training for diplomatic personnel on human trafficking, and high staff turnover. The provision of regular human trafficking awareness and training of diplomatic staff is crucial, as they are usually the first point of contact for referral of victims in transnational human trafficking cases.

In many countries, such training is not conducted or it depends on projects implemented by international organisations and NGOs. Thus, no sustainability can be ensured. The sustainability of the conducted human trafficking training poses an additional challenge due to the high numbers of trained personnel leaving the institutions.⁶⁷

4.0 CLOSING INTERNATIONAL COOPERATION GAPS

Traditional tools have largely proven insufficient against more sophisticated organized crime groups and there is a pressing need for governments, international organizations and practitioners to come up with innovative approaches to tackle the continuously growing threats to the stability of the region. Given the transnational scope of these crimes, international cooperation to prevent them and to bring the perpetrators to justice appears fundamental.

Nigeria is party to the Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children in West and Central

⁶⁶ Wanchai Roujanavong, Human trafficking : A challenge to Thailand and the World, 16 March 2021
https://www.unafei.or.jp/publications/pdf/RS_No87/No87_11VE_Wanchai.pdf
[accessed 16 March]

⁶⁷ file:///C:/Users/HP/AppData/Local/Temp/Assessment%20of%20Anti-Trafficking%20Gaps_EN-1.pdf [Accessed 14 September 2021]

Africa.⁶⁸ The Governments of Benin, Burkina Faso, Côte d'Ivoire, Guinea, Liberia, Mali , Niger, Nigeria and Togo entered into a cooperative agreement with respect to the trafficking of children. The agreement draws upon the bilateral agreements existing between Côte d'Ivoire and Mali (2000) , Burkina Faso and Mali (2 004), Senegal and Mali (2004), Mali and Guinea (2005) and Benin and Nigeria (2005), and other international and regional cooperative instruments. Part of the technical assistance provided to Nigeria was focused on strengthening the bilateral cooperation between the two countries and enhancing the capacity of relevant Nigerian agencies to prevent, investigate and prosecute human trafficking.⁶⁹

There are existing agreements such as the one between Benin and Nigeria⁷⁰ to work out effective co-operation on human trafficking and identify, investigate and prosecute agents and traffickers, the MOU between Nigeria and the United Kingdom,⁷¹ signed in London was based on cooperation to prevent, suppress and punish Trafficking in Persons.

The Quadripartite Extradition Treaty between Benin, Ghana, Nigeria and Togo provide the legal framework to promote international cooperation between the countries, which are parties to the treaties.⁷² Aside from these agreements on cooperation against human trafficking, regional networks such as the West African Network of Central Authorities and Prosecutors against Organised Crime (WACAP), the Judicial Cooperation Network of Central Asia and Southern Caucasus (CASC), the Great Lakes Judicial Cooperation Network (GLJC) , which is the European Union Agency for Criminal Justice Prosecution (EUROJUST) and the South East Asia Justice (SEAJust) Network, provide a framework to promote expeditious

⁶⁸ <https://www.unodc.org/documents/human-trafficking/Toolkit->
[Accessed 14 September 2021]

⁶⁹ https://www.ohchr.org/Documents/Issues/Trafficking/Dakar_Saddikh_Niass
[accessed 14 September 2021]

⁷⁰ Signed August 2003

⁷¹ Signed on 17th November 2004,

⁷² https://www.unodc.org/documents/humantrafficking/ht_research_report_nigeria
[accessed 16 March 2021]

execution of mutual legal assistance (MLA) requests for all forms of organised crimes.⁷³

There is International Criminal Police Organisation (INTERPOL) and the African Police Cooperation (AFRIPOL) for less formal intervention. Despite these many agreements, there are no effective follow-up mechanisms to monitor effective implementation of international cooperation agreements.⁷⁴

In the case of *Attorney General of the Federation v. Ese Osagie*, the accused Mr. Ese promised to help the defendant's daughter get to Europe. When they got to Morocco, he sold her to the chairperson of the Nigerian community in Morocco for 1500 Euros. The victim's father reported the case to the police and after investigation, Ese was charged for placement of a person in servitude as a security for debt owed contrary to Section 24B of the TIPPLEA Act 2003.

The matter could not be diligently prosecuted because the victim was in Morocco and it was impossible to get her to testify because at the time the matter was reported in the Nigerian Tribunal, there was no bilateral agreement with Morocco. It was also difficult to arrest the chairman of the Nigerian community in Morocco.⁷⁵ The case would have had a better outcome had the tool of international cooperation been deployed at that time. It is important to state that failure to prosecute human trafficking cases encourages traffickers while discouraging victims from reporting to authorities. It is imperative to change the perceived culture of impunity by the use of international cooperation tools.

In 2018, because of the high number of Nigerians smuggled to Italy, Italy established bilateral cooperation with Nigeria by creating the office of

⁷³ UNODC background note on judicial networking and the SEA https://www.unodc.org/documents/treaties/International_Cooperation_2020/WG_I_C_website/UNODC_Background_note_on_judicial_networking_and_the_SEAJust.pdf [accessed 16 March 2021]

⁷⁴ Assessment of Anti-Trafficking Gaps, Needs and Transferrable Practices file:///C:/Users/HP/AppData/Local/Temp/Assessment%20of%20Anti-Trafficking%20Gaps_EN-1.pdf [accessed 16 March 2021]

⁷⁵ ILO Review of Legislation on Trafficking and Forced Labour in Nigeria https://www.ilo.org/global/topics/forcedlabour/publications/WCMS_083149/lang-en/index.htm [accessed 16 March 2021]

liaison prosecutor in order to facilitate information sharing among competent authorities, provide relevant information on criminal networks in Nigeria and transfer files on organised crime cases between countries, amongst others. Spain followed suit in March 2019, building on the Italian experience.

The deployment of these prosecutors has yielded positive results.⁷⁶ For instance, Italian authorities shared information with Nigerian counterparts in order to prosecute an alleged trafficker before Nigerian Courts. The original statement from the victim was missing at the trial. The Nigerian liaison magistrate played a key role in transmitting the Nigerian central authority's request to the Italian counterparts.⁷⁷

In another instance the liaison prosecutor to Italy, facilitated the voluntary return of a fugitive wanted in Spain for being a key member of a transnational organised criminal group specialised in luring and trafficking young victims from Nigeria to Spain for the purpose of sexual exploitation.⁷⁸

This case required constant engagement and coordination with the law enforcement and judicial authorities on both the Nigerian and Spanish sides as it presented a number of peculiarities that needed innovative measures. Considering the success of the liaison prosecutors to Spain and Italy more liaison prosecutors should be deployed to other destination countries in order to stem the tide of human trafficking.⁷⁹ In its effort to regionally curb human trafficking, ECOWAS in December 2020, held a meeting with all stakeholders from Mali and Nigeria to facilitate the signing of bilateral agreement on combating trafficking in persons between Nigeria and Mali.⁸⁰

⁷⁶ <https://eucrim.eu/articles/rethinking-judicial-cooperation-between-africa-and-europe/> [accessed 16 March 2021]

⁷⁷ UNODC <https://www.unodc.org/nigeria/en/nigerian-liaison-magistrates-deployed-in-italy-and-spain-strengthen-international-cooperation-to-prosecute-cases-of-human-trafficking.html> [accessed 16 March 2021]

⁷⁸ <https://www.unodc.org/nigeria/en/nigerian-liaison-magistrates-deployed-in-italy-and-spain-strengthen-international-cooperation-to-prosecute-cases-of-human-trafficking.html> [Accessed 19 September 2021]

⁷⁹ Ibid.

⁸⁰ <https://www.ecowas.int/ecowas-to-facilitate-the-signing-of-bilateral-agreement-on-combating-trafficking-in-persons-between-nigeria-and-mali-2/>

5.1 RECOMMENDATIONS

This paper has explored the importance and central role international cooperation play in combating human trafficking. The primary objective of this paper was to doctrinally search for the basis and how international cooperation can complement laws and institutions in reducing or eradicating trafficking in persons within and across borders of the Federal Republic of Nigeria. Recent developments have made the search for further cooperation necessary.

From the relevant international instruments, there is room for further exploration of international cooperation to find solutions to the hydra headed problem of trafficking in persons, especially in trans- border situations. Criminal networks have their tentacles spread all over the world and to fight them, coordinated international cooperation should be the priority of government and other relevant stakeholders. National legislation and internal cooperation are not enough. International cooperation needs to be deployed effectively as an anti-trafficking tool in Nigeria.

From the foregoing, the following policy recommendations for implementation by the government are proffered;

1. Expansion of cooperation networks with other countries of the world, particularly with countries in the European Union and Asia on human trafficking.
2. It is important for government to facilitate the deployment of more liaison prosecutors from Nigeria to other destination countries, especially in Europe, Africa and Asia. The Ministry of Foreign Affairs in collaboration with NAPTIP should facilitate the project as it would go a long way in reducing human trafficking.
3. Bilateral and multilateral agreements including MOU that will foster exchanges between law enforcement authorities in Nigeria and other destination countries should be negotiated. Furthermore, the office of Nigerians in Diaspora Commission (NIDCOM) should engage with

Nigerians in diaspora in these destination countries to generate greater awareness on human trafficking.

4. To ensure an effective fight against human trafficking it is necessary to organise training and retraining of investigators, prosecutors and judges in the fields of criminal extradition, international criminal justice assistance and transferring international prisoners.

5.2 CONCLUSION

Finally, it is also important to note that the problem of human trafficking has socio-economic foundations. It will therefore be appropriate for government to direct more efforts towards good governance, respect for human rights (particularly socio-economic rights) and internal security challenges. Nigeria needs to expand its formal and informal international cooperation because over the years traffickers have widened their operation into many more destination countries.

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