

The Legal and Institutional Frameworks Aimed at Curbing Human Trafficking in Nigeria

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Abstract

Due to overpopulation and unfavourable economic conditions that lead to unemployment and insecurity in Nigeria, many individuals have been lured into seeking better opportunities in Nigeria and across the Nigerian borders. While some make this decision without being intimidated, others are lured by human traffickers. This paper examines the legal and institutional frameworks for preventing human trafficking in Nigeria. The paper analyses why people fall prey to human trafficking, the various forms it takes, and the legal and institutional frameworks established to combat it. The paper adopts a qualitative and doctrinal methodology and finds that Nigeria has adequate legislative provisions to address human trafficking, but these laws must be effectively implemented. The paper highlights that the penal provisions in the Child Rights Act of 2003 are more stringent than those in the Trafficking in Persons (Prohibition) Enforcement and Administration Act of 2015. Furthermore, the paper observes that while anti-trafficking agencies are trying to combat human trafficking, more action is needed to address the high-profile individuals involved in human trafficking who evade legal consequences. The paper offers recommendations to enhance the effectiveness of the legal and institutional frameworks and concludes that the laws should be implemented by an established institution to avoid bias.

Keywords

legal framework, institutional measures, children, human trafficking, Nigeria

1. Introduction

Due to overpopulation and unfavourable economic conditions that lead to unemployment, poverty, and insecurity in Nigeria, many individuals have tried to seek better opportunities across Nigeria's borders. While some make this decision without being intimidated, many others are lured away from home by human traffickers. Human trafficking is a crime and is widely regarded as 'modern-day slavery'. It is a pervasive crime that occurs worldwide, affecting individuals of all ages, origins and ethnicities. Thus, men, women and children from diverse backgrounds can be victims of human trafficking. In Nigeria, thousands of women and children are trafficked to other countries, especially European countries. This is not to say that the victims of human trafficking are only women and children, but many

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of the victims are females, and the trafficking of children is on the rise.¹ In September 2022, the Director-General of the National Agency for the Prohibition of Trafficking in Persons (NAPTIP),² Dr Fatima Waziri, stated that '[a]cross the country, we have seen an increase in the abduction of children.'³

Victims of human trafficking are recruited from within and outside Nigeria's borders for various exploitative purposes, including forced labour, prostitution and sex hawking, domestic servitude and bonded labour. Some are trafficked inside Nigeria, and others are taken from Nigeria to other African countries. In addition, children from neighbouring West African States, such as the Republic of Benin and Togo, are also brought into Nigeria for domestic servitude and forced labour.⁴ Often, these children are cajoled into leaving their parents or guardians without their consent and contrary to the provision of the Child Rights Act (CRA) 2003;⁵ the CRA provides that every child has a right to parental care and protection, and accordingly, no child shall be separated from their parents against the wish of the child.⁶ However, there are exceptions to this rule, such as when a child's separation from their parents is deemed necessary for their education and welfare or in the exercise of a judicial determination in the child's best interest.⁷

In addition, Nigerians are trafficked to Europe, especially Italy and Russia, as well as the Middle East and North Africa for forced prostitution. While more recent comprehensive data is limited, it has been reported that, in 2016, approximately 181 436 refugees and migrants arrived in Italy by sea, with Nigeria accounting for 37 551 of them, representing 21%.⁸ Equally, the United Nations Development Programme (UNDP) noted in 2019 that Nigeria accounted for 17% of all African migrants to Europe, making it the largest single source of migrants from Africa.⁹

1 For instance, see the NAPTIP Annual Report 2021, which provides comprehensive age and sex distributions of rescued victims from January to December 2021 <<https://naptip.gov.ng/download/naptip-2021-annual-report/>> accessed 12 December 2024. The 2021 report represents the most recent publication by NAPTIP at the time of writing.

2 Hereafter referred to as 'NAPTIP' or 'the Agency'. The Agency was created on 14 July 2003 under the repealed Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003, s 2.

3 NAPTIP 'NAPTIP and Meta Partner to Tackle the Crisis of Missing Children, With the Launch of Amber Alert in Nigeria' (September 2022) <<https://naptip.gov.ng/naptip-and-meta-partner-to-tackle-the-crisis-of-missing-children-with-the-launch-of-amber-alert-in-nigeria/>> accessed 13 April 2024. Meta is the owner of Instagram, Facebook and WhatsApp.

4 NAPTIP Annual Report 2021 (note 1 above) 51, 55.

5 Hereafter referred to as 'CRA 2003'.

6 CRA 2003, s 14(1).

7 CRA 2003, s 14(a) and (b).

8 UNHCR Bureau for Europe 'Refugees and Migrants Sea Arrivals in Europe' 6 <<https://data.unhcr.org/en/documents/download/53447#:~:text=Figure%2010%20%2D%20Country%20of%20origin,to%20Italy%20remain%20very%20low>> accessed 9 December 2024. See also Ottavia Spaggiari 'Escape: The woman who brought her trafficker to justice' *The Guardian*, 27 August 2020 <<https://www.theguardian.com/world/2020/aug/27/nigeria-italy-human-trafficking-sex-workers-exploitation-justice>> accessed 10 December 2024.

9 NAPTIP 'NAPTIP National Action Plan on Human Trafficking in Nigeria: 2022–2026' <https://naptip.gov.ng/uploads/national_action_plan_2022-2026.pdf> accessed 12 December 2024.

The phenomenon of human trafficking has profound effects both on individual victims and on society at large. These effects are devastating. The effects of trafficking on victims include loss of fundamental human rights, severe mental disorder and depression.¹⁰ The effects that it has on society include the separation of families, the erosion of social bonds and support networks, as well as insecurity and fear.¹¹ In order to mitigate these effects, Nigeria has ratified many of the international conventions and treaties against human trafficking,¹² and has also enacted national laws prohibiting such acts. The two principal statutes addressing the issue are the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (TIPPEA Act)¹³ and the Child Rights Act 2003. While the former Act addresses all persons regardless of age, the latter Act is particularly targeted at children. According to the definition section of the CRA 2003,¹⁴ and the Child Rights Act (Enforcement Procedure) Rules, 2015,¹⁵ a 'child' means 'a person under the age of eighteen years'. Therefore, once a child attains the age of 18, they cease to be a child and become a major.

This paper examines the Nigerian laws specifically enacted to combat the menace of human trafficking in Nigeria and the duties of the agency principally established to curb this problem. In doing so, the paper evaluates the provisions of the existing legal frameworks to determine their ability to combat human trafficking adequately. The paper also explores the challenges inherent in human trafficking legal frameworks in Nigeria and assesses the functions of the established agency on human trafficking in curbing this phenomenon.

10 For further details, see Osimen, GU, Pedro, O, Daudu, BO et al 'The Socio-Economic Effects of Human Trafficking in Nigeria' (2022) *IJRDO Journal of Social Science and Humanities Research* 1-22

11 For more detail, see Chia, BA 'Human Trafficking in Nigeria and its Effects on National Image: A Moral Appraisal' (June 2018) 4(2) *African Journal of Arts and Humanities* 1-16. See also Njoku, AO 'Human Trafficking and its Effects on National Image: The Nigerian Case' (2015) *International Journal of Multidisciplinary Academic Research* <www.multidisciplinaryjournals.com> accessed 20 March 2024.

12 Some of the international conventions that Nigeria has ratified include the United Nations Universal Declaration of Human Rights, 1948; the United Nations Convention on the Rights of the Child, 1989; the Forced Labour Convention, 1930; the ECOWAS Declaration and Plan of Action Against Trafficking in Persons, 2001; the United Nations Optional Protocol to the Convention on the Rights of the Child, especially on the Sales of Child, Child Prostitution and Child Pornography, 2002; and the Memorandum of Understanding (MoU) between Nigeria and Republic of Benin, 2003. See also Kigbu, SK & Hassan, YB 'Legal Framework for Combating Human Trafficking in Nigeria: The Journey So Far' (2015) 38 *Journal of Law, Policy and Globalization* 205-220.

13 Trafficking in Persons (Prohibition) Enforcement and Administration Act 4 of 2015, hereafter referred to as 'the TIPPEA Act 2015'. The Act is a federal law and applies to all 36 states in Nigeria, including the Federal Capital Territory, Abuja. The Act repealed the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003, as amended in 2005.

14 CRA 2003, s 277.

15 Hereafter referred to as 'the CRA Rules 2015', Ord 31, r 1.

This paper is divided into five parts. Part 1 is the introduction, while Part 2 analyses the causes of human trafficking. Part 3 examines the various provisions of the laws enacted to combat human trafficking. This part reveals that the CRA is enacted explicitly to protect children and imposes more stringent penalties than the TIPPEA Act 2015. In part 4, the institutional framework for combatting human trafficking in Nigeria is examined. In this part, key functions of the agency primarily established to detect and prosecute human traffickers are examined. This part considers the effectiveness of the agency in discharging its duties and makes recommendations to ensure efficient and effective implementation of the laws. Part 5 is the conclusion, which emphasises that combating human trafficking requires a collective effort; implementing the recommendations outlined in the paper could enhance Nigeria's reputation in combating human trafficking, and contribute to improved safety and security in Nigeria.

2. Causes of human trafficking

Human trafficking is a crime that involves compelling or coercing a person to provide labour or services, or to engage in commercial acts. Under Nigerian law, human trafficking is referred to as 'trafficking in persons',¹⁶ and this nomenclature was confirmed by the US Department of Justice, when it stated that the crime 'human trafficking' is also known as trafficking in persons.¹⁷ According to the United Nations Office on Drugs and Crime, human trafficking is the 'recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit'.¹⁸ Victims are lied to, assaulted, threatened or manipulated into working under inhuman, illegal or unacceptable conditions.¹⁹ Under Nigerian law, section 64 of the TIPPEA Act 2015 defines trafficking as

[a]ll acts involved in the recruiting, transportation within or across Nigerian Borders, purchases, sale, transfer, receipt or harbouring of a person, involving the use of deception, coercion or debt bondage for the purpose of placing or holding the person whether or not in voluntary servitude (domestic, sexual or reproductive) in forced or bonded labour or in slavery-like conditions.²⁰

From the above definition, it can be deduced that human trafficking is the business of stealing freedom for profit.²¹ There are many reasons why people get caught up in human trafficking, some of which are examined next.

Poverty is one of the main reasons for human trafficking, particularly in Nigeria, where economic hardship is pervasive.²² Given widespread unemployment and limited

16 TIPPEA Act 2015.

17 US Department of Justice 'What is Human Trafficking?' <<https://www.justice.gov/humantrafficking/what-is-human-trafficking>> accessed 24 April 2024.

18 United Nations Office on Drugs and Crime 'Human Trafficking' <<https://www.unodc.org/unodc/en/human-trafficking/human-trafficking.html>> accessed 20 April 2024.

19 National Human Trafficking Hotline 'Human Trafficking' <<https://humantraffickinghotline.org/en/human-trafficking>> accessed 24 April 2024.

20 TIPPEA Act 2015, s 64.

21 National Human Trafficking Hotline 'Human Trafficking' (note 19 above).

22 Manbe, DA 'Trafficking of Women and Children in Nigeria: A Critical Approach' (2016) 5(3) *American International Journal of Social Science* 20, 26.

opportunities, many graduates have no means of sustenance. In such circumstances, the promise of a better life abroad, often extended by traffickers, becomes irresistibly attractive.²³

Besides, some parents are incapable of caring for their children, so they accept unlawful contractual terms from traffickers regarding their children. Thus, human trafficking emerges as a mechanism by which vulnerable individuals are exploited for cheap labour and sexual exploitation as an escape from extreme poverty.²⁴ The economic dimensions of this scourge are particularly stark. According to World Bank data,²⁵ Nigeria has one of the highest poverty rates globally, and this creates conditions that make individuals susceptible to trafficking networks.

Extreme poverty fuels broader *economic instability*, which creates a cyclical vulnerability that makes individuals increasingly susceptible to human trafficking. Nigeria's persistent economic challenges have dramatically increased citizens' susceptibility to human trafficking.²⁶ Potential trafficking victims are frequently enticed by promises of lucrative employment opportunities abroad, making them easy targets for unscrupulous traffickers who strategically manipulate economic anxieties.

Economic instability transforms traffickers' promises into apparent lifelines for individuals experiencing acute financial distress. The criminal networks effectively weaponise people's legitimate aspirations for economic mobility. Individuals, particularly youth and those who are economically marginalised become increasingly susceptible to deceptive recruitment strategies that present transnational migration as an escape from endemic poverty.²⁷

Furthermore, the *lack of educational opportunities* also contributes greatly to the phenomenon of human trafficking. As a result, many younger victims are tricked, or in some cases, coerced by fake promises of education and sponsorships in the diaspora by people who fraudulently refer to themselves as educational agencies in the diaspora.

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- 23 Adepoju, A 'Issues and Recent Trends in International Migration in Sub-Saharan Africa' (2000) 52 *International Social Science Journal* 249, 384; Adibe, J, Baban'umma, MB & Prince, EH 'Illegal Migration to Europe and Nigeria's Policy Response: Trends and Analysis' (2023) 16 *African Journal of Politics and Administrative Studies* 156, 157; Darkwah, SA & Verter, N 'Determinants of International Migration: The Nigerian Experience' (2014) 62 *Acta Universitatis Agriculturae et Silviculturae Mendelianae Brunensis* 321, 322.
- 24 Aluko, OI 'Human Trafficking as Kidnapping by Other Means' in Omotola, JS & Oyewole, S (eds) *The Political Economy of Kidnapping and Insecurity in Nigeria: Advances in African Economic, Social and Political Development* (Springer, 2024) 197-198; Mezie-Okoye, CC 'Human Trafficking: Slavery in the Modern Day and Economic Exploitation' (2023) 6 *International Journal of Management, Social Sciences, Peace and Conflict Studies* 169, 175-176.
- 25 In 2023, approximately 87 million citizens were experiencing extreme economic hardship. This figure represents roughly 38.9% of the population living below the poverty line, thereby positioning Nigeria as the country with the second-largest impoverished population globally, after India. See 'The World Bank in Nigeria' <<https://www.worldbank.org/en/country/nigeria/overview>> accessed 28 November 2024.
- 26 Manbe, DA 'Trafficking of Women and Children in Nigeria: A Critical Approach' (2016) 5(3) *American International Journal of Social Science* 20, 26.
- 27 Akwen, GT & Akwen, PI 'Human Insecurity and Trafficking in Persons from Nigeria via the Libya Transit Route' (2024) 2 *Journal of Political Discourse* 58, 62.

In many instances, individuals from *abusive homes* are significantly more susceptible to financial or emotional exploitation by traffickers. Victims of gender-based violence are particularly vulnerable as they can be easily targeted by traffickers and therefore coerced into sexual exploitation, child labour, and domestic or manual work under exploitative and minimally compensated conditions.²⁸

Many victims of human trafficking are *deceived* into believing that there are opportunities beyond their homes. Victims may also be threatened by the traffickers, who lure them into doing what they do not want to do. Commenting on how traffickers lure their victims, the National Human Trafficking Hotline, a US-based body, states that '[t]raffickers employ a variety of control tactics, the most common include physical and emotional abuse and threats, isolation from friends and family and economic abuse. They make promises aimed at addressing the needs of their target in order to impose control.'²⁹

The pervasive *lack of security* in Nigeria creates an environment that exponentially increases people's vulnerability to human trafficking. Persistent violence from Boko Haram insurgency and bandits, recurring religious and communal violence, and widespread security instability often force vulnerable populations to seek protection and economic survival through potentially dangerous migration.³⁰ These systemic security challenges effectively transform traffickers' promises of safety and opportunity into seemingly rational escape routes for those experiencing constant existential threats.³¹

Discrimination against minority tribes may also be a reason for victims' vulnerability to trafficking. Most people in the rural areas are lured to the urban cities for domestic servitude, forced and exploitative labour, and sometimes prostitution.

Natural disasters and widespread conflicts create catastrophic disruptions that render affected populations exceptionally vulnerable to human trafficking.³² A natural disaster in any part of the country may force people residing in the affected areas to migrate to other parts of the country or even abroad. These displaced individuals become prime targets for traffickers who exploit their desperate circumstances. Having lost traditional support systems, economic resources and community protection, they are often compelled to ensure their survival through migration.³³ Unfortunately, in such situations, some vulnerable victims are lured into human trafficking.

Persistent dissatisfaction and a *desire for material advancement* can render individuals susceptible to human trafficking schemes. Continuous discontent with one's current

28 Kiss, L et al 'Violence, Abuse and Exploitation Among Trafficked Women and Girls: A Mixed-Methods Study in Nigeria and Uganda' (2022) 22 *BMC Public Health* 794.

29 National Human Trafficking Hotline 'Human Trafficking' (note 19 above).

30 See generally Kiss et al (note 28 above); NAPTIP 'Overview of Trafficking in Persons (TIP)' 44 <<https://lms.naptip.gov.ng/public/uploads/file/28-05-2024/83f7e743df4daeb03a94d3465c69996f.pdf>> accessed 2 December 2024.

31 See also Abosede, OB 'Human Trafficking and Transnational Organized Crime: Implications for Security in Nigeria' (2014) 46(1) *Peace Research* 61-84.

32 Worsnop, CZ & Vogel, KM 'The "Disaster Business": Natural Disasters and Human Trafficking' (2024) *Studies in Conflict and Terrorism* 1-26.

33 Aluko (note 24 above) 197-198; Nagy, R et al 'The Relationship of Environmental Migration and Human Trafficking Concerning Natural Hazards at the Affected Regions of Africa' (2023) 2 *Journal of Central and Eastern European African Studies* 17.

socio-economic status and an overwhelming desire to acquire resources beyond one's immediate means creates fertile ground for traffickers to exploit human vulnerabilities.³⁴ Such individuals often become targets for trafficking networks that manipulate these deep-seated desires using false promises of wealth, social mobility and great opportunities.

Many people who are unable to travel out of Nigeria and are eager to do so allow themselves to be trafficked, often enduring perilous journeys through the desert, via Libya and other routes. Along the way, they may exhaust their resources, and resort to prostitution and exploitative ways to keep themselves alive. In addition, some arrive in the diaspora without lawful immigration status. In such situations, they may accept whatever conditions are offered to them in order to stay, including exploitation.

Having examined the various conditions that can lead to vulnerability to human trafficking, the next question is: Are the legal frameworks regulating human trafficking in Nigeria sufficiently robust and effective? The next section of this paper analyses and evaluates the existing legal frameworks designed to address and mitigate human trafficking in Nigeria.

3. The legal framework for the prevention of human trafficking in Nigeria

The Constitution of the Federal Republic of Nigeria (CFRN), 1999³⁵ makes provision for protection against slavery and forced or compulsory labour, sexual exploitation and deprivation of personal liberty. Section 17 of the CFRN 1999 provides for social objectives by stating that the state's social order is founded on the ideals of freedom, equality and justice.³⁶ Therefore, in furtherance of these objectives, every citizen shall have equality of rights, obligations and opportunities before the law; the sanctity of human person shall be recognised; and human dignity shall be maintained and enhanced.³⁷ In addition, the CFRN provides that the exploitation of human beings, amongst others, in any form whatsoever shall be prevented, and the state shall direct its policy towards ensuring that 'children, young persons and the aged are protected against any exploitation whatsoever'.³⁸

In addition to the above constitutional provisions, section 34 of the CFRN protects the right to dignity of human persons:

- (1) Every individual is entitled to respect for the dignity of his person, and accordingly
 - (a) no person shall be subjected to torture or to inhuman or degrading treatment;
 - (b) no person shall be held in slavery or servitude; and
 - (c) no person shall be required to perform forced or compulsory labour.³⁹

34 Ebingha, BN 'Migration and Female Exploitation in Two Select Novels by African Women' (2024) *Lwati: A Journal of Contemporary Research* 200, 207; Nwobodo, RE 'A Philosophical Discourse on the Implication of Modernism and Materialism on Nigerian Youths' (2024) 8 *Albertine Journal of Philosophy* 32, 35-36.

35 Hereafter referred to as 'CFRN 1999' or 'the Constitution'.

36 *Ibid*, s 17(1).

37 *Ibid*, s 17(2)(a) and (b).

38 *Ibid*, s 17(3)(f).

39 *Ibid*, s 34(a)-(c).

In a similar vein, the CRA 2003 aligns with the CFRN 1999 by applying Chapter IV of the CFRN 1999 or any successive constitutional provisions relating to fundamental human rights, as if the provisions were stated under the CRA 2003. This ensures that every child is granted the rights set out in both the Act⁴⁰ and the CFRN. Accordingly, section 11 of the CRA 2003 provides for children's right to dignity:

Every child is entitled to respect for the dignity of his person, and accordingly, no child shall be–

- (a) subjected to physical, mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse;
- (b) subjected to torture, inhuman or degrading treatment or punishment;
- (c) subjected to attacks upon his honor or reputation; or
- (d) held in slavery or servitude ...⁴¹

Further to the provisions of the CFRN 1999 against human trafficking, section 42 makes an affirmative assertion regarding rights to freedom from discrimination.⁴² The constitutional provisions assert that Nigerian laws are opposed to all forms of human trafficking, and any law that is inconsistent with the provisions of the CFRN shall, to the extent of its inconsistency, be void, and the CFRN shall prevail.⁴³ This is because the CFRN is supreme, and its provisions have binding force on all authorities and persons throughout the Federal Republic of Nigeria.⁴⁴

In Nigeria, besides the CFRN 1999, which lays down a concise legal framework on fundamental objectives and rights, human trafficking is principally regulated by the TIPPEA Act 2015 and the CRA 2003. On the one hand, the primary objectives of the TIPPEA Act 2015 are to provide an effective and comprehensive legal and institutional framework for the prohibition, prevention, detection, prosecution and punishment of human trafficking and related offences in Nigeria. The Act also aims to protect victims of human trafficking, whether young or old, and promotes and facilitates national and international cooperation in order to meet its primary objectives.⁴⁵ On the other hand, the objective of the CRA 2003 is to protect the best interests of children and to ensure that their interests are of paramount consideration in all actions, and for a child to be given the protection and care necessary for their well-being.⁴⁶ This Act specifically addresses the trafficking of children. According to section 11 of the Act, every child is entitled to respect for the dignity of their person, and accordingly, no child shall be–

40 CRA 2003, s 3.

41 *Ibid*, s 11(a)-(d) respectively.

42 CFRN 1999, s 42(2).

43 *Ibid*, s 1(3).

44 *Ibid*, s 1(1).

45 See generally TIPPEA Act 2015, s 1(a)-(c).

46 CRA 2003, ss 1 and 2.

- (a) subjected to physical, mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse;
- (b) subjected to torture, inhuman or degrading treatment or punishment; or
- (c) subjected to attacks upon his honor or reputation; or
- (d) held in slavery or servitude⁴⁷

Section 13 of the TIPPEA Act 2015 states that all acts of human trafficking are prohibited in Nigeria.⁴⁸ As noted above,⁴⁹ in an act of human trafficking, threats, the use of force, deception, coercion, abuse of power or being vulnerable are always present. Hence, section 13(4) of the TIPPEA Act provides that the consent of a victim of trafficking to the intended exploitation shall be irrelevant where any of the means set out in the Act has been used.⁵⁰ Moreover, the trafficking of a child for the purpose of exploitation shall be considered trafficking in persons even if it does not involve any of the means set out in the definition under the TIPPEA Act.⁵¹

Few scholarly works have been written on the TIPPEA Act 2015, which is unsurprising given that this is relatively new legislation. The response to the new legal framework has been mixed. While the Act has been generally praised as being progressive, some concerns have been raised as well.

Arinze-Umobi, Nwogu and Ojobor⁵² critique the 2015 Act for its overly narrow scope, as it primarily focuses on victims under the age of 18. This limitation excludes vulnerable people such as recent graduates, students and older individuals facing economic hardship. The authors regard the Act's definitions of key trafficking offences as vague and therefore susceptible to legal manipulation. While they acknowledge the Act's improvements over the 2003 version, the authors strongly advocate for amending the age restriction⁵³ to better reflect Nigeria's current economic realities and the widespread vulnerability of individuals in different age groups.

Nwabachili and Iloka⁵⁴ argue for the continuous updating of the anti-trafficking laws to match evolving trafficker tactics. They note that the TIPPEA Act 2015 should be amended by imposing stricter sanctions and removing alternative sentencing options like fines for sex trafficking crimes. However, the authors do not consider the practicality of

47 Ibid, s 11(a)-(d).

48 TIPPEA Act 2015, s 13(1).

49 See section 1 above.

50 Ibid, s 13(5).

51 Ibid, s 13(6).

52 Arinze-Umobi, C, Nwogu, KC & Ojobor, LO 'Offences Created in the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2015: Towards the Fight against Human Trafficking in Nigeria' (2021) 2 *LASJURE* 132.

53 Although it should be noted that the Act does not provide age restrictions to several other offences created under the Act. For instance, see s 22(1)(a) – forced labour; s 23 – traffic in slaves; s 24 – slave dealing.

54 Nwabachili, CC & Iloka CP 'Trafficking of Women and Children Vis-à-Vis Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2015 and Other Relevant Laws' (2023) 5 *Chukwuemeka Odumegwu Ojukwu University Journal of Private and Public Law* 183.

imposing only custodial sentences, given that Nigeria grapples with the increasing prison administration costs. This view is shared to some extent by Oladele and Orifowomo.⁵⁵

The criticism presented by existing scholarship on Nigeria's anti-trafficking legislation shows significant limitations in the current legal framework. Despite the insights from the existing literature, it is evident that there is a dearth of scholarship on the extant anti-trafficking legal frameworks in Nigeria. The existing literature offers limited engagement with the TIPPEA Act 2015. This paper aims to address this gap by providing an in-depth examination of the TIPPEA Act 2015, the CRA 2003 and other recently enacted legislation designed to regulate the various forms of human trafficking and modern-day slavery in Nigeria.

3.1 Forced or exploitative child labour

Some children are forced to take on menial jobs to fulfil unlawful financial obligations that have been imposed on them as a result of a lack of parental support. Both the CRA 2003 and the TIPPEA Act 2015 outlaw forced or exploitative child labour. The CRA 2003 makes it an offence for any child to be subjected to any forced or exploitative labour,⁵⁶ or to work or be employed in an industrial undertaking.⁵⁷ The contravention of this provision attracts a fine not exceeding 50,000 naira, or five years' imprisonment, or both a fine and imprisonment.⁵⁸

Where such an offence is committed by a body corporate,

any person who at the time of the commission of the offence was a proprietor, director, general manager or other similar officer, servant or agent of the body corporate shall be deemed to have jointly and severally committed the offence and may be liable on conviction to a fine of two hundred and fifty thousand naira.⁵⁹

I believe that the monetary fine imposed on both individual and corporate human traffickers is too low, particularly as the Act states 'a fine not exceeding fifty thousand naira'⁶⁰ and pegs that of the corporate body to only 250,000 naira.⁶¹ This means that, in the case of an individual trafficker, the court may award a fine of perhaps 10,000 or 20,000 naira, or even a lower sum, provided it does not exceed 50,000 naira, in its discretion; in the case of a corporate human trafficker, the fine is fixed at 250 000 naira, and no more. Given the current exchange rate, these penalties amount to approximately \$50 and \$250 for individual and corporate traffickers, respectively. Considering that human trafficking activities are cross-border in nature and that the perpetrators are connected to entities abroad, these penalties are grossly inadequate.

55 Oladele, GA & Orifowomo, OA 'Legal and Institutional Framework for Combating Trafficking in Persons in Nigeria' (2017) 5 *Africa Nazarene University Law Journal* 49.

56 CRA 2003, s 28(1)(a).

57 *Ibid*, s 28(2).

58 *Ibid*, s 28(3).

59 *Ibid*, s 28(4).

60 *Ibid*, s 28(3).

61 *Ibid*, s 28(4).

It is further noted that these paltry sums will not deter would-be offenders. Therefore, it is recommended that the fine for individual human traffickers should be increased to a minimum of 500,000 naira. With regard to a corporation, a minimum fine of 500, 000 nairas or five years' imprisonment should be imposed on all the officers who are complicit in the commission of the offence, and a minimum fine of 10 million nairas should be imposed on the company, with an option to seize the company. So, the corporation should also suffer a penalty. Furthermore, section 272 of the Act provides:

If an offence under this Act is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of a body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, commit an offence and are liable to be proceeded against and punished accordingly.⁶²

Section 29 of the CRA 2003 also makes provision for the application of sections 58 to 63 of the Labour Act 2004,⁶³ which prohibits the forced or exploitative labour of young persons, and the CRA 2003 reiterates that these six sections shall also apply to children under the CRA 2003.⁶⁴

The TIPPEA Act 2015 forbids the employment, recruitment, harbouring, receiving, or hiring of children, notwithstanding their age, to do any work. That is exploitative, injurious, or hazardous to the child's physical, social, and psychological development. The sentence for such an offence on conviction is imprisonment for a minimum term of two years but not exceeding seven years, without the option of a fine.⁶⁵ It must be noted that where the law does not make provision for the option of a fine, the court does not have the discretion to award a monetary fine.⁶⁶ Notwithstanding the penalties attached to the offence, a convicted trafficker shall, in addition to the prescribed punishment, be liable to, first, a term of not less than two years imprisonment where the child is denied payment or reasonable compensation for services rendered or, second, a term of not less than three years where the child is defiled or suffers bodily harm.⁶⁷

3.2 Involuntary domestic servitude

This is a condition of servitude induced by means of 'any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of the legal purpose'.⁶⁸ Some children are trafficked and employed as domestic servants. Section 23 of the TIPPEA Act 2015 forbids the employment or hiring of a child under the age of 12 years as a domestic worker, and the penalty is

62 Ibid, s 272.

63 Labour Act, Cap. L1, Laws of the Federation of Nigeria, 2004.

64 CRA 2003, s 29. See also Ezinma, B 'Child Labour: Dilemma of Nigerian Government' *Saturday Independent*, 11 September 2010 at 11.

65 TIPPEA Act 2015, s 23(1)(b).

66 *State v Dr. Cosmos I. Okechukwu* (1994) 9 NWLR (Pt 368) 261 at 296.

67 TIPPEA Act 2015, s 23(2).

68 22 USC 7102 (6).

imprisonment for a minimum term of six months and not exceeding seven years.⁶⁹ In addition to the prescribed punishment, a convicted person shall be liable to, first, a term of not less than two years' imprisonment where the child is denied payment or reasonable compensation for services rendered; or, second, a term of not less than three years where the child is defiled or suffers bodily harm.⁷⁰

Given the limitation of the exploitation of a child for domestic servitude to children under the age of 12 years, does this mean that a child between the ages of 12 and 18 years can be trafficked for domestic work without any penalty for the traffickers? No, it does not. The CRA 2003, which was specifically enacted for the protection of children, provides that no child shall be employed as a domestic help outside their own home or family environment.⁷¹ The penalty for trafficking children for domestic work is the same as provided for traffickers engaged in luring children to perform forced or exploitative child labour under the CRA 2003.⁷²

According to the CRA 2003, any other forms of exploitation of any child, aside from forced or exploitative labour and servitude, will result in a fine of 500 000 naira, or five years' imprisonment, or both.⁷³

3.3 Exploitative adult labour

As a result of unemployment, discrimination, corruption and other societal vices that are prevalent in the country, some employers take advantage of the non-implementation of labour laws to exploit vulnerable workers to accept labour terms that violate human dignity, both locally and abroad. Immigrants are more vulnerable to forced labour as many of them are ready to accept any job opportunity in the diaspora, regardless of the wages, to sustain themselves. In Nigeria, it is an offence that is liable on conviction to imprisonment for a term of not less than five years and a fine of not less than ₦1 million if any person requires, recruits, transports, receives or hires out a person to be used for forced labour within or outside Nigeria, or permits any place or premises to be used for the purpose of forced labour.⁷⁴

Forced child labour, involuntary domestic servitude and exploitative adult labour⁷⁵ can be regarded as labour trafficking, which the US Trafficking Victims Protection Act (TVPA) 2000⁷⁶ defines as 'the recruitment, harboring, transportation, provision, or obtaining of a

69 Ibid, s 23(1)(a).

70 Ibid, s 23(2).

71 CRA 2003, s 28(1)(e).

72 See 3.1 above.

73 Ibid, s 33.

74 See generally TIPPEA Act 2015, s 22.

75 See sections 3.1 to 3.3.

76 Hereafter referred to as 'TVPA 2000'. The TVPA is the first comprehensive federal law to address trafficking in persons in the USA, and this law was reauthorised by the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, 2005, 2008, 2013, 2017 and 2018. See National Human Trafficking Hotline 'Federal Law' <<https://humantraffickinghotline.org/en/human-trafficking/federal-law>> accessed 21 April 2024. The TVPA 2000 makes provision for prevention, protection and prosecution regarding trafficking in the USA.

person for labor or services, through the use of force, fraud, or coercion⁷⁷ for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.⁷⁸

3.4 Prostitution and sex work

Prostitution and sex work constitute a significant portion of the various forms of human trafficking and the 'majority of transnational modern-day slavery'.⁷⁹ On the one hand, some women, both young and middle-aged, cross the border in search of greener pastures, only to be confronted with stringent rules and regulations regarding employment opportunities in the country to which they have migrated, leaving them with no option other than to take up prostitution rather than returning home. On the other hand, some choose prostitution from the outset. Nigerian laws outlaw the procurement of children or adults for sexual exploitation.

Section 15 of the TIPPEA Act 2015 provides that any person who keeps, detains or harbours any other person with intent, knowing or having reason to know that such a person is likely to be forced or induced into prostitution or other forms of sexual exploitation with or by any person or animal, commits an offence and is liable on conviction to imprisonment for five years and a fine of ₦500 000.⁸⁰ While section 15 impliedly refers to engaging persons above the age of 18 years for prostitution and sex work, section 16 forbids the procurement of any child for sexual exploitation.

3.5 Exploitation of children for commercial sex

The exploitation of children for commercial sex is a form of human trafficking that is criminalised by both national and international laws. As a result of economic hardship in the country, which results in poverty, some mothers have forced their daughters into prostitution in order to provide food. According to the US Department of State, '[e]ach year, more than two million children are exploited in the global commercial sex trade. Many of these children are trapped in prostitution'.⁸¹

The TVPA 2000 defines sex trafficking as

the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.⁸²

Nigerian laws make provision for the protection of children against exploitation for commercial sex. Section 16 of the TIPPEA Act 2015 forbids the procurement of any child

77 This means (a) threats of serious harm to or physical restraint against any person; (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process. See 22 USC 7102 (3).

78 TVPA 2000.

79 US Department of State 'Major Forms of Trafficking in Persons' <<https://2009-2017.state.gov/j/tip/rls/tiprpt/2008/105377.htm>> accessed 16 April 2024.

80 TIPPEA Act 2015, s 15(b).

81 US Department of State 'Major Forms of Trafficking in Persons' (note 79 above).

82 22 USC 7102(9).

for sexual exploitation by the use of deception, coercion, debt bondage or any means to induce such child, and the penalty for such an act is imprisonment for five years and a fine of ₦500 000.⁸³ Any person who procures or recruits a child to be subjected to prostitution or other forms of sexual exploitation with himself, any person or persons, either in Nigeria or anywhere else, commits an offence and is liable on conviction to seven years imprisonment and a fine of not less than ₦ 1 million.⁸⁴ It is also an offence to procure or recruit a child for pornography or a brothel.⁸⁵ Such an act attracts imprisonment for a term not less than seven years and a fine of not less than ₦ 1 million.⁸⁶ In addition to this penalty, a trafficker who is convicted under section 17(1)(b) is liable to a term of not less than one year's imprisonment where he administered or stupefied the victim with any drug substance.⁸⁷

The CRA 2003 provides for more stringent penalties for using children for sexual exploitation, prostitution or pornography. The CRA 2003 provides that no child shall be procured or offered for prostitution, the production of pornography or any pornographic performance.⁸⁸ The contravention of the provisions results in imprisonment for a term of ten years.⁸⁹ Where a person unlawfully had sexual intercourse with a child, notwithstanding that the offender believed the child to be of or above the age of 18 years, or the sexual intercourse was with the consent of the child, such person commits the offence of rape and is liable on conviction to life imprisonment.⁹⁰ It is forbidden to sexually abuse or exploit a child in any other manner other than the sexual acts mentioned above; where such is committed, the offender shall be liable to imprisonment for a term of 14 years.⁹¹

As noted above, while the maximum term of imprisonment under the TIPPEA Act 2015 is seven years, the minimum imprisonment on conviction under the CRA 2003 is ten years. To deter traffickers from committing the crime of human trafficking, stringent penalties are required. Although the penal provisions under the TIPPEA Act 2015 are strict, stricter provisions are needed, such as those in the CRA 2003. I recommend that, when the issue of sexual exploitation, prostitution or pornography of children arises, traffickers should be prosecuted under the CRA 2003. The CRA is a state law, as provided for under the CFRN 1999, and must be adopted by states before it can be implemented; it is disheartening that not all states in Nigeria have adopted the Act. It is recommended that all states in Nigeria should adopt the CRA as state law in order to combat child trafficking, amongst others. Moreover, the TIPPEA Act 2015 should be amended to have the same penal provisions as the CRA 2003 to deter any would-be traffickers.

83 TIPPEA Act 2015, s 15(a).

84 *Ibid*, s 16(1).

85 See also CRA 2003, s 20(2)(e).

86 *Ibid*, s 17(1)(a) and (b).

87 *Ibid*, s 17(2).

88 *Ibid*, s 30(2)(a) and (e).

89 *Ibid*, s 30(3).

90 *Ibid*, s 31.

91 *Ibid*, s 32.

3.6 Forced marriages and child marriages

Forced marriage occurs when one or both parties to the marriage are forced into the union without consent. Forced marriage is not limited to children; adults have sometimes been forced to marry somebody whom they never consented to marry. In this kind of trafficking, the risk of sexual harassment and servitude is significant. Despite the general belief that child marriage occurs in less educated communities, even educated individuals, including Nigerian politicians, are involved in this practice. For instance, in 2010, Yerima, a former governor of Zamfara State of Nigeria and then a serving senator, married a 13-year-old Egyptian girl. Yerima's actions drew significant criticism from child rights activists, women's rights organisations and international human rights groups.⁹² However, Yerima defended his actions by invoking religious and cultural justifications. He argued that child marriage was permissible under Islamic law.

Although the TIPPEA Act 2015 does not expressly provide for forced marriage as a form of human trafficking and modern-day slavery, section 15 provides for 'the use of deception, coercion ... or any means, induces any person under the age of 18 years ... to do any act with intent that such person may be, or knowing that it is likely that the person will be forced into illicit intercourse with another person'⁹³ and goes further to state that '[a]ny person who keeps, detains or harbours any other person with intent, knowing or having reason to know that such a person is likely to be forced or induced into prostitution or other forms of sexual exploitation.'⁹⁴ It can therefore be concluded that, while the first part of section 15 refers to illicit intercourse with any child, the second part refers to the other party involved.

Furthermore, there is an omnibus provision in the TIPPEA Act 2015 that may cover forced marriage. Section 13 of the Act states that

[a]ll acts of human trafficking are prohibited in Nigeria,⁹⁵ and any person who harbours or receives any person by means of threat, or use of force or other forms of coercion; abduction, fraud, deception, abuse of power or position of vulnerability; or giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the exploitation of that person, commits an offence and is liable on conviction to imprisonment for a term of not less than two years and a fine of not less than ₦250 000.⁹⁶

Despite the omnibus provision, it is recommended that the TIPPEA Act should be amended to accommodate an express provision on forced marriage. This amendment would eliminate any potential loopholes and ensure that the perpetrators of forced

92 Hirsch, A 'Nigerian senator who "married girl of 13" accused of breaking Child Rights Act' *The Guardian*, 25 July 2013 <<https://www.theguardian.com/world/2013/jul/25/nigeria-senator-accused-child-bride>> accessed 15 December 2022; Igbinoia, J 'Groups fault Yerima on child marriage' *The Vanguard*, 23 July 2013 <<https://www.vanguardngr.com/2013/07/groups-fault-yerima-on-child-marriage/>> accessed 15 December 2024.

93 TIPPEA Act 2015, s 15(a).

94 Ibid, s 15(b).

95 Ibid, s 13(1).

96 Ibid, s 13(2)(a)-(c).

marriages are held accountable under specific provisions of the Act. This would also not allow frivolous defences to any trafficking offender.

The CRA 2003 expressly prohibits child marriage and betrothal, and it outlines the consequences of contravening these provisions. The CRA 2003 specifically provides that no child is capable of contracting a valid marriage, and a marriage so contracted is null and void, and of no effect whatsoever.⁹⁷ Similarly, no parent, guardian or any other person shall betroth a child to any person as such betrothal shall be null and void as well.⁹⁸ Where anyone contravenes these provisions, such person who marries a child; or to whom a child is betrothed; or who promotes the marriage of a child; or who betroths a child, shall be liable on conviction to a fine of ₦500,000, or five years' imprisonment, or both such fine and imprisonment.⁹⁹

3.7 Purchase and sale of human beings for any purpose

The sale and purchase of human beings have become rampant in Nigeria. This is not limited to the sale and purchase of adults; it includes the sale of babies, toddlers and teenagers for monetary gain. The parents of some victims are sometimes associated with these illicit transactions. Section 21 of the TIPPEA Act 2015 provides that

[a]ny person who buys, sells, hires, lets or otherwise obtains the possession or disposal of any person with intent, knowing it to be likely or having reasons to know that such a person will be subjected to exploitation, commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years and a fine of not less than ₦2,000,000.¹⁰⁰

3.8 Debt bondage or bonded labour

One way of keeping a person under subjugation is by using debt bondage or bonded labour.¹⁰¹ This occurs where traffickers or recruiters unlawfully exploit an initial debt that the victim incurred prior to the migration as binding on them under the terms of their employment. Bonded labour occurs when a person has to work to pay back inherited debt arising from family indebtedness.¹⁰²

According to US federal law, bonded labour is the status or condition of a 'debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined'.¹⁰³

97 CRA 2003, s 21.

98 Ibid, s 22.

99 Ibid, s 23.

100 TIPPEA Act 2015, s 21.

101 US Department of State 'Major Forms of Trafficking in Persons' (note 79 above).

102 See also World Vision Action 'Factsheet: Understanding Human Trafficking and Slavery' <<https://www.worldvision.com.au/docs/default-source/buy-ethical-fact-sheets/understanding-human-trafficking-fact-sheet.pdf>> accessed 10 April 2024.

103 22 USC 7102 (5).

In the case of debt bondage, a victim may take several years to settle the debt. Some victims of human traffickers from Nigeria have said that, once they reach their destination, their employers subject them to long-term work on the basis that their traffickers have collected large sums of money from the employers, together with the money used for transporting them to their destinations. They have to work for many years to settle the debt.

The TIPPEA Act 2015 outlaws debt bondage by referring to it as slave-dealing. Section 25 provides that:

Any person who–

- (a) deals, keeps, receives or harbours any person for the purpose of holding or treating that person as a slave;
- (b) places, receives, harbours or holds any person as a pledge, pawn, in servitude or security for debt or benefits; whether due or to be incurred;
- (c) transports, transfers or in any way induces any person to come into Nigeria in order to hold, possess, deal or treat such person as a slave or to be used as a pledge or security for debt; or
- (d) enters into any contract or agreement with or without consideration for the purpose of doing or accomplishing any of the purposes enumerated in this section, commits an offence and is liable to imprisonment for a term of not less than 7 years and to a fine of not less than ₦2,000,000.¹⁰⁴

Section 30 of the CRA 2003 states that no child shall be used as a slave or for practices similar to slavery such as debt bondage, among others.¹⁰⁵ Where these provisions are contravened by traffickers, they shall be liable on conviction to imprisonment for a term of ten years.¹⁰⁶ This is a better option in terms of punishment than under the TIPPEA Act 2015.

3.9 Armed conflict and child soldiers

Armed conflict may involve the recruitment of children through force or coercion. The recruitment of children in Northern Nigeria by the ‘Boko Haram’ sect constitutes human trafficking. Apart from this, the engagement of children in war, tribal or rebel groups and para-military organisations constitutes ‘human trafficking.’ Section 19 of the TIPPEA Act penalises traffickers by providing that ‘[a]ny person who trafficks any person for the purpose of forced or compulsory recruitment for use in armed conflict, commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and a fine not less than ₦1,000,000.00’¹⁰⁷

The CRA 2003 prohibits the recruitment of children into any of the branches of the armed forces of the Federal Republic of Nigeria, and obligates the government or any

104 TIPPEA Act 2015, s 25(a)-(d).

105 CRA 2003, s 30(2)(b).

106 Ibid, s 30(3).

107 TIPPEA Act 2015, s 19.

other relevant agency or body to ensure that no child is directly involved in any military operation or hostilities.¹⁰⁸ However, these legal provisions seem meaningless as many children in Nigeria have been recruited by militants to execute their hostile missions. Many of the leaders of Boko Haram who were arrested for trafficking were granted amnesty and not penalised as provided for by the law.

3.10 Organ harvesting

Nigerian laws have been enacted against the procurement or recruitment of persons for organ harvesting. Section 20 of the TIPPEA Act 2015 provides that any person who through force, threat, deception, debt bondage or any form of coercion abuses a position of power or situation of dominance or authority arising from a given circumstance, or who abuses a vulnerable situation for the purpose of removing someone's organ(s), commits an offence and is liable on conviction to imprisonment for a term of not less than seven years and a fine of not less than ₦5 million.¹⁰⁹

The above penalty is also applicable to any person who, through the giving or receiving of payments or benefits in order to induce or obtain the consent of a person, directly or through another person who has control over the victim, enlists, transports, delivers, accommodates or takes in another person for the purpose of removing the person's organ(s).¹¹⁰ The same penalty is applicable to a person who procures or offers any person, assists or is involved in any way in the removal of human organs, or in buying and selling human organs.¹¹¹ Furthermore, any person who enlists, transports, delivers, accommodates or takes in another person under the age of 18 years, for the purpose of removing the person's organ(s), commits an offence and is liable to the same penalty as above.¹¹²

However, it must be noted that the TIPPEA Act 2015 also recognises corporate offenders; it provides that where any of the offences under the Act committed by a body corporate are proved to have been committed on the instigation or with the connivance of, or are attributable to any neglect on the part of a director, manager, secretary of the body corporate, or any person who purported to act in any such capacity, the officer shall be liable on conviction to the same punishment as provided for an individual committing the offence. Notwithstanding this provision, such an individual officer shall not be liable if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of such an offence. Nevertheless, where a body corporate is convicted of an offence under the Act, such body corporate is liable to a fine of ₦ 10 million; in addition, the court may issue an order to wind up the body corporate and its assets and properties shall be transferred to the Victims of Trafficking Trust Fund.¹¹³

108 CRA 2003, s 34.

109 TIPPEA Act 2015, s 20(a) and (b).

110 *Ibid*, s 20(b).

111 *Ibid*, s 20(3).

112 *Ibid*, s 20(3).

113 *Ibid*, s 31(1)-(3). The Trafficking Trust Fund is established under section 67 of the TIPPEA Act 2015.

The CRA does not make any express provision for child organ harvesting by traffickers, not because children are not victims, but because the crime of organ harvesting was not rampant when the CRA was enacted in 2003. As a result of this lacuna, how do we prosecute a child organ trafficker, bearing in mind section 274 of the CRA 2003, which provides that the provisions of the CRA supersede the provisions of all enactments relating to children?¹¹⁴ Do we prosecute offenders under the TIPPEA Act 2015, or do we wait until the CRA 2003 is amended to provide for the offence of child organ harvesting before offenders can be prosecuted?

Section 274(2) of the CRA states that ‘where any provision of this Act is inconsistent with that of any of the [other] enactments ... the provision of this Act shall prevail and that other provision shall, to the extent of its inconsistency be void’. This is an area of concern. Nevertheless, since the provisions of the TIPPEA Act 2015 intend filling the lacunae in the CRA 2003, and it is the principal Act for eliminating human trafficking and is not inconsistent with the provisions of the CRA 2003, then the provisions of the TIPPEA Act 2015 should apply to all areas of child trafficking that are not provided for in the CRA 2003.

We now turn to consider the institution that is vested with the responsibility of curbing the menace of human trafficking. The basic institutional framework set up by the Federal Government of Nigeria and its functions are examined next.

4. The institutional framework for combating human trafficking

Both governmental and non-governmental bodies have been established to combat human trafficking in Nigeria. The only national body that is established solely for ending human trafficking in Nigeria is NAPTIP.¹¹⁵ Sections 5 and 6 of the TIPPEA Act enumerate the functions and powers of the agency respectively. Some of the functions and powers of the agency are considered next; the efforts and limitations of the agency are also considered with recommendations to enhance the implementation of its statutory functions.

First, the agency ensures that laws enacted by the Nigerian government against human trafficking are enforced, by establishing a system of monitoring human trafficking activities on transborders, and to identify suspicious movements and persons.¹¹⁶ By so doing, the agency can arrest, detain and prosecute trafficking offenders.¹¹⁷ It is recommended that efforts should be increased to investigate, prosecute and convict traffickers, particularly those who engage children in domestic servitude, forced and exploitative labour, and debt bondage. Moreover, adequate penalties should be imposed, such as the terms of imprisonment under the CRA 2003.

Second, NAPTIP has adopted effective measures for the prevention and eradication of human trafficking and related offences in Nigeria.¹¹⁸ For instance, the agency collaborates with the National Judicial Institute (NJI), judges and prosecutors to fight gender-based

114 CRA 2003, s 274(1).

115 TIPPEA Act 2015, s 2.

116 Ibid, s 5(a).

117 Ibid, s 6(c).

118 Ibid, s 5(c).

violence (GBV).¹¹⁹ NAPTIP has also partnered with Meta¹²⁰ and the US National Centre for Missing and Exploited Children (NCMEC)¹²¹ to tackle online child exploitation, since traffickers mostly use the internet¹²² to trap their victims. According to the NAPTIP E-Digest, the agency launched the NAPTIP iReporter App in collaboration with the Canadian government.¹²³ In addition, the NAPTIP Service Charter, the NAPTIP Disability Inclusion Policy, policy documents and audio-visual materials have been translated into braille for the blind.¹²⁴

Third, the agency rescues victims of human trafficking. For instance, in June 2018, during the World Cup, it was reported that NAPTIP officials blocked an attempt to smuggle ten children from Nigeria to Russia.¹²⁵ NAPTIP also protects victims and survivors of human trafficking. However, I suggest that efforts should be strengthened to identify human trafficking victims among children and more vulnerable persons. Furthermore, the agency should strengthen its efforts to recognise victims of human trafficking in general.

Fourth, NAPTIP investigates and prosecutes perpetrators of crimes who promote or are connected to human trafficking, either directly or indirectly.¹²⁶ According to a report, between 2004 and 2023, 599 human traffickers arrested by NAPTIP were found guilty,¹²⁷ and over 400 human trafficking offenders were sentenced between 2006 and 2023.¹²⁸ Nevertheless, it is believed that the rates of arrest and prosecution of traffickers remain low 'in relation to the size of the Nigeria as elsewhere'.¹²⁹ It is recommended that efforts should be increased to prevent, detect and prosecute human trafficking offenders.

Fifth, the agency counsels and provides rehabilitation programmes for survivors of human trafficking and modern-day slavery to enable them to heal mentally and emotionally.¹³⁰ The agency also teaches survivors of human trafficking vocational skills

119 NAPTIP 'NAPTIP in Collaboration with the National Judicial Institute Organises Technical Retreat for Judges and Prosecutors on the Prosecution of Sexual and Gender Base Violence Cases' (June 2023) <<https://naptip.gov.ng/naptip-in-collaboration-with-the-national-judicial-institute-organises-technical-retreat-for-judges-and-prosecutors-on-the-prosecution-of-sexual-and-gender-base-cases/>> accessed 13 April 2024.

120 NAPTIP 'NAPTIP and Meta Partner to Tackle the Crisis of Missing Children, with the Launch of Amber Alert in Nigeria' (September 2022) <<https://naptip.gov.ng/naptip-and-meta-partner-to-tackle-the-crisis-of-missing-children-with-the-launch-of-amber-alert-in-nigeria/>> accessed 13 April 2024. Meta is the owner of Instagram, Facebook and WhatsApp.

121 NAPTIP 'NAPTIP @ 20: Nigeria Has Taken the Lead in the Fight Against Human Trafficking Globally' (July 2023) <<https://naptip.gov.ng/naptip20-nigeria-has-taken-the-lead-in-the-fight-against-human-trafficking-globally/>> accessed 13 April 2024.

122 For instance, through emails and social media, such as Instagram, Facebook and WhatsApp.

123 NAPTIP *NAPTIP E-Digest* <<https://naptip.gov.ng/edigest-august-2023/>> accessed 13 April 2024.

124 Legit 'Full Meaning of NAPTIP in Nigeria and its Functions in 2023' (September 2023) <<https://www.legit.ng/1137337-meaning-functions-naptip-nigeria.html>> accessed 13 April 2024.

125 Ibid.

126 TIPPEA Act, s 6(a).

127 NAPTIP 'NAPTIP 2021 Data Analysis' <<https://naptip.gov.ng/wp-content/uploads/2022/06/2021-data-analysis.pdf>> accessed 12 April 2024.

128 Ibid.

129 Kigbu & Hassan (note 12 above) 208.

130 TIPPEA Act 2015, s 5(m)(i).

while they are being rehabilitated. Although the agency is obligated to enlighten the public on how to assist survivors of human trafficking heal their emotional and mental scars when they leave the rehabilitation centres, there has been little or no effort on the part of the NAPTIP with regard to this obligation. It is recommended that efforts should be increased to carry out this function. The Federal Government should also provide adequate funding to assist NAPTIP in implementing its statutory functions.

Sixth, NAPTIP has the power to deport anyone convicted of human trafficking.¹³¹ For instance, on 8 March 2023, it extradited a high-profile female trafficker to Italy to serve a 13-year jail term.¹³² This is made possible by the mutual legal assistance rendered by the Nigerian government and other countries to the agency, under the supervision of the Minister in charge of the extradition and deportation of people involved in human trafficking.¹³³

Seventh, NAPTIP collaborates with government bodies having similar functions, inside and outside Nigeria, to combat human trafficking by facilitating the exchange of scientific and technical information.¹³⁴ Curbing the menace of human trafficking must be a joint effort, and all law enforcement agents in Nigeria, in particular, should work together with NAPTIP to achieve the objectives of the laws and the agency established to end human trafficking.

Eighth, section 5(h) provides that one of the functions of the NAPTIP is to create public enlightenment and awareness through seminars, publications, workshops, media programmes and other means aimed at educating the public on the dangers of human trafficking. In 2023, NAPTIP, in collaboration with the ARK Group, held a bus campaign, which taught people how to look for signs of human trafficking.¹³⁵

There is also a need for awareness of the agency and its attempts to curb human trafficking. This means that communities, particularly rural communities, should be educated about its existence and functions. The lack of knowledge about its existence may result in victims being fearful about reporting, and this may hinder the arrest of traffickers. Therefore, it is recommended that NAPTIP should increase its efforts to educate the public about what constitutes human trafficking, how traffickers can be identified, and which authorities can be approached to report human trafficking.

As noted above, everyone has the obligation to report when there is any indication of trafficking. There are many signs that can help to establish that a person may be a victim of human trafficking. The US Department of State has offered some useful insights in this regard.¹³⁶ First, the victim often lives with the employer. Second, employers keep the

131 Ibid, s 5(s).

132 Africanews 'Nigerian Prostitution Mob Boss Extradited to Italy' <<https://www.africanews.com/2023/03/10/nigerian-prostitution-mob-boss-extradited-to-italy/>> accessed 13 April 2024.

133 Ibid.

134 TIPPEA Act 2015, s 5(q).

135 Legit 'Full Meaning of NAPTIP in Nigeria and its Functions in 2023' (note 124 above). The campaign was funded by Immigration, Refugees and Citizenship Canada, a department of the government of Canada.

136 US Department 'Identify and Assist a Trafficking Victim' <<https://www.state.gov/identify-and-assist-a-trafficking-victim/>> accessed 10 April 2024.

travel or identity documents of the victim. Third, the victim lives in fearful or submissive conditions. Fourth, the victim is unable to communicate with individuals while alone. Fifth, when a victim is questioned, their responses appear to have been scripted and rehearsed. Sixth, many victims of human trafficking live in poor conditions, and there are signs of physical abuse, cramped living spaces and meagre wages.

NAPTIP also conducts research on the factors responsible for internal and external human trafficking, and initiates programmes and strategies aimed at the 'prevention and elimination of the problem'.¹³⁷ For instance, NAPTIP statistics revealed that 'from 2019 to 2022, 61% of human trafficking cases occur within the country, while 39% are cross-border trafficking through land borders and by road transportation'.¹³⁸

Aside from the recommendations above, the government should keep its promises by providing employment to youths and creating an enabling environment. Finally, every individual should avoid making their personal information available on social media. Where someone feels unsafe with anybody, they should speak out so that no one falls victim to human traffickers.

With regard to the brief examination of the functions and performance of the NAPTIP above, it would be unfair to state that the agency has not discharged its obligations at all. We can conclude that NAPTIP has improved the image of Nigeria with regard to human trafficking, and has prosecuted many human traffickers in accordance with the law. However, more needs to be done as many human traffickers continue to operate in clandestine networks, and many high-profile persons who participate in human trafficking are still able to avoid judicial scrutiny.

5. Conclusion

The causes of human trafficking in Nigeria are varied, and there are personal and socio-economic consequences for victims and society as a whole. Nigeria has functioning legal and institutional frameworks to combat the menace of human trafficking. While the TIPPEA Act 2015 was enacted for the protection of all in Nigeria, the CRA 2003 was specifically enacted to protect children, and has stricter penalties, in terms of imprisonment, than the TIPPEA Act. It is disheartening that not all states in Nigeria have adopted the Act; children's rights fall under the purview of the state in terms of the CFRN 1999, and the Act can be implemented only if it has been adopted. As a result, any human traffickers of children, in the states that have not adopted the CRA, would be prosecuted under the TIPPEA Act 2015. All states must adopt and implement the CRA 2003. Furthermore, NAPTIP should discharge its statutory functions in accordance with the laws of the land. If the recommendations made in this paper are implemented, Nigeria will improve its image, and safety and security against human trafficking will be the order of the day in Nigeria.

137 TIPPEA Act 2015, s 5(o).

138 NAPTIP 'NAPTIP, Development Partners and Stakeholders Re-strategize to Tackle Human Trafficking as Boot Camp for Members of State Task Forces Kicks off in Abuja' (July 2022) <<https://naptip.gov.ng/naptip-development-partners-and-stakeholders-re-strategize-to-tackle-human-trafficking-as-boot-camp-for-members-of-state-task-forces-kicks-off-in-abuja/>> accessed 13 April 2024.

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