THE LEGAL IMPLICATION OF HUMAN TRAFFICKING, THE PLACE OF ECOWAS COURT OF JUSTICE AND HOW IT CAN AFFECT DIPLOMATIC RELATIONS.

The Palermo Protocol defines human trafficking as *the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.*

Human trafficking is a heinous crime against humanity . It is slavery given another nomenclature. **A unique form of slavery that is economically viable to the traffickers and destructive to the victims. it is slavery rebranded. I call It modern day slavery**. It is also a gender based violence as statistics reveal that the most common form of human trafficking is sexual exploitation (79%) and that the victims of sexual exploitation are predominantly women and girls.

**Statistics have revealed that human trafficking is amongst the most lucrative criminal activities in the world with over $236 billion per annum generated in the private economy (ILO).** Anyhow you look at it, it has grown into a monster. The insatiable urge of the traffickers to make more money and the economic downturn has driven even many more into survival instincts such that anything to survive on is good to go.

**Human trafficking is not just a cross border nor a foreign problem but also a local problem happening in your communities and or next door.** Be on alert and be a good samaritan. **The boom in trafficking has reached an intolerable crescendo, such that if nothing drastic is done to curb it, anyone could just be a victim. It is a global crime. Be alert and report human trafficking.**

**Overarching Statistics**

At the first global assessment on the scope of human trafficking and what is being done to fight it, at the launch of the Report in New York, the Executive Director of UNODC, Antonio Maria Costa said that "many governments are still in denial. He reports that there is neglect either in reporting on, or prosecuting cases of human trafficking"

* that while the number of convictions for human trafficking is increasing, two out of every five countries covered by the UNODC Report had not recorded a single conviction.
* That the most common form of human trafficking (79%) is sexual exploitation.
* **That the victims of sexual exploitation are predominantly women and girls.**
* The second most common form of human trafficking is forced labour (18%), although this may be a misrepresentation because forced labour is less frequently detected and reported than trafficking for sexual exploitation.

**Surprisingly and Shamefully**

* **30% of the countries which provided information on the gender of traffickers, women make up the largest proportion of traffickers. In some parts of the world, women trafficking women is the norm**
* **Worldwide, almost 20% of all trafficking victims are children**.
* Although trafficking seems to imply people moving across continents, most exploitation takes place close to home.
* **That intra-regional and domestic trafficking are the major forms of trafficking in persons.**
* **UNODC report states that three out of four children in west Africa are victims of human trafficking.**
* An estimated 6.04 million individuals are enslaved in sub- Saharan Africa, making 12% of the total global enslaved population.
* **An estimated 7 million individuals are enslaved in all of Africa, making 14% of the total global enslaved population.**
* **Africa accounts for 8% of child sex trafficking in the world.**
* The most common forms of slavery in sub-Saharan Africa are forced labour and forced marriage
* I**n 2020 UNODC Global** [**Report**](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf) **on Trafficking in Persons estimated the number of children in slavery at 30% of all global victims**
* **99% of the 4.8 million victims of commercial sexual exploitation 2016 were women and girls (ILO, 2017).**
* Women and girls represented 84% of the 15.4 million people in forced marriages, and 59% of those in private forced labour (8.7 Alliance 2017 Report).
* **It is estimated that human trafficking generates many billions of dollars per year second only to drug trafficking as the most profitable form of transnational crime.** [Https://police](https://police).amtrak.com
* **The total amount of illegal profits from forced labour has risen by US$64 billion (37 per cent) since 2014, a dramatic increase that has been fuelled by both a growth in the number of people forced into labour, as well as higher profits generated from the exploitation of victims to $236 billion in March 2024**
* The ILO report, [*Profits and Poverty: The economics of forced labour*](https://www.ilo.org/publications/profits-and-poverty-economics-forced-labour-1), estimates that traffickers and criminals are generating close to US$10,000 per victim, up from US$8,269 (adjusted for inflation) a decade ago.
* **Forced commercial sexual exploitation accounts for more than two-thirds (73 per cent) of the total illegal profits, despite accounting for only 27 per cent of the total number of victims in privately imposed labour.**

TARGETS/

* Perpetrators prey on the underdogs: indigents, persons living with disabilities, women and children, persons going through challenging situations e.g poverty, rejection, someone who is not in contact with their family, struggling with their identity, survivor of abuse, or someone in desperate need of work or money, mostly women, young girls, children generally and people in need of help, migrants et al.

Causes

poor economic conditions

violent conflict and territorial displacement

 humanitarian and environmental crisis

Whatever the reason, victims are often unaware that they’re even being groomed as traffickers are often expert manipulators offering immediate temporary comfort with promise of greater help.

**Victims are forcefully compelled to provide sexual services and indecent and or hard Labour for the sole benefit of their perpetrators.** The victims are held in boundage not caring whether the victims die or live for as long as they are rendering the services for their profit. **Many victims have caught deadly diseases in doing so and many have been wasted as they’re not ready to spend money giving the victims medical care**. Trafficking is more of a death sentence as many did not live to tell the story.

**Implications of Human Trafficking**:

Victims are exposed to diverse forms of health related problems. While in captivity, they experience physical violence, sexual exploitation, mental torture, psychological abuse, poor living conditions and exposure to a wide range of diseases, which may have lasting consequential effects on their physical, reproductive and mental health.

**Red alerts to prevent yourself from becoming a victim:**

* Beware of strangers
* Do not arrange to physically meet ‘friends’ that you have met on social media
* Do not be tempted by a promise of jobs in host cities during sports festivals and games and or promises of education
* Do not be tempted by promises of tickets for trips outside your place of residence
* Always let an adult know your whereabouts at all times and also during the school vacation
* Do not walk, cycle, run, or jog alone – always be in a group
* Do not handover your international passport to anybody to secure travel visa for you
* Be wary of anybody promising to secure travel documents for you
* Do not accept lifts from strangers

**Types of Human Trafficking**

**Sex trafficking**

This involves recruiting, moving, or holding victims in bondage for sexual exploitation purposes. Sex traffickers coerce victims into providing sexual services by force or through threats, including mental and emotional torture.

**Organ trafficking**

This is human trafficking with the sole purpose of harvesting the vital organs of the victim in most cases without the knowledge and or consent of the victim for sale. In recent times there has been a boom in this form of trafficking.

**Labour Trafficking**

This involves recruiting, moving, or holding victims to force them into doing any kind of work solely for the financial gain of the traffickers

Forced Labour is when a person uses force, fraud, or coercion to exploit the labour or services of another person. The essential elements of forced labour are the acts, means and purpose.

The “**act**” is when the trafficker recruits, harbours, transports, provides, or obtains a person for labour or services.

The **“means”** when the trafficker’s use force, fraud, or coercion. Including threats of force, confiscation of identity documents, psychological coercion, reputational harm, manipulation of the use of addictive substances, debt manipulation, withholding of pay et al.

The **“purpose”** focuses on the perpetrator’s goal to exploit a person’s labour or services. There is no limit on the location or type of industry. Traffickers can commit this crime in any sector or setting, whether legal or illicit.

**The above three elements are all essential to constitute the crime of forced labour.**

Domestic Servitude

The trafficker requires a victim to work in a private residence. This creates unique vulnerabilities.Victims are isolated and endangered. Their employer controls their access to food, transportation, and housing. This is a critical case that must be tackled from its root cause as what happens in a private residence is hidden from the world – including from law enforcement resulting in barriers to victim identification and protection.

Forced child labour is when traffickers compel children to work. Traffickers often target children because they are more vulnerable. Although some children may legally engage in certain forms of work and for just a few hours, forcing children to work remains illegal.

Forms of slavery-like practices – including

forced or compulsory child Labour , sale of children, debt bondage and serfdom of children – continue to exist, despite legal prohibitions and widespread condemnation.

indicators of forced labour of a child are situations in which the child appears to be in the custody of a non-family member and the child’s work financially benefits someone outside the child’s family; or the denial of food, rest, or schooling to a child who is working. This is prevalent in Africa and takes an eagle eye to identify

 **Legal Principles and Concept of Human Trafficking**

These key principles relate to all forms of trafficking in persons, including forced labour and sex trafficking.

**Consent**

Trafficking can take place even if the victim initially consented to providing labour, services, or commercial sex acts. **The primary focus is on the trafficker’s conduct and not that of the victim.** Traffickers can target a victim after a victim applies for a job or migrates to earn a living. The trafficker’s manipulative and exploitative scheme is what matters, not a victim’s prior consent or ability to meaningfully consent thereafter. Same applies in a sex trafficking case, an adult victim’s initial willingness to engage in commercial sex acts is not relevant where a trafficker subsequently uses force, fraud, or coercion to exploit the victim and cause them to continue engaging in the same acts against their will. Consent is not given blanket to cover every subsequent act. It must be sought before each act and must not be assumed. In the case of child sex trafficking, the consent of the victim is irrelevant as a child has no capacity to legally consent to commercial sex.

***Movement***

No law local, National, Continental, nor international requires that a trafficker or victim move across a border for a human trafficking offence to take place. **It is pertinent to note that Trafficking is a crime of exploitation and coercion, and not movement.**  Traffickers can use schemes that take victims hundreds of miles away from their homes or exploit them in the same neighborhoods where they were born.

**Debt Bondage**

“Debt bondage” is focused on human trafficking crimes in which the trafficker’s primary means of coercion is debt manipulation. The trafficking laws prohibits perpetrators from using debts as part of their scheme, plan, or pattern to compel a person to work or engage in commercial sex. .

***The Non-Punishment Principle***

A victim-centered and trauma-informed approach is key to successful anti-trafficking efforts. The victim approach is that victims of trafficking should not be inappropriately penalised solely for unlawful acts they committed as a direct result of being trafficked. Effective implementation of the “non-punishment principle,” as it is increasingly referred to, not only requires recognizing and embracing the principle in regional and national laws, but also increasing proactive victim identification. This can be likened to amnesty in the south south region of Nigeria.

***State-Sponsored Human Trafficking***

While the UN and AU Protocols call on governments to proactively address trafficking crimes, some governments are part of the problem, directly compelling their citizens into sexual slavery or forced labour schemes. From forced labour in local or national public work projects, military operations, and economically important sectors, or as part of government-funded projects or missions abroad, officials use their power to exploit their nationals. To extract this work, governments coerce by threatening the withdrawal of public benefits, withholding salaries, failing to adhere to limits on national service, manipulating the lack of legal status of stateless individuals and members of minority groups, threatening to punish family members, or conditioning services or freedom of movement on labour or sex.

**Unlawful Recruitment or Use of Child Soldiers**

 Occurs when government forces or any non-state armed group unlawfully recruits or uses children – through force, fraud, or coercion – as soldiers or for labour or services in conflict situations. Children are also used as sex slaves. Sexual slavery here occurs when armed groups force or coerce children to “marry” or be raped by commanders or combatants. Both male and female children are often sexually abused or exploited by members of armed groups and suffer the same devastating physical and psychological consequences.

***Accountability in Supply Chains***

Forced labour is well documented in the private economy, particularly in agriculture, fishing, manufacturing, construction, and domestic work; but no sector is immune. Sex trafficking occurs in several industries as well. Most prevalent in the hospitality industry, but the crime also occurs in connection with extractive industries where activities are often remote and lack meaningful government presence.

**Clarion Call**

**Governments are called upon to hold all entities, including businesses, accountable for human trafficking.** In some countries, the law provides for corporate accountability in both the civil and criminal justice systems. U.S. law and Nigerian law and other ECOWAS states laws provides such liability for any legal person, including a business that benefits financially from its involvement in a human trafficking scheme, provided that the business knew or should have known of the scheme.

The countries with the highest rates of modern slavery in sub-Saharan Africa are:

* Statistics from 2021 [Global Slavery Index](https://www.walkfree.org/global-slavery-index/map/) on African Countries with Highest Number of Trafficked persons:
1. Cameroon (44/167 = prevalence index rank)
Total # enslaved: 155,000 (.58% of population)
2. Ghana (71/167)
Total # enslaved: 91,000 (.29% of population)
3. Kenya (41/167)
Total # enslaved: 269,000 (.50% of population)
4. Lesotho (84/167)
Total # enslaved: 4,000 (.18% of population)
5. Malawi (35/167)
Total # enslaved: 93,000 (.49% of population)
6. Nigeria (32/167)
Total # enslaved: 1,611,000 (.78% of population)
7. South Sudan (7/167)
Total # enslaved: 115,295 (1% of population)
8. Tanzania (51/167)
Total # enslaved: 171,000 (.29% of population)
9. Uganda (33/167)
Total # enslaved: 190,000 (.42% of population)
10. Zambia (60/167)
Total # enslaved: 94,000 (.51% of population)

**Legal Implications of Human Trafficking**

With this worrisome and shameful statistics it is instructive to note that legal structures have been put in place to checkmate these human rights abuses.

**Human trafficking is a heinous crime of exploitation against humanity and a violation of the fundamental rights of the victims namely right to liberty, right to human dignity and freedom from slavery and servitude and right to life,**

It is a crime against humanity at the national, Regional and international levels. However, implementing these laws has not been without challenges which we must be resolute to overcome in order to have a safe and human traffic free society. All hands must be on deck to achieve this a people centred and government centred approach using the local slang “soro soke” ( Speak out) and take uncompromising action.

**National Legal Frameworks**

1. The Constitution of the Federal Republic of Nigeria 1999 as amended
2. The Criminal Code and the Criminal Laws of the various States as domesticated
3. The trafficking in Persons ( Prohibition) Enforcement and Administration Act 2003 as amended in 2005 and 2015, criminalizes human trafficking and related abuses. The Act provides trafficked persons with access to adequate health services and protection against discriminatory treatment. The Federal Government of Nigeria in its response to address the menace of trafficking created the National Agency for the Prohibition of Trafficking in Persons ( NAPTIP) to enforce the TPPA 2003 as amended in 2015. The agency has been in the forefront of fighting traffickers and are bursting their hideouts and routes daily.

It is pertinent to note that the Act is in fulfilment of the Country’s international obligation under the Trafficking in Persons Protocol to prevent, suppress and punish trafficking in persons especially women and children, supplementing the United Nations Transnational Organized Crime Convention (UNTOC) became a signatory to the Transnational Organized Crime Convention and its Trafficking in Persons Protocol on 13th December, 2000. Article 5 of the Trafficking Protocol enjoins States Parties to criminalize practices and conduct that subject human beings to all forms of exploitation which includes in the minimum sexual and labour exploitation.

**Enforcement Powers of the Agency:**

1. Investigate whether any person, body or entity has committed an offence under this Act or the offence of trafficking under any other law.
2. **Enter into any premises, property or conveyance for the purpose of conducting searches in furtherance of its functions under this Act or under any other law.**
3. **Arrest, detain and prosecute offenders under this Act or any other law on trafficking in persons in Nigeria.**
4. Trace, seize, detain or retain the custody, for the purpose of investigation and prosecution, of any property which the Agency reasonably believes to have been involved in or used in the commission of offences under this Act or any other law.
5. **Seal up premises upon reasonable suspicion of such premises being involved with or used in connection with offences under this Act.**
6. **Seek and receive information from any person, authority, corporation or company without hindrance in respect of the enforcement of any of the provisions of this Act.**

The highlights of this Act are:

The establishment of:

1. A National Agency for the Prohibition of Trafficking in Persons (Part II),

2. Agency Transit Shelters for rescued trafficked persons, and establishes a Victims of Trafficking Trust Fund to provide compensation for victims (Part X).

The Act Provides:

1. Trafficked persons with access to adequate health services and protection against discriminatory treatment.
2. protections against discriminatory treatment, barring discrimination on account of gender or sex or on the basis of the victim "having worked in the sex industry." Part IX, Section 61(a).
3. For Register to register convicted offenders for sexual offenders for child defilement and RapeThe Act serves as:
4. implementing legislation for Nigeria’s international obligation under the Trafficking in Persons Protocol Supplementing the Transnational Organized Crime Convention (TOC), to which Nigeria became a signatory on December 13, 2000.

4. Violence Against Persons (Prohibition) Act

The Violence Against Persons (Prohibition) Act is a law that guarantees protection of the rights of citizens from all forms of violence in Nigeria.

The goal of the law is to:

1. eliminate violence in private and public life,
2. prohibit all forms of violence against persons, particularly women and girls who are largely and disproportionately affected
3. Provide maximum protection and effective remedies for victims
4. Punish offenders. It is pertinent to note that:

The Sexual Offenders Register is one of the most effective deterrent to perpetrators in states where such has been established and publicized. Shaming is a big deal for Nigerians and Africans in general especially due to Family ties and values and how such will bring utter shame and dismay and stigma to such affected families. We hereby advocate traffickers Register for convicted traffickers.

Special attention is given to Persons living with Disabilities

Special attention given to victims of trafficking

**Continental Legal Frameworks**

1.THE DRAFT POLICY ON THE PREVENTION OF TRAFFICKING IN PERSONS IN AFRICA

2. ECOWAS Convention A/P1/7/92 on Mutual Assistance in Criminal Matters

3. ECOWAS Convention A/P1/8/94 on Extradition.

4. African Charter on the Rights and Welfare of the Child.

5. The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol 2003)

*Harmful Practices* “means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity; *Violence against women* “means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war; “*Women*” means persons of female gender, including girls.

**Article 4 (2) (g): Provides as follows: States Parties shall take appropriate and effective measures to: prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk; Article 5 provides: States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognized international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including: creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes; prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalization and para-medicalization of female genital mutilation and all other practices in order to eradicate them.**

6. The African Charter on Human and Peoples’ Rights (1981)

**Article 4: Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right. Article 5: Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.** Article 28: Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

6. The African Charter on the Rights and Welfare of the Child (ACRWC) 2009.

Article 15**: Children should be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with their physical, mental, spiritual, moral, or social development.** Article 16: **Children should be protected from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse**. \***Article 21: Governments should do what they can to stop harmful social and cultural practices, such as child marriage, that affect the welfare and dignity of children. Article 27: Children should be protected from all forms of sexual exploitation and sexual abuse.** Article 29: **Governments should take appropriate measures to prevent the abduction, the sale of, or traffic of children for any purpose.**

5. Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially Women and Children, 2006.

This Declaration and Plan of Action enjoined member states to urgently sign, ratify and implement relevant sub-regional, regional and international human rights instruments; adopt laws criminalizing human trafficking in line with the provisions of the UN Convention against Transnational Organized Crime and its TIP Protocol, as well as the administrative structures needed to support those provisions. Adopted on November 23, 2006 by the AU/EU Ministerial Conference on Migration and Development, held in Tripoli, Libya from 22-23 November 2006. Specifically, the ECOWAS Convention on Mutual Assistance in Criminal Matters; the ECOWAS Convention on Extradition; the African Charter on the Rights and Welfare of the Child; the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children.

6. ECOWAS PLAN OF ACTION AGAINST TRAFFICKING IN PERSONS (2002-2003)

Outlines the most urgent actions against trafficking in persons to be taken by ECOWAS Member States within the years 2002 – 2003, with a focus on criminal justice responses. Followed by a more detailed and far-reaching action plan to be developed in the year 2003 on the basis of an in-depth evaluation of the implementation of the Initial Plan of Action.

The main thrust of this is the establishment of legal structures in compliance with the conventions to tackle trafficking and a fund for victims of trafficking. The fund shall be used particularly to provide support to states for the repatriation of victims and support for the enforcing agencies

**4. States shall adopt laws criminalising trafficking in human beings in line with the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children thereto.**

**6. States shall adopt legal provisions for the protection of victims of trafficking, and ensure that their domestic legal systems contain measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.**

**8. States shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in their territory, temporarily or permanently, in appropriate cases; and shall give appropriate consideration to humanitarian and compassionate factors in the consideration of permitting victims of trafficking to remain in their territory.**

9The ECOWAS PLAN OF ACTION is all encompassing as it also covers

1. Protection and Support of Victims of Trafficking in Persons

 **States, in cooperation with NGOs and other relevant agencies shall take measures to create or develop the capacity of the reception centres where victims of trafficking in persons can be sheltered. These centres shall provide physical security, basic material assistance, medical care, and counselling and information to victims of trafficking, particularly on legal assistance, and reporting and filing complaints, taking into account the special needs and legal status of children.**

1. **States encourage victims of trafficking to testify in the investigation and prosecution of cases of trafficking in persons, by giving due consideration to the safety and security of victims and witnesses at all stages of legal proceedings, permitting them to remain in their territory.**
2. **ECOWAS shall establish a fund for victims of trafficking. The fund shall be used in particular to provide support to States for the repatriation of victims of trafficking** 4. **States with shared borders shall establish joint border patrols trained in the prevention of trafficking in persons. The ECOWAS Unit for the co-ordination of the efforts to combat trafficking in persons should facilitate, upon request, such coordination efforts. a**

 **(b) to ensure the integrity and security of travel or identity documents they issue, and to prevent their unlawful creation, issuance, and use. In this regard, States shall implement Decision C/DEC.1 /5/2000 signed in Abuja on 29th May 2000 relating to the Adoption of an ECOWAS Passport.**

**ECOWAS sub-regional meeting with relevant officials and experts held on ways to improve integrity and security of identity and travel documents. Implementation of Decision C/DEC.1 /5/2000 relating to the Adoption of an ECOWAS Passport**

**International legal frameworks**

1. The UN Convention against Transnational Organized Crime (UNTOC) came into force 29 September 2003 and there were 189 parties and 147 signatories.
2. The United Nations Protocol against Trafficking in Persons - the foremost international agreement in this area - entered into force in 2003. The Report shows that in the past few years the number of Member States seriously implementing the Protocol has more than doubled. As at today **More than 180 nations have ratified or acceded to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (the UN TIP Protocol), which defines trafficking in persons and contains obligations to prevent and combat the crime.**

 However, there are still many countries that lack the necessary legal instruments or political will.

1. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol), came into force 25 December 2003 and there were 173 parties and 117 signatories.

Article 3 looks at the definition and use of terms in human trafficking: “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. Article 5: Criminalization of human trafficking; Article 6: Assistance to and protection of victims of trafficking in persons; Article 7: Status of victims of trafficking in persons in receiving States; Article 8: Repatriation of victims of trafficking in persons; Article 9: Prevention of trafficking in persons.

1. Convention on the Elimination of All Forms of Discrimination against Women Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 entry into force 3 September 1981, in accordance with Article 27(1). Discrimination against women is defined as: “*...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field*”.

Article 6: States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. General recommendation No. 19: Identifies trafficking as a form of violence against women because it puts women at special risk of violence and abuse. Trafficking is incompatible with the equal enjoyment of rights by women and with the respect for their rights and dignity. It also defines violence against women as: “any act of gender-based violence that results in, or is likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”

 According to the Declaration, violence against women includes but

is not limited to “physical, sexual and psychological violence occurring

in the family, including battering, sexual abuse of female children in the

household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and **violence related to exploitation;** physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs”.

Violence Against Women and Girls hardly access support services or seek justice. GBV has also been identified as a social mechanism that hinders the advancement of women and limits their full participation in the life of society, especially in decision-making processes at all levels. What this implies is that there is a huge cost of GBV to women beyond the actual act of violence, as it often affects their ability to participate actively and meaningfully in political processes as well as in the socio economic strata thus depriving them a level playing field and subjecting them to a life of dependence on men for survival. Consequently, there is a focus on the elimination of violence against women and girls (VAWG) for intervention of local, national and international actors for the overall good of society. Especially as state actors are gearing up towards achieving the sustainable development goals agenda 2030

1. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others Approved by General Assembly resolution 317 (IV) of 2 December 1949 Entry into force: 25 July 1951, in accordance with Article 24.

Article 1: The Parties to the present Convention agree to punish any person who, to gratify the passions of another: Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; Exploits the prostitution of another person, even with the consent of that person. Article 2: The Parties to the present Convention further agree to punish any person who: Keeps or manages, or knowingly finances or takes part in the financing of a brothel; Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.

1. Convention No. 182: Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour Adopted by the Conference at its Eighty-Seventh Session, Geneva, 17 June, 1999. Article 1: provides that members shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency; Article 2: For the purposes of this Convention, the term “child” shall apply to all persons under the age of 18; Article 3: For the purposes of this Convention, the term “the worst forms of child labour” comprises: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
2. The International Covenant on Civil and Political Rights (ICCPR) prohibits a number of practices directly related to trafficking, including slavery, the slave trade, servitude and forced labour.
3. Mutual Legal Assistance Agreements that are foreign mechanisms of obtaining evidence located in foreign countries. Art. 18 of the United Nations Convention against Transnational Organized Crime in Palermo, Italy, in December 2000-MLA**:** States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article 3 and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article 3, paragraph 1 (a) or (b), is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organised criminal group.
4. Extradition treaties between countries to enable sovereign states request and obtain custody of accused persons or perpetrators who are located in another sovereign state.
5. Subsidiary sources and soft laws are also the decisions of International Courts and Tribunals.
6. The Slavery Convention was signed at Geneva on 25 September 1926. It came into force 9 March 1927, in accordance with Article 12. The Convention was amended by the Protocol done at the Headquarters of the United Nations, New York, on 7 December 1953; the amended Convention entered into force on 7 July 1955, the date on which the amendments, set forth in the annex to the Protocol of 7 December 1953, entered into force in accordance with article III of the Protocol. Article 1: For the purpose of the present Convention, the following definitions are agreed upon: Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised; The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.
7. Enactment of the sustainable development goals (SDGs) is one very strong and effective strategy to eradicate trafficking for labour, sexual exploitations, collaborative efforts between states as well as ensure that the justice sectors are well coordinated to deal with this menace

Despite these structures it is sad to note that human trafficking has grown into a mega syndicated business such that they still wangle their ways settling the corrupt officers who assist them to beat the security apparatus and even when caught bribes their way through. The question then is what is the way forward ?

ECOWAS in its resolute state to prevent and stop trafficking in persons has embarked on an all encompassing measures to wipe out trafficking. One of such is the establishment of the ECOWAS court of Justice as one of the continental measures to checkmate trafficking especially with regards to the cross border trafficking. The introduction of the ECOWAS Passport, the collaborative mechanisms setup and most especially mandating member states to ratify the relevant conventions against trafficking and setting up monitoring units and legal structures for the enforcement of these laws and providing funds for repatriation and extradition as well as providing support services and shelter for victims as well as compensation for their pain and suffering in violation of their fundamental human right to human dignity and freedom from slavery and servitude. It is instructive to know that the extant laws are adequate to tackle this menace. It’s time governments begin to invest more on implementing these laws and particularly put the right officers ( with character and integrity and uncompromising) we do have such officers but rather than put them in such units will rather put their favoured for tribal, religious and or selfish interest. The disservice to humanity and a major set back in the development of Africa.

Fortunately, I am glad to report here that virtually all the countries have ratified these conventions and have also put in place legal structures to fight this menace. ECOWAS came to the rescue in cases where the syndicates are too powerful to be bursted in their host Country but can be tried by the ECOWAS Court and more especially in cases where trial is frustrated and stalled by the powers that be.

Furthermore, as state parties are warming up to attain the Sustainable Development Goals agenda 2030, Note that the relevant goals here are : Goal 5: *Gender equality*: Ending all discrimination against women and girls is not only a basic human right, it’s crucial for sustainable future; it’s proven that empowering women and girls helps economic growth and development. Goal 8: *Decent work and economic growth*: Encouraging entrepreneurship and job creation are key and effective measures to eradicate forced labour, slavery and human trafficking. Goal 1: End Poverty in all its forms everywhere. They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth –

Unfortunately, lack of political will, patriarchy,

Ignorance, cultural beliefs and practices, tribalism, religious affiliations, intimidation, corruption, slow judicial process, greed, lack of synergy, to inadequacy of interventions specific to various needs or categories of victims, lack of adequate funding and Human Resources, misinterpretation of the major religions, misinformation, poor socialisation, and poverty are the major barriers to effective implementation

Implementation has also been a major problem as many countries despite prosecuting offenders, many are yet to secure a reasonable amount of convictions compared to the number of cases reported. Another challenge is that of under reporting as many victims do not even know where and how to report nor access to justice.

Thus gathering data has been a major problem. Even when they have access to reporting the monster - corruption which has eaten deep into the fabric of society has been a major set back in securing convictions. It is pertinent to note also that for as long as these syndicates are as powerful and rich as they have become, they would always have the loopholes to explore.

It all boils down to fighting corruption and fighting its root cause/s. Prevention to my mind seems to be the best measure.

Child trafficking for example has many causes thus has no simple solution. Ways to curb child trafficking is to teach children to be wary and educate them on the warning signs and risks associated with child trafficking, including grooming and extortion. Strong laws against child trafficking are a helpful deterrent, as is a high rate of conviction for the perpetrators

There is a general satisfaction with the VAPP Act as an all-encompassing legal instrument. However, they largely fault the implementation within the FCT and in states where it is in force for reasons of lack of political will, paucity of funds, lack of infrastructure, and low capacity among implementing officers and poor remuneration of implementing officers, thus exposing them to temptation due to survival instincts.

I**MPLICATION ON DIPLOMATIC RELATIONS**

The principle of reciprocity involves permitting the application of the legal effects of specific relationships in law when these same effects are accepted equally by foreign countries. In international law, reciprocity means the right to equality and mutual respect between states.

 It is trite in international law that the principle of “RECIPROCITY” applies in diplomatic relations. What you don’t give you don’t expect to get. It is strictly scratch my back and I’ll scratch yours. Thus any state party not complying with conventional obligations especially with regards to repatriation and extradition, provision of support services and shelter for victims, compensation for victims pain and suffering in violation of their fundamental human right to human dignity and freedom from slavery and servitude is sanctioned by withdrawal of diplomatic relations and or suspended for a period pending compliance. Some of such non compliant countries are flagged.

RECOMMENDATIONS

1. Harmonising all laws or legal provisions that deals and touch on the aspects of human trafficking
2. Sensitization of all the stakeholders from the police, prosecution, courts and members of the public who are all players in the criminal justice system to firstly know all the laws and legal frameworks touching on the aspects of human trafficking as well what constitutes human trafficking and where to report the same.
3. Have a list of all the help Centres and help lines and all the agencies and NGO’s victims and or whistle blowers can call and or report
4. Development of a case digest and or bench book to guide all criminal justice actors on human trafficking matters.
5. Establishment of a National Victims Fund to enable restitution of the victims of human trafficking.
6. The simplification and popularisation of the VAPP Act and The Trafficking in Persons Prohibition Act and related laws help keep children, especially the girl-child safe.
7. Active collaboration between state actors and non-state actors enhances the level of effectiveness of the TIPPA VAPP Act and related laws.
8. Provision of adequate infrastructure and funding for the enforcing agencies
9. Training and retraining of specialised law enforcement officers
10. Creation of convicted trafficking offenders register as shaming is the strongest deterrent in Africa
11. Stricter punishment for traffickers
12. Provision of adequate funding for the Justice sector to ensure justice is not delayed nor miscarried
13. Provision of stricter sanctions for non compliance by State parties as deterrence
14. State secret monitoring of young immigrants and immigrants generally for a reasonable period of time to ensure their freedom from traffickers
15. Improved remuneration for enforcing officers and security agencies.
16. Scholarship for rescued minor victims
17. Need for a victim protection and Witness protection law for the protection of victims of crime and abuse of power as well as witness to encourage reporting cases of trafficking as fear of threat to life of victim and victims families and even the witnesses has been reason for low reporting and getting witnesses to testify in court.

References:

1. U.S Department of State

Office to Monitor and Combat Trafficking in Persons

USA.govt

1. United Nations office on Drugs and Crime

www.unodc.org

1. The pontifical Academy of sciences [www.pas.va](http://www.pas.va) paper by Christine Njagi Mmbwanga, Jkia Law Court, Senior Resident Magistrate

Paper presented by:

Mandy Demechi-Asagba

President

African Women Lawyers Association (AWLA)

27/07/2024

At the SVI ECOWAS Youth Conference 2024