



A comprehensive evaluation of the legal framework for promoting human rights and preventing human trafficking in Sub-Saharan Africa

Uchenna Oluchukwu Okechukwu

Department of Business Law, International Trade Law, Douglas College, New Westminster, British Columbia, Canada

Abstract

This paper critically evaluates the legal framework addressing human trafficking in Sub-Saharan Africa, highlighting its effectiveness in promoting human rights and preventing trafficking. Despite the existence of international treaties and regional protocols, implementation remains inconsistent across countries, often hindered by inadequate resources, political instability, and socio-economic factors. The writer adopted the doctrinal methodology in carrying out this research. This involves both library and desk research. A comprehensive review of key legal instruments, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, the International Covenant on Civil and Political Rights, 1966^[18], the International Covenant on Economic, Social and Cultural Rights, 1966^[19], the United Nations Convention on the Elimination of all forms of Discrimination against Women, 1979^[44], the Convention on the Rights of the Child, 1989^[15] and other regional human rights instruments has been made. This paper adopts a comparative methodology to analyze the implementation strategies adopted by Nigeria and South Africa, two of the biggest economies in Africa, drawing lessons from the experiences of these countries. By analyzing case studies and current enforcement practices, the paper identifies gaps in legislation and offers recommendations for strengthening legal mechanisms. Ultimately, it argues that a comprehensive approach, integrating human rights protections with community engagement and regional cooperation, is essential to combat human trafficking and uphold the dignity of vulnerable populations in Sub-Saharan Africa.

Keywords: Legal framework, human rights, human trafficking

Introduction

Human Trafficking is a universal problem and a vicious crime that significantly threatens the most vulnerable populations. It is defined as “the process through which individuals are placed or maintained in an exploitative situation for economic gain” (UN Human Rights Office of the High Commissioner, 2014, p. 1). It is reported that Sub-Saharan Africa (SSA) experience alarming rates of trafficking in human beings including war children, sex slavery, hard labor, forced marriage and ceremonial slavery (Knight *et al.*, 2023, p. 1)^[22]. According to the 2018 Global Slavery Index, about 7.8 million people are subjected to slavery in SSA, which constitutes about 19% of the total global population in slavery (The Global Slavery Index, 2018)^[38]. The major causes of human trafficking in SSA include abject poverty, inexpensive labor, vulnerabilities linked to discrimination, political or humanitarian crisis and cheaper means of transportation across borders (UN Global Initiative to Fight Human Trafficking, 2010, p. 19)^[42]. Human trafficking is not only a serious violation of human rights but also a form of gender discrimination and violence against women and girls (Joint UN Commentary on EU Directive, 2011, p. 20)^[21]. The pertinent question is, what is the legal mechanism put in place to combat this menace and promote human rights in the region? To effectively reduce human trafficking, various international human rights instruments like the Palermo Protocol, 2000, the International Covenant on Civil and Political Rights, 1966^[18], the International Covenant on Economic, Social and Cultural Rights, 1966^[19], the United Nations Convention on the Elimination of all forms of Discrimination against Women, 1979^[44] (CEDAW, Art. 6), and the Convention on the Rights of the Child, 1989^[15] are instructive in this regard.

Regionally, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 2003^[35] (Art. 4) and Article 29 of the African Charter on the Rights and Welfare of the Child, 1990^[1] are very relevant (Obokata, 2019)^[28]. This essay will provide a synopsis of human trafficking in the region and analyze the international and regional legal mechanisms put in place to combat the scourge and promote human rights. Although it is beyond the scope of this paper to examine human trafficking in all the SSA countries, an attempt will be made to focus on Nigeria and South Africa which have firmly entrenched legislative provisions and anti-trafficking governance in place.

An overview of human trafficking in Sub-Saharan Africa

Human trafficking is a serious crime that exploits the most susceptible population that is women and children. As earlier stated, the 2018 Global Slavery Index reports that an estimated 7.8 million people are held in slavery in SSA, accounting for 19% of the overall world enslaved population (The Global Slavery Index, 2018)^[38]. The elements of trafficking in West Africa are complex just like the pathways. Nigeria, Ghana, Cameroon, and Senegal are the source, transit and destination nations for trafficking women and children (Olutola *et al.*, 2020). Similarly, human trafficking is also endemic in the Southern part of Africa. South Africa, Mozambique, Botswana, Angola, Zambia, and Lesotho are the countries where human trafficking originates, transits and ends (Bello *et al.*, 2020)^[8]. Since it offers a market and an enabling environment for the services of trafficked individuals from both regional and extra-regional places, South Africa acts as a hub for human trafficking in this region (UNESCO, 2007, Policy Paper No.

14.5 (E), p. 7) ^[46, 47]. In Malawi, teenage boys are forced to work on farms and young women are sexually exploited in nightclubs or bars (US Department of State, 2022) ^[40, 41, 56]. In East Africa, Ugandan and Kenyan women are trafficked for commercial sexual exploitation (Bello *et al.*, 2020) ^[8]. Mekonnen *et al.* has aptly observed that in Eritrea, “occurrences in the Sinai Desert entail illegal organ harvesting, extortion, sexual exploitation, torture, and other forms of abuse done by Bedouin people traffickers against a diverse mix of African immigrants” (Mekonnen *et al.*, 2011, p. 2) ^[24]. Lesotho is a transit country for women and children trafficked to South Africa. (UNESCO, 2007, Policy Paper No. 14.6 (E), p. 17) ^[46, 47]. One of the major types of trafficking in Lesotho is trafficking across borders. Lesotho also faces internal trafficking where young girls and women are taken to significant metropolitan centers to be used as domestic servants or for sexual exploitation (UNESCO, 2007, Policy Paper No. 14.6 (E), p. 17) ^[46, 47]. From the above premise, it is evident that trafficking in human beings is endemic in the region because these SSA countries act as either source, transit and destination countries for human trafficking or even a combination of the three (Rutgers Law Library, 2023) ^[36]. This is exacerbated by the abject poverty in the region, deteriorating living conditions, wars, diseases, and lack of legislative and policy framework. A large number of trafficked persons are women and children that are exploited for commercial sex, local work and even the military.

The legal framework on human trafficking in Sub-Saharan Africa

1. International legal framework to combat human trafficking

There is an array of international human rights instruments that form part of the international legal framework relevant to the fight against human trafficking. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) is “the first legally binding instrument with a universally accepted definition of human trafficking” (United Nations Office on Drugs and Crime, n.d). The United Nations General Assembly adopted the UN Convention against Transnational Organized Crime and its three Protocols on human trafficking, migrant smuggling and firearms on November 15, 2000 (Cambridge University Press, 2020) ^[11]. The preamble to the Palermo Protocol states that an all-inclusive universal approach in countries of origin, transit and destination, including measures to prevent the sale of persons, punish traffickers and protect victims of trafficking, including the protection of their internationally recognized human rights is necessary to prevent and fight human trafficking, especially trafficking of women and children (Palermo Protocol, 2000). Also, state parties are required under article 5 of the Protocol “to adopt or strengthen legislative measures and to discourage all forms of exploitation of persons, especially women and children”.

A majority of SSA countries have adopted and ratified the Palermo Protocol. Nigeria and South Africa respectively ratified the Protocol on June 28, 2001 and February 20, 2004 (United Nations Treaty Collection, 2023) ^[53]. Other SSA countries that have ratified the Protocol include Cameroun- February 6, 2006, Kenya-January 5, 2005,

Ghana-August, 21, 2012, Senegal-October 27, 2003, Ethiopia-June 22, 2012 and Eritrea-September 25, 2014 (United Nations Treaty Collection, 2023) ^[53]. The consequence of ratification of the Palermo Protocol by these countries is shown in the Latin maxim, “Pacta sunt servanda” meaning that agreements must be kept. In other words, parties cannot resile from their obligations under the Protocol. It is unarguable, that the Protocol is a notable law enforcement milestone because it establishes an all-encompassing interpretation of trafficking in human beings and establishes an effective framework for combating the menace. The majority of regional and national anti-human trafficking laws have either adopted this Protocol as their foundational legal framework or modified it to account for particular local circumstances. Also, it is the first international agreement to include compulsory and many comprehensive measures for victims of crime.

The International Covenant on Civil and Political Rights (ICCPR), 1966 ^[18] and the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 ^[19] are other significant international treaties used to combat human trafficking. They outlaw many practices directly related to trafficking, including slavery, slave trade, servitude and forced labour (UN Human Rights Office of the High Commissioner, 2014, p. 1). Nigeria and South Africa respectively ratified the ICCPR and ICESCR on July 29, 1993 and January 12, 2015 (Office of the High Commissioner for Human Rights, n.d). State parties to the ICCPR and ICESCR are required to take appropriate actions to protect the sanctity and human rights of individuals by prohibiting unwholesome practices directly related to trafficking.

On December 18 1979, the United Nations General Assembly adopted the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (United Nations High Commissioner for Refugees, 2023) and it entered into force on September 3, 1981 (United Nations Department of Public Information, 1999) ^[45]. Nigeria ratified CEDAW on June 13, 1985 (University of Florida, 2023) ^[58], while South Africa ratified the convention on December 15, 1995 (Centre for the Study of Violence and Reconciliation, 2011, p. 8) ^[13]. According to Article 6 of CEDAW, parties are obligated to implement suitable measures aimed at combatting all types of human trafficking involving women and the exploitation of women for purposes of prostitution. CEDAW General Recommendation No. 35 identifies trafficking as a form of violence against women because it places women at a higher risk of assault and abuse (CEDAW General Recommendation No. 35, 2017) ^[12]. Based on the foregoing, there is little doubt that human trafficking is incompatible with women's fundamental human rights. CEDAW has proved invaluable in opposing trafficking in women as it recommends the implementation of wholistic strategies by member countries to eliminate gender-based discrimination. Nigeria, South Africa and many SSA countries have signed and ratified the convention and are therefore duty bound to comply with the obligations stipulated therein.

Closely related to the above is the United Nations Convention on the Rights of the Child (CRC) 1989 ^[15], and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, 2000 which contain definite provisions relating to child trafficking. The CRC and the Optional Protocol both outlaw child trafficking for

any reason, including exploitative and forced employment (UN Human Rights Office of the High Commissioner, 2014, p. 1). Article 1 of the CRC, 1989 states that “a child means every human being below the age of 18 years, unless under the law applicable to the child, majority is attained earlier”. Article 35 of the CRC provides that it is the responsibility of state parties to implement various measures, both at the national and international level, “to prevent the abduction of, the sale of, or traffic in children for any purpose or in any form”. Article 39 of the CRC urges state parties to implement effective measures to aid the physical and mental recovery and social inclusion of a child victim of: disregard, abuse or mishandle; torment or any other form of brutal, or degrading treatment or discipline or outfitted strife. Nigeria ratified the CRC on April 19, 1991 (United Nations Treaty Collection, n.d), while South Africa ratified the convention on June 16, 1995 (United Nations Treaty Collection, n.d). All countries have ratified the CRC, except the United States of America (Health and Human Rights Journal, 2022) [17].

Furthermore, the UN General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on May 25, 2000 and it became operational on June 18, 2002 (Bora Laskin Law Library, University of Toronto, n.d). Nigeria and South Africa respectively ratified the Protocol on September 27, 2010 and June 30, 2003 (United Nations Treaty Collection, n.d). Article 1 of the Protocol stipulates that state parties shall proscribe the trading of children, child prostitution, and indecent materials depicting minors. The Optional Protocol is supplemental to the CRC and requires all state parties to prohibit the trade of children, illicit sexual relationship of children and sexual abuse (Children’s-rights digital, 2002) [14]. Suffice it to state that the CRC and its Optional Protocol is a notable treaty that has significantly transformed children’s lives around the world. It reinforces the fact that children are vulnerable and should be adequately protected. As a result, state parties are required to prevent child abduction and exposure of children to commercial sex.

2. Regional legal framework to combat human trafficking

At the regional level, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 2003 [35] (the Maputo Protocol) and Article 29 of the African Charter on the Rights and Welfare of the Child, 1990 [1] are instructive in this regard. The African Union (AU) Assembly enacted the Maputo Protocol on July 11, 2003 and it became operational on November 25, 2005 (Maluwa, 2012, p. 23) [23]. Nigeria ratified the Maputo Protocol on December 16, 2004 (Alliances for Africa, 2022) [7], while South Africa ratified the same on December 17, 2004 (African Union, 2019, p. 1) [3, 4]. Article 4 (g) of the Maputo Protocol provides that state parties shall take appropriate and effective measures to prevent and condemn trafficking in women, prosecute the offenders and protect vulnerable women. Instructively, the Maputo Protocol is important in its efforts to uphold the fundamental rights of African women and is a step in the right direction to eliminate discrimination and violence against women.

Furthermore, the African Charter on the Rights and Welfare of the Child (ACRWC) was adopted by the Organization of African Unity (now AU) on July 1, 1990 and it entered into

force on November 29, 1999 (African Union, n.d). Nigeria ratified the ACRWC on July 23, 2001, while South Africa ratified the same on January 07, 2000 (African Committee of Experts on the Rights and Welfare of the Child, 2023) [2]. Article 29 (a) of the ACRWC provides that “state parties to the present Charter shall take appropriate measures to prevent the abduction, the sale of, or traffic in children for any purpose or in any form, by any person including parents or legal guardian of the child”. The ACRWC is an invaluable tool employed to eradicate child trafficking in the region and is a great leap forward in the global effort to uphold children’s human rights. Thus, 53 out of the 55 member states of AU that have ratified the Charter are duty bound to provide adequate protection to children against abuse and commercial sex.

Apart from the above Regional Human Rights Instruments, sub-regional framework has been put in place to fight against trafficking in persons. For instance, the West African sub-region adopted the ECOWAS Declaration and Plan of Action against Trafficking in Persons (2002-2003) at a summit which took place in Dakar, Senegal in December, 2001 (Mensah-Ankrah, *et al.*, n.d, p. 9) [25]. Under the ECOWAS Declaration, state parties should immediately sign, ratify and implement appropriate sub-regional, regional and universal human rights instruments; adopt laws proscribing human trafficking in accordance with the UN Convention against Transnational Organized Crime and its TIP Protocol, as well as the administrative structures needed to support those provisions (Onuoha, 2013, p. 8) [32]. The Plan of Action is commendable as it requires state parties to ensure that their laws and administrative actions is geared towards criminalizing human trafficking, protecting the human rights and providing adequate support to victims.

Additionally, the African region has launched some Anti-Trafficking Initiatives for combatting human trafficking. A good illustration is the African Union Commission Initiative against Trafficking Campaign which gave birth to the Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially Women and Children, 2006 (Onuoha, 2013, p. 8) [32]. The AU-EU Ministerial Conference on Migration and Development adopted the Ouagadougou Action Plan in Tripoli, Libya in November, 2006 (African Union, 2019, p. 7) [3, 4]. The Action Plan is a comprehensive approach to human rights which recognizes the interconnectedness of wider economic and cultural factors in human trafficking and calls for action by the African Union and European Union member states in four major areas: protection, prevention, prosecution and partnership (African Union, 2019, p. 7) [3, 4]. One of the principles of the Action Plan is a recognition that any measure to prevent and combat trafficking in human beings should be based on respect for human rights including the safeguard of victims, and such measures should not be inimical to the rights of trafficked victims (Onuoha, 2013, p. 9) [32]. It is evident that the Action Plan is clearly a proclamation of the African Union’s and the European Union’s and their Member States’ will to intensify their coordinated efforts to combat human trafficking (AU-COMMIT, 2010). The Action Plan explicitly endorses the Palermo Protocol’s calls for the protection of human rights and unbridled cooperation between countries in combatting human trafficking.

Analysis of the legal framework on human trafficking in Sub-Saharan Africa

1. Criticisms of the international and regional legal framework

Notwithstanding the international and regional measures put in place to eliminate human trafficking, the problem is still very high in the region. There are major obstacles associated with the implementation of the international and regional human rights instruments. In view of this, the writer will attempt to address some of these challenges. For instance, the Transnational Organised Crime Convention and the Palermo Protocol do not explicitly specify a mechanism to evaluate state parties' actions to combat trafficking in accordance with their standards (Milivojevic, et.al., 2012, p. 238) ^[26]. In 2009, several UN agencies, including UN Office on Drugs and Crime, UN High Commissioner for Refugees, UNICEF, UN Development Fund for Women, and UN Interregional Crime and Justice Research Institute, published the International Framework for Action to Implement the Trafficking in Persons Protocol, UNODC 2010c (Milivojevic, et.al., 2012, p. 238) ^[26]. This document outlines knowledge and research, capacity-building, monitoring and evaluation (numbers, information, and data sharing) as major challenges in implementing the Protocol (Milivojevic, et.al., 2012, p. 238) ^[26]. For these reasons, thorough research is essential to overcoming the deficient knowledge about the crime and the attendant violation of human rights. Additionally, member states must possess the administrative and technical resources necessary to create anti-trafficking policies that adhere to the spirit and letters of the Protocol.

Further to the above, Article 5 of the Maputo Protocol "prohibits and condemns all forms of harmful practices which negatively affects the human rights of women and which are contrary to recognized international standards". Unfortunately, women are still subject to harmful traditional practices such as abduction and trafficking through forced marriage in SSA countries (Gawaya, et.al., 2005, p. 46) ^[16]. In accordance with the Protocol, member states must also allocate sufficient funds and other resources for the implementation and oversight of the necessary safeguards against human trafficking in Africa. The question is, do SSA countries commit adequate resources to combat the menace? The obvious answer is in the negative because endemic corruption and official complicity in trafficking crimes pose a serious threat to compliance with the states' obligations under international law. As long as these issues are not adequately addressed, human trafficking will continue to flourish in the region.

Human Rights and human trafficking in Sub-Saharan Africa

1. Relationship between Human Rights and human trafficking

Human trafficking in its entirety is a gross violation of human rights as it preys on the most vulnerable population of the society. It involves extreme acts of violence both physical and psychological against the victims. International human rights legislation prohibits the majority of the actions related to human trafficking. For instance, human rights prohibit debt servitude, constrained work, subjugation, child sexual abuse, constrained marriage, child marriage, and

enforced prostitution (United Nations Human Rights Office of the High Commissioner, 2014, Fact Sheet No. 36, p. 4) ^[48, 49]. Human rights most germane to trafficking are right to life, right to liberty and security, right not to be submitted to slavery, servitude, forced labour, prohibition of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, property, birth or other status, right not to be subjected to torture and/or cruel, inhuman or degrading treatment, right to be free from gender violence, right to freedom of association, right to freedom of movement, right of children to special protection, right to the highest attainable standard of physical and mental health, right to just and favourable conditions of work, right to social security, etc (United Nations Human Rights Office of the High Commissioner, 2014, Fact Sheet No. 36, p. 4) ^[48, 49].

It is noteworthy that various human rights are important at different points in the trafficking cycle. Some will be particularly relevant to the causes of trafficking (for example, the right to a good livelihood); others to the actual trafficking procedure (for instance, the right to be free from servitude); and others to the response to trafficking (for example, the right of suspects to a fair trial), while some rights are applicable to all stages of the trafficking process (United Nations Human Rights Office of the High Commissioner, 2014, p. 5) ^[48, 49]. Article 6 of the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, 2000 defines the rights that are infringed upon or must be enforced in order to address the issue of human rights. It states that nation states must protect victims' privacy by keeping their trial's legal proceedings private, provide victims with adequate information on relevant court and administrative proceedings, provide victims with physical and psychological protection, appropriate housing, medical treatment, counselling, employment, educational, and training opportunities (Onuoha, 2011, p. 154) ^[31].

The United Nations (UN), the International Organisation for Migration (IOM), the United Nations International Children's Emergency Fund (UNICEF), Economic Community of West African States (ECOWAS) and other associated international organisations have shown their concern in fundamental rights issues relating to human trafficking, especially of women, minors, and the indigent (Onuoha, 2011, p. 154) ^[31]. The UN Security Council unanimously adopted Resolution S/RES/2331 (2016) in December 20, 2016 which decries trafficking in persons in war zones as a violation of the human rights of victims and urges states to take effective measures in this regard (UN Security Council Resolution S/RES/2331, 2016). Furthermore, the UN General Assembly and the Human Rights Council have repeatedly affirmed that trafficking violates fundamental human rights (United Nations Human Rights Office of the High Commissioner, 2014, Fact Sheet No. 36, p. 5) ^[48, 49]. Both the UN Charter, 1945 ^[43] and the Universal Declaration of Human Rights, 1948 ^[57] confirm the universality of human rights which are inalienable rights applicable to human beings without any form of distinction such as ancestry, color, sex, dialect, country of origin, etc. Therefore, trafficked victims are entitled to their human rights protection regardless of whether they live in their home country or abroad.

Case studies

1. Human Trafficking in Nigeria: Legislative prohibition and anti-trafficking governance

Evidence suggests that Nigeria is a source, transit and destination country for human trafficking victims (United Nations Office of the High Commissioner, 2018). Nigerian girls and women are trafficked to Italy, France, Spain, the Netherlands, Côte d'Ivoire, and South Africa for sexual exploitation, while children are trafficked within Nigeria for domestic labour and street peddling, as well as to nations in West and Central Africa (Allais, 2006, p. 6) ^[6]. Nigeria has shown its allegiance to the various international and regional treaties on human trafficking ratified by it by enacting the Trafficking in Persons Law Enforcement and Administration Act 2003, which was amended in 2005. However, in 2015, a new statute, Trafficking in Persons (Prohibition) Enforcement and Administration Act was enacted as a result of the new trends in the crime of trafficking in persons and the need to further strengthen the institutional framework (National Agency for the Prohibition of Trafficking in Persons, 2023) ^[27]. The new Act has 83 sections and two schedules and expanded the definition of trafficking in persons to include trafficking for organ harvesting, which includes ritual killings (Ogunniyi, et.al., 2022, p. 173) ^[30].

To combat child -trafficking, section 13(6) of the Act stipulates that recruiting, transporting, transferring, keeping or receiving a child for exploitation is considered human trafficking even if it is not accompanied by any of the means of the definition of human trafficking in the Act. Section 14 of the Act criminalizes importation and exportation of a person for forced labor or induced prostitution and imposes an imprisonment of a term that is not less than 5 years and a fine that is not less than N1, 000, 000. Section 15 of the Act prohibits the sale of a person for sexual relations which is punishable by 5 years imprisonment and a fine of N500, 000. Section 21 of the Act criminalizes the buying or selling of human beings for any purpose and imposes an imprisonment for a term of not less than 5 years and a fine of not less than N2,000,000. At this juncture, the writer observes that the Act is a step in the right direction as it criminalizes various acts of trafficking in human beings and ensures that Nigeria takes proactive actions in complying with its obligations under various bilateral and multilateral treaties/conventions on human trafficking ratified by it.

The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) was created in 2003 (International Labor Organization, 2015) ^[20]. NAPTIP is a Federal Government Agency established to address the scourge of trafficking in persons in Nigeria. The body performs its functions in concert with other local Law Enforcement Agencies and Partners (United Nations Human Rights Office of the High Commissioner, 2018). Section 5 of the Act provides that the functions of NAPTIP shall be to enforce and administer the provisions of the Act, adopt effective measures for the prevention and eradication of trafficking in persons and related offences, investigate all cases of trafficking in persons, enhance the effectiveness of law enforcement agents and other partners in the suppression of human trafficking, increase public education and awareness through seminars, workshops, publications, media, and other means designed to educate the public about the risks of human trafficking, implement all the bilateral and multilateral treaties and conventions on trafficking in persons adopted

by Nigeria, conduct research on factors responsible for internal and external trafficking in persons and initiate programmes and plan of action aimed at preventing and eliminating the problem, etc. Section 6 of the Act provides that the agency has the power to investigate whether any person, body or entity has committed an offence under the Act or the offence of trafficking under any other law, enter into any premises, property or conveyance for the purpose of conducting searches in furtherance of its functions under the Act or any other law, arrest, detain and prosecute offenders under the Act or any other law on trafficking in persons in Nigeria, trace, seize, detain or retain the custody of any property that the agency suspects is relevant to the commission of crime under the Act or any other law for the purpose of investigation and prosecution.

Apart from NAPTIP, there are various anti-trafficking organizations in Nigeria which fight against human trafficking, child abuse and gender-based violence. They include the following: Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), Women's Consortium of Nigeria, Devatop Centre for Africa Development (DCAD), Network Against Child Trafficking, Abuse and Labour, Viable Knowledge Masters, Pathfinders Justice Initiative, etc.

2. Human trafficking prosecutions in Nigeria

According to the U.S Department of State 2022 ^[40, 41, 56] trafficking in persons report for Nigeria, Federal and State authorities investigated 663 cases, prosecuted 94 cases and secured 13 convictions (U.S Department of State, 2022) ^[40, 41, 56]. Section 33 of the Act confers jurisdiction on the High Court to try and punish all offences created under the Act.

Three women were recently found guilty of human trafficking and sentenced to 41 years in jail by Justice Babs Kuewumi of the Federal High Court in Lagos. Precious Owoh, Blessing Gabriel, and Rose Gabriel are the convicts. After being found guilty of the allegations brought against them by NAPTIP, the three convicted individuals received their prison sentences (NAPTIP, 2023).

Furthermore, 49 years old Ehie Ehirobo was given a three-year prison term for human trafficking in 2018 by the Federal High Court in Benin, Edo State. She was charged with three counts in 2011: procuring people for prostitution, offering false inducement, and planning international trips that encourage prostitution in violation of the Trafficking in Persons (Prohibition) Enforcement and Administration Act (NAPTIP, 2018).

3. Human trafficking in South Africa: Legislative prohibition and anti-trafficking governance

South Africa is a major source, transit, and destination country for regional and international trafficking (UNESCO, 2007, Policy Paper No. 14.5 (E), p. 10) ^[46, 47]. In 2013, South Africa enacted the Prevention and Combatting of Trafficking in Persons Act, No. 7 of 2013 which is the country's first inclusive law that proscribes human trafficking (Bello, et.al., 2022, p. 1) ^[9]. The Act forbids practices that relate to trafficking in persons and imposes severe punishments for such violations in compliance with the key elements listed in the UN Trafficking Protocol (South African Human Rights Commission, 2017, p. 7) ^[37]. There was no legislation that expressly and substantially criminalized human trafficking prior to the enactment of this legislation (South African Human Rights Commission,

2017, p. 7) ^[37]. The Act has 50 sections and 10 chapters. Section 13 (a) of the Act provides that a person convicted of the offence of trafficking in persons is liable to a fine not exceeding R 100 million or imprisonment, including life imprisonment or imprisonment without a fine option or both. Section 18 (1)(a) of the Act states that anybody who knows or ought reasonably to have known or suspected that a child is a victim of trafficking must immediately report it to a police officer for investigative purposes. A similar provision for adults is contained in section 19 (1)(a) of the Act. Section 21 of the Act provides that a foreigner who is a victim of human trafficking is entitled to public health care services in accordance with the provision of section 27 of the South African Constitution, 1996. Suffice it to state that providing free health care services to a trafficking victim who is a foreigner in line with section 27 of the Constitution is commendable as it ensures the enjoyment of the right to health care on a non-discriminatory basis. Section 29(1) provides for compensation to the victim of trafficking by a person convicted of the offence of human trafficking. Under section 36, if the juvenile court reasonably and honestly believes that the parent or someone who stands in the place of a parent over a child, has trafficked the child, the court may suspend all the parental responsibilities and rights of that parent, guardian or other person and place that child in a temporary safe care pending an inquiry by a children's court.

The South African Police Service (SAPS) is tasked with policing and crime prevention, criminal investigation and prosecution, upholding public order, safeguarding everyone's safety and property, and upholding the law (South African Human Rights Commission, 2017, p. 8) ^[37]. It is instructive to note that sections 18 and 19 of the Act allows the reporting of a child or adult victim of trafficking to a police official for investigation. A police official also has the responsibility of assisting such person to obtain medical treatment and transport that person to a place of temporary safe care (South African Human Rights Commission, 2017, p. 8) ^[37]. It is clear that the police have an enormous role to play in combatting human trafficking in South Africa. The situation is different in Nigeria where NAPITIP is statutorily empowered to enforce and administer the provisions of the Trafficking in Persons (Prohibition) Enforcement and Administration Act in conjunction with other law enforcement agencies.

Section 181(1) (b) of the Constitution of the Republic of South Africa, 1996 established the South African Human Rights Commission (SAHRC). The SAHRC assists people reporting suspected human trafficking offences by collaborating closely with the South African Police Service at no cost to the applicant or complainant.

4. Human trafficking prosecutions in South Africa

According to the U.S Department of State 2022 ^[40, 41, 56] trafficking in persons report for South Africa, the Directorate for Priority Crime Investigation (DPCI, or Hawks), a division of SAPS, commenced 18 trafficking case investigations and convicted 11 traffickers (U.S Department of State, 2022) ^[40, 41, 56]. In 2018, the North Gauteng High Court sentenced two Nigerian brothers to 12 and 18 years in prison for human trafficking in the Abba and Obasi case. They imprisoned two women in a flat in Arcadia, Pretoria, and forced them to use illegal drugs and work 12 hours a day as sex workers (South African Human Rights Commission, 2017, p. 11) ^[37].

Additionally, in the Mabuza case, the court emphasized its rejection of human trafficking by imposing a harsh penalty. The North Gauteng High Court condemned a timber company tycoon to eight life terms in this case. The accused was found guilty of preying on young victims, rape, human trafficking, and sexual enslavement on many counts (South African Human Rights Commission, 2017, p. 10) ^[37].

Conclusion

Human trafficking is a crime and major global challenge depriving human beings of their fundamental human rights. This ugly development is endemic in Sub-Saharan African countries because human traffickers exploit the vulnerabilities of human beings aggravated by poverty, wars, diseases, and lack of legislative and policy framework in the region. Various international and regional human rights instruments combating human trafficking have been ratified by Nigeria, South Africa and many SSA countries. Furthermore, Nigeria and South Africa have an effective legislative prohibition and anti-trafficking governance. To effectively address these issues, it is crucial for governments to strengthen their legal and institutional frameworks, ensuring that laws are not only in place but also actively enforced. International cooperation and the sharing of best practices among nations can enhance the effectiveness of anti-trafficking initiatives. Furthermore, empowering local communities and civil society organizations to engage in prevention efforts and victim support is essential for fostering a holistic approach to human rights protection. Ultimately, the fight against human trafficking in Sub-Saharan Africa requires a multifaceted strategy that prioritizes human rights, addresses the root causes of vulnerability, and involves all stakeholders in creating a safer and more just society. By committing to these actions, Sub-Saharan African nations can make significant strides toward eradicating human trafficking and safeguarding the rights and dignity of all individuals.

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