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BILATERAL COOPERATION AND HUMAN TRAFFICKING

ERADICATING MODERN SLAVERY BETWEEN THE UNITED KINGDOM AND NIGERIA

MAY IKEORA

"This unique publication uncovers a whole new wealth of knowledge about human trafficking between Nigeria and the UK. It combines strong cultural intelligence with in-depth academic analysis which is often lacking in much of cross-country anti-trafficking literature. The difference in perceptions by state actors in Nigeria and the UK in relation to what constitutes 'human trafficking'—be it in terms of culture, human rights, immigration, economic or social factors—has been a huge barrier in efforts to address this twenty-first-century catastrophe which in my view is worsening by the day. The debate around 'consent' in relation to children, women in prostitution and the special status of men as improbable victims of human trafficking erode the ability of states and non-governmental organisations (NGOs) to devise the right policies and intervention to support victims, especially in source countries like Nigeria. Whereas little efforts are made in Nigeria in relation to prevention and protection, the author makes an important, often overlooked point that state actors might view human trafficking as a social but more importantly an economic tool to supplement the country's statutory welfare role rather than as a human rights or even human-centred issue propagated by Western countries like the UK—only when it is convenient to do so. The lack of a powerful anti-trafficking movement in Nigeria has been a huge barrier to counter the above misconception about the role of the Nigerian state in addressing human trafficking—with much of the lobbying done outside, either by diaspora-based organisations or other international NGOs. The author's recommendation for a more human-centred approach by both countries to tackle human trafficking is a positive one. This calls for more pro-active efforts by both state parties. I hope we will get to the point where the welfare of people, including foreign victims, is seen more in the national interest, rather than as an immigration inconvenience, or a false economic response to poverty alleviation."

—Debbie Ariyo OBE, *CEO of AFRUCA UK*

"Over the years, Edo State has maintained the reputation of being the hub for human trafficking from Nigeria. This is why tackling human trafficking from Edo State has become a major priority for the Edo State Government. May Ikeora has done a good job with this book in articulating what makes human trafficking from Nigeria peculiar but more importantly, the book explores better ways to cooperate with destination countries. This book has come at a good time as we have just inaugurated the Edo State Anti-Trafficking Task Force. It will be a useful tool for anti-trafficking and a reminder for both Nigeria and the UK to revisit their bilateral relations on this very important issue which needs to be tackled from both ends. This is a must-read for relevant government officials and frontline workers."

—His Excellency, Godwin Nogheghase Obaseki,
Governor of Edo State, Nigeria

"Dr Ikeora has written a work that touches at the heart of contemporary security challenges that confront not only West Africa but also the world at large. It contributes immensely to the literature and discourse on human trafficking in particular and migration in general. Although written from a human rights and hence legal perspective, students of international politics, policymakers, multilateral bodies and others will find this groundbreaking work very useful. I strongly recommend it as compulsory reading for students of law and politics."

—Thomas Jaye, *Deputy Director for Research, Faculty of Academic Affairs and Research (FAAR), Kofi Annan International Peacekeeping Training Centre (KAIPTC), Ghana*

"Over the last few years our world has woken up in shock at the extent at which modern-day slavery and human trafficking have globally infiltrated our society and destroyed so many lives. From domestic servitude and labour exploitation to organ harvesting and sexual exploitation, children and adults have become increasingly susceptible and vulnerable to this multibillion dollar industry. The state of affairs has greatly increased the responsibilities of faith and community organisations to support government efforts to curb the influx of this trade from Nigeria into the UK.

In this timely and well-researched work the author explores the importance of contextualising the nature and definition of trafficking, ensuring that anti-trafficking movements are driven with the intention of ensuring the best outcomes for victims and those at risk. While this is not in direct opposition to a law enforcement framework, the author uses her well-placed understanding of the historical and sociocultural backdrop within which trafficking is practiced in Nigeria and the UK to recommend sustainable solutions that put human beings at the heart of the anti-trafficking movement. I urge practitioners, policymakers and the public to read, take inspiration and act. We must all respond to end modern-day slavery today."

—Rev. Nims Obunge MBE, *Her Majesty's Deputy Lieutenant for Greater London*

Global Ethics

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May Ikeora

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Eradicating Modern Slavery between the United Kingdom and Nigeria

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To my parents, for your support and inspiration

Contents

Acronyms and Abbreviations

AU	African Union
AVRIM	Assisted Voluntary Return of Irregular Migrants
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment
CATW	Coalition Against Trafficking in Women
CEOP	Child Exploitation and Online Protection
CEPOL	Contributing to European Police Cooperation through Learning
COSUDOW	Committee for the Support of the Dignity of Women
CRA	Child Rights Act
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organisations
CTAC	Child Trafficking Advice Centre
DfID	Department for International Development
ECHR	European Convention of Human Rights
ECOWAS	Economic Community of West African States
EEA	European Economic Area
EFCC	Economic and Financial Crimes Commission
EU	European Union
FCO	Foreign and Commonwealth Office
FOI	Freedom of Information
GAATW	Global Alliance Against Traffic in Women
GLA	Gangmasters Licensing Authority
GPI	Girl Power Initiative
HST	Hegemonic Stability Theory
IATT	International Agency Task Team on Anti-Corruption
ICCPR	International Covenant on Civil and Political Rights

ICPC	Independent Corrupt Practices Commission
IDMG	Inter-Departmental Ministerial Group on Human Trafficking
ILO	International Labour Organisation
IMF	International Monetary Fund
IOM	International Organization for Migration
ISIM	Institute for the study of international migration
MLA	Mutual Legal Assistance
MNCs	Multinational corporations
MO	Modus Operandi
MOU	Memorandum of Understanding
NACTAL	Network of NGOs against Child Trafficking, Abuse and Labour
NAPEP	National Poverty Eradication Programme
NAPTIP	National Agency for the Prohibition of Trafficking in Persons
NCF	National Consultative Forum
NCMs	National Coordination Mechanisms
NDE	National Directorate of Employment
NGO	Non-governmental Organisation
NRM	National Referral Mechanism
NSPCC	National Society for the Prevention of Cruelty to Children
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
SADC	Southern African Development Community
SLO	SOCA Liaison Officer
SOCA	Serious Organised Crime Agency
TIP	Trafficking in Persons
TVPA	Trafficking Victims of Protection Act
UBE	Universal Basic Education
UKBA	United Kingdom Border Agency
UKHTC	United Kingdom Human Trafficking Centre
UN	United Nations
UN.GIFT	United Nations Global Initiative to Fight Trafficking
UNDP	United Nations Development Programme
UNESCO	United Nations Educational Scientific and Cultural Organization
UNHCHR	United Nations Office of the High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNICEF	United Nations International Children's Emergency Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime

UNTOC	United Nations Convention against Transnational Organized Crime
US	United States
VARRP	Voluntary Assisted Return and Reintegration Programme
WOCON	Women's Consortium of Nigeria

CHAPTER 1

Introduction: International Cooperation and Anti-Human Trafficking

In 2011, the Cable News Network (CNN) launched a media campaign against human trafficking, named the *Freedom Project*. This media programme not only brought the reality of modern slavery to the doorstep of the global public, but undoubtedly, it significantly added value to the global anti-trafficking movement. The sad stories of victims were continually being told in different ways beyond the media. The difficulties that frontline workers face to take their work further to save victims and enforce laws are nothing new. The laws and policies that are often not enough to prosecute offenders is a continuous story told by law enforcement and the criminal justice agents. The existing factors, including cultural practices that trigger or keep trafficking alive, are gradually becoming known and well understood by many in the field. The diversity in the trafficking processes and the emerging forms of trafficking are illuminated gradually, while social actors are continually putting pressure on states' obligation to evolve and act accordingly. Essentially, the world is becoming awake to the fact that slavery still lives amongst us despite the notion that transatlantic slave trade ended centuries ago.

In the last decade, the anti-trafficking movement has gained significant momentum not just in placing the discourse of human trafficking at the top of the global agenda, but also in leading the shift towards finding real solutions to the growing new discoveries of modern slavery today. Such shifts are evident in recent literature assessing anti-trafficking and the role

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of key actors in eradicating this contemporary form of slavery. Notwithstanding, there is still more to uncover not only in terms of the stories of victims which are well known but by exploring key case studies that may help us understand how measures for anti-trafficking have addressed the problem as we see it today and the key factors driving the status quo. This includes exploring how international cooperation has evoked the collaboration of states, especially bilaterally. It also includes how states and other social actors have worked together to adopt key anti-trafficking approaches to tackle the problem domestically and across their borders. This book was born out of the need to explore the diversity in understanding human trafficking as a problem, but it also considers the best approaches that have been suggested and utilised by many to address the problem in a cross-border context, which often makes diversity more complex.

The critical analysis in this book was founded on the premise that human rights violations are the major causes and consequences of trafficking and that the anti-trafficking measures will continue to fall short until the concerns of those whom it intends to protect are placed at the forefront of current approaches. Whilst a rights-based approach is still giving rise to burgeoning amount of literature within the anti-trafficking discourse, this study contends that it can only be proficient if broadened to cover the diverse nature and interpretations of human trafficking across various cultural traditions that often transcends legality. Hence, a human-centred approach, which in many respects aligns with a cosmopolitan ideology, is introduced to surpass the objective of human rights in the context of this study. It is emphasised that adopting such a 'beyond law' approach during interaction amongst states can be useful to international cooperation in this instance.

A case study of human trafficking from Nigeria to the United Kingdom (UK) is utilised as part of moving away from popular cross-border contexts that can often be limited in scope, but also explores a source country that offers more insight into other related destination countries. Hence, this study sheds more light on the contextual nature of trafficking that warrants better intervention, including how both states have cooperated in this regard. Ongoing socioeconomic and political factors within Nigeria and the UK are crucial to understanding the modus operandi (MO) of human trafficking. Furtherance to the MO, the extent to which both countries have addressed the current realities of the problem across their territories, in terms of internalising anti-trafficking measures and

operationalising their 2004 bilateral cooperation, is also analysed. This study concludes that anti-trafficking approaches need to move on from those which are currently identified with the political interest of states to one geared towards achieving the best outcomes for those at risk/victims/survivors of trafficking.

A Global Perspective of Human Trafficking: The Definition

In response to the global quandary as to what human trafficking truly is and what it may constitute, the United Nations (UN) General Assembly established an intergovernmental, ad hoc committee in December 1998 and charged it with developing a new international regime to fight transnational organised crime.[1] After 11 sessions involving over 120 participating states, the ad hoc committee concluded its work in October 2000 with a regime against human trafficking.[2] In order to enable cooperation amongst states in this issue area, there was a need to agree on what human trafficking constitutes, so that all states operate on the same basis. Therefore, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (hereafter, Trafficking Protocol), supplementing the United Nations Convention against Transnational Organized Crime (hereafter, Organized Crime Convention), define human trafficking as follows:

> 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.[3]

Three major elements emerge from this definition. First, the 'act', which stipulates what was done; second, the 'means', which simply illustrates how it was done. The means is omitted in a situation where a child is involved[4]; and third, the 'purpose', which specifies why it was done. Whilst it is crucial to know these key elements, identifying human trafficking is not that simplistic. In reality, it is often difficult to build a case out of these elements as situations that amount to trafficking are subtle and may not have clear links, which makes proving human trafficking difficult

for prosecution. In a situation where law enforcement authorities intercept a potential case of trafficking, before it gets to the 'purpose', they are unable to build a case based on intent. The same is also the case where there is often no link between recruitment and exploitation.

Despite the gaps in these key elements within the definition, the Trafficking Protocol provides the first international definition of trafficking as an explicit law enforcement regime.[5] It is certainly an upgrade from past anti-trafficking laws, which just focused on women and children. It marks a significant milestone in the international efforts to combat the problem of human trafficking and to date has attracted 147 signatories.[6] The actualisation of its definition was not engendered without critical analysis from scholars and activists. The definition has led to an increase in literature from scholars in different disciplines who have critically debated the contents and implications of the Protocol from different perspectives. Scholars such as Gallagher offer several critical analysis on the process involved in articulating the Trafficking Protocol.[7] This has exposed the uneasiness in reaching a consensus on such a complex issue. The agreed definition was not achieved without states underlining key factors that cater to their own interests, most of which were border security issues, as opposed to the actual human rights issues it instigates.[8] Similarly, scholars such as Jordan further criticise the Trafficking Protocol for its 'intentional ambiguity' as some of the vagueness within the definition does not prevent governments from making their own definitions.[9]

While the definition of human trafficking can be viewed as a sign of progress in addressing the issue, some scholars and activists contend that the way in which the definition has been framed is vague and problematic.[10] There have been several debates on the trafficking definition across its different elements. For instance, it has continually proven difficult to reach an international consensus regarding the interpretation of 'exploitation', given that its severity varies, generating a range of experiences across victims of trafficking.[11] For rescuers of trafficked victims, exploitation may mean one thing, and to the victim, it means something else. This is often difficult where victims claim to be aware of the purpose of their recruitment and do not see their exploitative situation as exploitation.

There is the ongoing issue of measuring coercion for adult migrants who might have been trafficked for sexual exploitation. As it stands, the Protocol does not break 'new grounds or grant new rights' nor significantly guarantee the responsibility of states to protect trafficked victims.[12]

It has also given ammunition to longstanding debates, including the ongoing feminist discourse on prostitution/sex work. According to Lee, despite the constant discussions on the definition, there is very little input from trafficked survivors as state officials and other powerful groups remain dominant social actors.[13]

Notwithstanding, the Trafficking Protocol remains the same with other regional and national institutions adapting it to suit their various priorities surrounding their domain. Despite the longstanding debate on the definition, the existing meaning of human trafficking has been useful in clearly defining the estimated scale of trafficking and how one categorises them. Whilst many critics will always welcome an improvement on the definition, the evolving nature of the crime and its scale makes the process complex but not impossible. The global scale of human trafficking remains a massive threat to the global community and perhaps one that keeps the anti-human trafficking movement relevant.

On a Global Scale

Determining the actual estimate of human trafficking has always been difficult and that has not changed until date. However, the fact still remains that the trafficking of human beings is the fastest growing means by which people are enslaved, the fastest growing international crime and one of the largest sources of income for organised crime. Human trafficking is the second largest source of illegal income after drugs trafficking.[14] According to UNICEF, 1.2 million children are trafficked every year. A 2007 report by the US Department of State Trafficking in Persons estimated that 600,000 to 800,000 men, women and children are trafficked across borders each year, of which 80% are women and girls.

Another report by the ILO in 2012 estimated that at least 20.9 million people are victims of forced labour worldwide. Given the evolving nature of human trafficking and the effect of globalisation in ensuring ease in functioning across borders, the numbers of those who are victims are equally growing. Till date, an accurate estimate of the global scale of human trafficking is non-existent. One cannot deny the difficulty involved in ascertaining quantitative data in this subject area, where the nature of the crime is in itself hidden. Despite the limitation of statistics in this regard, the human experience is paramount across all the various forms through which human trafficking manifests.

Forms of Human Trafficking

Human trafficking affects both adults and children and takes the form of sexual exploitation, forced labour, domestic servitude, organ harvesting, amongst other emerging forms of exploitations.

Trafficking for Sexual Exploitation

This is one of the most discussed forms of trafficking, dominating most academic literature on the subject. According to the United Nations Office on Drugs and Crime (UNODC), since sexual trafficking is the most reported form of trafficking, it has been the most documented in comparison to other forms of trafficking that require similar attention.[15] It is an overly emphasised area, but does not cease to provoke moral consciousness following "morality tales of women and girls who are sexually enslaved".[16] In this form of human trafficking, victims are often forced or coerced into prostitution. Today, sex trafficking has evolved where victims' experiences often varies dramatically. Whilst some victims are forced into prostitution, others are lured with false promises of a job or a better life in general. Some victims are manipulated through romantic relationships with their exploiters. Exploiters could also be family members and friends. Either way, the 'means' varies and the victim may be in bondage for days, weeks or even years.

Current reports on human trafficking estimate that 80% of victims trafficked internationally were made up of women and 70% of these women are trafficked for sexual exploitation.[17] The conviction on human trafficking has also been dominated by sexual exploitation offences making up 90% of prosecutions.[18] As part of sex trafficking, victims were forced to engage in all forms of sexual activities as sex workers in brothels, massage parlours or wherever the trafficker deems fit for such business. Typically, victims of sex trafficking, especially from Nigeria, incur debt in the process of trafficking, which they were expected to repay before they could be freed. This includes monies that had previously been invested to facilitate their migration and upkeep. The debt is usually outrageous, often ranging between $25,000 and $40,000, thereby keeping victims in a state of indebtedness for a long time until the trafficker has no further use for them.[19]

Whether within country or across borders, trafficking for sexual exploitation is a major violation of basic human rights, including the rights to bodily

integrity, torture, freedom and dignity, amongst others. However, human trafficking is not just about sexual exploitation as the ongoing concentration on sex and trafficking often undermine the needed focus that should be directed to other forms of human trafficking that continue to date.

Trafficking for Forced Labour

This form of human trafficking involves "all work and services that is exacted from any person under the menace of any penalty and for which the said person has not offered him voluntarily".[20] A menace of penalty includes threats of physical violence against a worker or relatives, physical confinement and denial of rights.[21] According to the 2012 International Labour Organisation (ILO) global estimate of forced labour, 20.9 million persons are affected globally, of which mostly adults are victims.[22] Similar to sex trafficking, they could also be in debt to their traffickers and having to work to buy off their freedom. The United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Practices Similar to Slavery also prohibits this form of labour debt bondage.[23] The actions and outcomes that constitute forced labour within the Trafficking Protocol could also be found within the legal parameters of employment systems, hence the 'continuum of abuse' in the mainstream economic sectors.[24] However, forced labour and workers' exploitation are not the same, due to the physical and/or psychological trauma associated with forced labour.[25]

Domestic Servitude

Although sometimes explored separately, domestic servitude often falls under forced labour where victims are forced to work in private households. Work often includes being forced to perform household tasks such as housekeeping and childcare for little or no pay. Sometimes, the victims have restricted access to movement outside the home where they work. Children usually fall within this category of exploitation and the pattern often differs across cultures.[26] In many circumstances, they experience physical violence at the hands of their employers and in extreme cases, sexual abuse. The Organization for Security and Co-operation in Europe (OSCE) refers to domestic servitude as "an invisible form of exploitation which is extremely difficult to detect due to the hidden nature of the work provided".[27] As a result, domestic servitude cases often go undetected, thereby lacking substantial data.

Trafficking for Tissue, Cells and Organs

This emerging form of human trafficking is becoming a growing concern that feeds into the evolving nature of human trafficking today. This is a new form of criminal activity that aims to illegally address the long waiting lists of patients who need organ transplants to save their lives. Traffickers utilise the opportunity this presents to exploit desperate patients and potential donors by forcefully or coercively harvesting the organs of their victims, which is often carried out in clandestine conditions with no medical attention to keep victims safe. Research shows that it is most prominent in areas in South Africa, India, Brazil and China, generally involving the illegal trade of body parts through kidnapping, the deceit of people who are poor and socially marginalised.[28] Following the growing rate of diseases that affect the larger world population today, it means that this sort of crime will become more lucrative.

A South African case of trafficking in persons for the removal of organs demonstrates the extent of this crime from just one exploiter. The perpetrator admitted guilt to 109 illegal kidney transplant operations, which took place between 2001 and 2003 alone.[29] A similar case was reported in Kosovo, where six doctors faced charges of illegal organic trafficking with patients charged up to £76,000 for a kidney. These cases go on to affirm its emphasis within the global definition of human trafficking.

> *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*.[30]

Emerging Forms of Human Trafficking

Whilst we are well aware of the traditional forms of human trafficking, there are other emerging forms of exploitation, which includes the trafficking of babies,[31] trafficking for benefit fraud, trafficking for forced criminality and trafficking for forced and sham marriages, which also require extensive investigation.[32] Concerning forced criminality, evidence shows that victims are often children who are forced into begging on streets and used for criminal activities such as theft, shoplifting, pickpocketing and so on. They are also forced into drug production and distribution.[33] This form of trafficking is already recognised within the European Union (EU) Directive (2011/36), which has advanced the definition of trafficking to cover this form of trafficking as well as urging Member States to take action accordingly.

Similarly, European countries such as the UK have identified trafficking for benefit fraud, identity fraud and related cases of fraud linked to human trafficking. In one case in the UK, a woman was caught trafficking a baby for the sole purpose of claiming housing benefit.[34] In other similar cases, victims were forced to open banks accounts or take out loans orchestrated by traffickers who take the payment from these fraudulent claims and abandon the victims in destitution.[35] Trafficking for sham marriages are often seen amongst Eastern European women who were recruited with the promise of well-paid jobs. They are sometimes coerced into marriages with third-country nationals who seek resident permits to remain in Europe.[36] Although these emerging forms of human trafficking are not as clearly understood as the conventional forms of human trafficking, they shed more light on the evolving nature of the crimes as well as offer new grounds for empirical research in the subject area. Nonetheless, as new forms of trafficking emerge, they prompt the necessity for new approaches to tackle the menace, attracting more attention to research aimed at assessing the extent of anti-trafficking.

Moving from the Study of Trafficking to Assessing Anti-Trafficking

The Institute for the Study of International Migration (ISIM) found that, among other gaps in the research on human trafficking, there has been a limited understanding of the characteristics of victims and their trafficking trajectories; poor understanding of the operations of traffickers and their networks; and lack of evaluative research on the effectiveness of governmental anti-trafficking policies and the efficacy of rescue programs.[37] This ISIM report contends that filling these research gaps is pertinent to articulating a more inclusive anti-trafficking approach. Similarly, scholars such as Bales insist that research in this area should shift from a narrative gauge to generating better ways to end today's slavery.[38] Quirk also stresses the timeliness of the latter, supporting the notion that pursuing effective anti-trafficking measures should be the way forward. Quirk adds that this is the 'right time' for scholars to exhaust in-depth research exploring effective ways to tackle the trafficking of human beings.[39]

Combating trafficking has also become an increasingly important priority for many state governments and relevant stakeholders around the world. As a result, global measures have been put in place to address the problem. These measures have commenced with the establishment of an

anti-trafficking regime, which clarifies the principles, norms, rules and decision-making procedures that guide states into cooperation with one another. This has led to the creation of different legal instruments addressing states' obligation towards the fulfilment of anti-trafficking objectives. The year 2000 marked an important year for anti-trafficking through the adoption of the Trafficking Protocol, which obliges states to take all measures to Prevent, Protect and Prosecute (3Ps) to end trafficking.[40] Today, these 3Ps have become the fundamental areas of anti-trafficking through which states can demonstrate the fulfilment of their obligations within the anti-trafficking regime.

States can also demonstrate their cooperation by adjusting their domestic legislation in line with the principles of the regime. This also includes adopting bilateral or multilateral agreements to address elements of the 3Ps that require direct joint responsibilities.[41] Despite the signing and ratification of the Protocol by Member States, implementation remains a significant problem, and as a result, trafficking still continues in its worst forms. This shortfall does not exist in a vacuum as a number of factors that forms part of ongoing debates on current anti-trafficking approaches prompts it.

The crux of the debate on the existing anti-trafficking approaches has been the conflict between state interest and the human rights of those affected by human trafficking.[42] Many scholars have insisted that for human trafficking to be suppressed, states have to adopt a human rights-based approach that protects victims rather than an emphasis on criminalisation.[43] This conflict of approaches resonates in three major typologies as proffered by Morehouse, including, migration, labour and sex work.[44] The way in which these typologies have been conceived by various states within the realm of trafficking has been instrumental to the approaches currently employed to address the problem. This is further complicated where the victims concerned are non-citizens. As a result, it has contributed to the inadequacy of existing anti-trafficking measures from a human rights perspective. Even though a human rights-based approach has received vast acceptance amongst scholars and activists, it overlooks a sociocultural lens that hinders the actualisation of these rights. This gap stems from the diversity that encompasses the very nature of trafficking across diverse communities, which often transcends the usual understanding.

Subsequently, it questions the extent to which states have cooperated in addressing human trafficking, especially within the context of non-Western

and Western states, which are usually the major source and destination states, respectively. It is still uncertain as to how states with different identities—and therefore, different interests—will cooperate in the issue area where they have a diverse outlook on the issue even though they abide by the same international anti-trafficking law. This essentially also questions how states can cooperate beyond the existing legal parameters in order to address existing realities across their borders, as previously indicated. In order to promote and enhance interstate cooperation within this issue area, the Organise Crime Convention made provisions for the monitoring of states through the establishment of the Conference of Parties (CoP).[45] Even with existing monitoring mechanisms (through the European Union [EU], United States [USA] and the United Nations) to assess the extent to which states have implemented the 3Ps of anti-trafficking, there has been little or no attention in terms of assessing how states cooperate bilaterally. Anti-trafficking does not only require state responsibilities within its territory, but also require shared efforts in addressing the problem across their borders.[46] According to the IOM, there have been few independent evaluations of counter-trafficking measures and the assessments of the real effectiveness and impact of existing interventions.[47]

It is against the backdrop of this existing lacuna in the literature exploring anti-trafficking that this book focuses on assessing the extent to which Nigeria and the UK have cooperated in suppressing human trafficking. As opposed to many monitoring mechanisms that give a general assessment of individual states, this study focuses on contextualising the case study alongside the process of trafficking vis-à-vis its mode of operation. Nigeria and the UK are source, transit and destination countries. However, within this study, Nigeria is explored within the context of a source country and the UK, as a destination country. Their efforts in addressing human trafficking across their territory are explored as a continuum to international cooperation beyond internalising the legal norms of anti-trafficking. This study, while supportive of a human rights framework in addressing human trafficking, also proposes a human-centred approach that addresses the sociocultural gaps in fulfilling the rights of those affected or at risk of trafficking. Trafficking from Nigeria presents a real case for the current sociocultural peculiarities that hinder efforts to address trafficking and human rights therein. More so, the link between Nigeria and the UK in the operation of trafficking is one that has not received warranted attention despite the prevalence of trafficking between both countries.

Human Trafficking from Nigeria to the UK

In the last few years, trafficking from Nigeria to the UK has become a growing concern. It has become more obvious especially since the UK introduced its National Referral Mechanism (NRM). The NRM was established as a way to properly identify victims of trafficking and estimate the scale of trafficking in the UK. Based on the NRM and the National Crime Agency report, Nigeria has consistently maintained top five positions as a major source country for human trafficking.[48] For instance, a 2011 report by the Serious Organised Crime Agency (SOCA) estimated that out of 2077 victims referred into the NRM process from 75 countries, over 11% of them came from Nigeria.[49] In 2016, 3805 potential victims were identified, of which 243 potential victims were from Nigeria.[50] Given the hidden nature of the crime and the fact that referral to the NRM is not mandatory, it is assumed that the current figures only reflect the tip of the iceberg.

One of the major issues in relation to trafficking from Nigeria to the UK is the issue of victim identification and its implication for the counter-trafficking efforts. Although there is evidence for the high rate of Nigerian victims referred to by the UK 'first responders'[51] as trafficked, the NRM system is sometimes unable and/or does not conclude that these persons are trafficked for the most part, due to the complexities of cases from Nigeria. Although the 2016 NRM report did not make clear how many Nigerians received a positive conclusive decision out of the 243 referred, the 2013 NRM report produced by SOCA showed that although the referrals of Nigerian citizens topped the list of the national referral statistics with 206 (17%) of the total number of referrals), only 21 were concluded as trafficked.[52] These disproportionate figures stems mainly from the fact that the profile of victims from Nigeria was not conventional and surpasses the expertise of designated competent authorities that tend to assess them.[53] In many cases, the mode of operation of trafficking from Nigeria engenders a smokescreen of normality that makes it difficult to ascribe victimhood to those identified.

Victims from Nigeria may sometimes not experience physical violence and may not be closely guard by their trafficker, as seen with scenarios of European victims; they may also not work in massage parlours and sometimes may not be locked up in a room; these are common indicators along which UK authorities construct victimhood of referred persons. However, these victims are often overwhelmed with fear that keeps them under the

control of their traffickers and forces them to protect the identity of their traffickers. This control mechanism as seen with Nigerian cases stems from traditional 'life threatening' oath-taking rituals performed on victims from Nigeria usually during the recruitment process. Hence, these victims are unable to give evidence to support their identification process through the NRM. The inability of trafficked persons from Nigeria to give the required evidence that would help to formally confirm their status as victims as well as the inability of UK practitioners to understand these traditional/cultural control mechanisms has led to the denial of rights assigned to trafficked persons.

The element of traditional oath-taking ritual associated with trafficking from Nigeria and the lack of understanding of the element by UK stakeholders has made anti-trafficking more challenging. Such a challenge has constrained the human rights of these victims as they are only entitled to protection in the UK after a positive conclusive ground decision by the NRM is achieved.[54] Without the proper identification of victims, there is a possibility for criminalisation where some of these victims have committed crimes out of duress. The latter has often led to the detention and deportation of trafficked victims. Furthermore, the lack of identification also potentially hinders investigations and the prosecution of traffickers. Altogether, this challenges the quest to counter trafficking, as the denial of human rights becomes a hindrance towards developing clearer measures for implementing the 3Ps in this context.

In addition, the aforementioned problem is made complex by the politics attached to anti-trafficking. This is apparent in the approach applied by states to deal with the issue. From the UK side, the migration approach currently utilised by its government to address trafficking from non-EU countries appears to pursue its national interest behind the façade of protecting rights. Consequently, such an approach has not just done little to address human trafficking effectively, but has also increased the vulnerability of victims and hindered the prosecution of traffickers. As predicated within international human rights law, the UK has a responsibility to exercise due diligence in ensuring that persons within its territory are well protected.[55] However, scholars such as Hathaway assert that the anti-trafficking legal regime has allowed for "significant collateral human rights damage" by gratifying states' interest in pursuing their border control agenda under the cover of promoting human rights.[56]

Nevertheless, such state responsibility does not lie solely on destination countries but also on source countries. While it is important to protect the

rights of those already exploited, there is a real danger where source countries do not cooperate to address the root causes of trafficking. According to Chuang, "eliminating the 'vicious cycle' of trafficking requires an approach that frames the problem within a broader socioeconomic context while targeting the root causes of the issue".[57] The inability of the Nigerian government to respect, protect and fulfil the rights of its citizens has been detrimental not just for the victims but for the countries that will bear the burden of addressing the exploitation it breeds. It is against this backdrop that this study offers a deeper understanding of the evolving concept of trafficking and critically assesses how Nigeria and the UK have devised measures to tackle the reality of the problem by asking these key questions.

Research Question: To what extent have Nigeria and the UK cooperated to combat the prevalence of human trafficking across their borders?

Sub-questions

1. How does the different conceptualisation of trafficking impinge upon the policies put in place to address trafficking?
2. To what extent has the anti-trafficking regime made provisions for tackling human trafficking and enabling cooperation amongst states?
3. What is the MO of trafficking between Nigeria and the UK?
4. Based on the current MO of human trafficking between Nigeria and the UK, how have both countries effectively addressed the problem that trafficking presents across their borders?

Methodology: Why Nigeria and the UK?

There has been an enormous amount of focus on studies of individual countries or comparative case studies and less on exploring trafficking as a process between countries. The UK and Nigeria were purposefully selected to illustrate the process of trafficking and elucidate how crucial factors existing in each country decisively influence the process of trafficking and measures employed to tackle it. Nigeria was selected as a source country and the UK as a destination country. Both countries have been selected for four major reasons, amongst others. First, there has been a clear prevalence of trafficking from Nigeria to the UK, as current statistics from the UK shows. Second, there is a consensus on the challenge that Nigeria poses to global anti-trafficking as a source country. However, empirical

studies have focused mainly on Southern Europe as major destination countries, undermining other prominent destination countries.[58] As a result, there has been limited effort assigned to deterring trafficking between these countries of study. Third, trafficking between Nigeria and the UK encompasses the different forms of trafficking and is not limited to sexual exploitation as other studies have shown.[59] Exploring the UK as a destination country allows for a broader investigation of trafficking that includes domestic servitude, which is often missing in the literature on trafficking from Nigeria. The UK is home to an estimated 800,000 Nigerians, making a clear case for a significant migrant network that may be favourable for trafficking.[60] Fourth, the existence of an anti-trafficking bilateral agreement signed by both countries presents an opportunity for better analysis for assessing broader international cooperation within the anti-trafficking regime.

This study utilised a qualitative research method to gather the data utilised for analysis. The complexity of human trafficking and the need for rich and detailed information contributed to the decision to utilise qualitative data collection methods in this research. This was achieved through exhaustive primary, secondary and tertiary sources ranging from books, journals, reports, Internet resources, case law review, policy paper, legal instruments and semi-structured interviews. Through the Freedom of Information (FOI) Act 2000, key documents such as the 'Memorandum of Understanding between Nigerian and the UK in addressing trafficking in human beings' and other relevant documents were requested from the appropriate authorities.

Fieldwork/Interviews

Fieldwork took place in two locations (the UK and Nigeria) and commenced in July 2011 and continued till July 2012, with some follow-up interviews in 2017 to update previous findings. Specifically, fieldwork in Nigeria took place in three states for strategic reasons—Edo state, for its prominence as a source of trafficked persons; Lagos, prominent for its international migratory route; Abuja, where major organisations and government agencies relevant to this study reside. The research had to employ a sampling process so that data collection was more targeted to key informants for this research. This study targeted law enforcement/criminal justice authorities, social workers, NGOs, survivors/victims of human trafficking, amongst other frontline workers in both the UK and Nigeria.

These target groups were crucial to gathering the needed data for this study through semi-structured interviews.

However, not all these targets were accessible or easy to reach. As one can imagine, one of the most challenging factors when researching in the field of human trafficking is that most of the population relevant to the study constitutes so-called hidden population.[61] In order to reach these respondents, a snowball sampling or chain referral sampling seemed appropriate. This non-probabilistic sampling technique was used within this study to identify potential subjects, especially where subjects were hard to locate.[62] In order to reduce selection bias inherent in this method, multiple entry points for snowball initiation were utilised to reduce reliance on some key respondents.[63]

Forty-six respondents were interviewed for this study using semi-structured interview technique. Almost all interviews were tape-recorded and transcribed accordingly. After every interview, the interviewee signs a consent form. Despite the number of potential key respondents identified for interview, this study was not able to reach most of the respondents due to last-minute cancellations, no response, while some just declined a meeting due to the time consumption of speaking to research students. In some instances, responses from key respondents have been significantly delayed. The process of carrying out interviews in Nigeria was a typical case. Even though meetings with respondents in Nigeria were well arranged prior to arriving in Nigeria, there were significant glitches in keeping to the fieldwork plan. Fieldwork in Nigeria was not short of incidences of redundant protocols in accessing some government institutions that were not only time-consuming, but also capital-intensive.

As predicted, identifying survivors/victims for interview was difficult due to various reasons, mainly around ethics. Most of the victims in the care of some NGOs were still in their recovery period, during which time they were bombarded with all manners of enquirers including law enforcement authorities. NGOs that support them [i.e. the victim] were sceptical towards adding more researchers to the equation. The researcher was able to identify some Nigerian adult survivors in the UK who were no longer in the formal care system. In order to ensure a more representative data collection from victims, case laws files and second-hand victims' testimonies from reports were substituted. In Nigeria, the researcher was able to speak to some survivors of human trafficking repatriated back to Nigeria, but could not identify any survivors returned from the UK. Notwithstanding, interviewing these survivors in Nigeria provided an insight into the repatriation process in Nigeria relevant for data analysis.

The Plan of this Book

This book is divided into three distinct sections following a top-to-bottom approach in analysing how human trafficking needs to be addressed. The first section sets the foundation for the book, exploring the global scope of the subject matter in terms of the problem and the solution that has been put in place for international cooperation. The second section puts the former into context by utilising the case study of trafficking from Nigeria to the UK to understand the mode of operation of cross-border trafficking and how both countries have independently dealt with it. The third section addresses how both states have literally cooperated with each other, and concludes with practical recommendations that would be useful to both states towards achieving their common objectives of eradicating human trafficking across borders.

Section one, which is entitled "The global perspective of anti-trafficking and international cooperation", sets the basis for the argument in this book. It builds from the scope and global nature of the problem of human trafficking as illustrated in the introductory chapter of this book into analysing the perspectives of human trafficking and the approaches that they provide. In so doing, Chap. 2 examines diverse perspectives of human trafficking set against the backdrop of human rights as a cause and consequences of human trafficking. The human rights perspective is the only perspective to human trafficking that touches upon all sides of the problem, whether from the economic standpoint that often originates from state neglect to provide socioeconomic means that triggers trafficking or the migration standpoint that often undermines the rights of victims due to the priority of national interest. The importance and dynamism of human rights gave birth to the 'human rights approach' or 'right-based approach', which many scholars and activists have validated as the best way to address trafficking today. However, this chapter finds that whilst the human rights approach is undoubtedly a useful tool, it can often be limited in dealing with the actual need and grievances of those it aims to protect (the human beings who are at risk/victims/survivors). Human rights still suffers the issue of statism in its application, which is often backed by international law. This often promotes the vicious cycle seen in addressing human trafficking, where the claims of rights do not reach the threshold of actualising the end result for anti-trafficking, which really means safeguarding victims to the point where they are truly survivors.

In reality, we see variables within the discourse of forced labour, prostitution and migration that conflict with human rights. It is for this reason that this chapter argues for the extension of the human rights approach towards adopting one that is more 'human-centred' enough to claim rights which stem from scenarios that are often beyond legal comprehension. The human-centred approach as coined within this chapter aligns with a cosmopolitanism idea, which underscores the diversity that complicates transnational anti-trafficking approach in the form of international cooperation. In Chap. 3, the anti-trafficking regime is explored from the perspective of international and regional laws and also examines why and how states cooperate against the backdrop of regime theory. This chapter sets the basis for the cross-border context of this book. Where international law obligates states to cooperate in an issue area such as human trafficking, in reality, it is no news that international cooperation has been flawed by the diverse motivation for states to cooperate. This chapter examines why and how states have cooperated in the anti-trafficking regime using regime major theories within the realism, liberalism and constructivism ideologies. In support of learning, knowledge and diversity that aligns with a human-centred approach examined in Chap. 2, Chap. 3 leans more to the constructivist standpoint for international cooperation. Constructivists approach the anti-trafficking regime from a post-positivist viewpoint that considers learning and knowledge, which sets a contextual articulation of the cooperating states in a way that possibly promotes compliance. In other words, it considers the identity of states, the actual problem of trafficking and how both states view the problem in order to find the right solution.

It is for this reason that the next section entitled "Putting trafficking into context: a cross-border perspective" aims to examine the problem of human trafficking and the extent to which the reality is being addressed through the case study of human trafficking from Nigeria to the UK. In this section, the MO of human trafficking between Nigeria and the UK is examined in Chap. 4 as part of understanding the true nature of trafficking across both borders. Through empirical evidence derived from fieldwork, this chapter shows how trafficking transpires from the source country to the destination country at three stages of 'recruitment', 'transportation' and exploitation. The recruitment stages exposes the Nigerian criminal network, which does not resemble the usual criminal network one tends to see in European and Asian cases where the networks are clearly more organised. The way victims are sourced from Nigeria and the

methods used to keep them in bondage are informal but bonded by cultural underpinnings as seen in many cases used in this book. The involvement of family members and victims themselves in the process offers an unusual understanding into the process that offers a dimension to trafficking that does not awaken the usual moral sentiments that engenders the scenario of abduction and physical harm. The use of 'juju contract' is examined from an African traditional religious perspective that explains the power of such control mechanism in cases of trafficking from Nigeria. Victims are usually transported legally or illegally to the destination countries where they are exploited for prostitution, domestic servitude and forced labour. A number of cases are used to demonstrate how Nigerian victims are exploited and also why they are often missing in the system when it comes to concluding that they are actually victims. This chapter identifies a key problem that stems from the peculiarity of trafficking in Nigeria that UK authorities may often miss out in identifying victims of trafficking. It offers the basis for a human-centred approach to find real solutions to the root causes of this problem, which should essentially inform how Nigeria and the UK address trafficking as a source and destination country respectively.

Both Nigeria and the UK are source, transit and destination countries, but for the purpose of this study, they are explored for the role they play in this context. Chapter 5 examines the extent to which Nigeria is addressing trafficking as a source country. As a major source country for human trafficking to Europe and other parts of the world, Nigeria poses enormous threat to global anti-trafficking. However, as part of cooperating and showing its commitment to ending slavery and human trafficking, Nigeria has ratified the necessary legal instruments including the Organised Crime Convention. As a result, in 2003, the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (hereafter, NAPTIP Act) was enacted, which gave birth to the Nigerian anti-trafficking agency called NAPTIP. While Nigeria has continued to enhance its response to human trafficking through this agency, there is still a long way to go in terms of ensuring that the existing national law operates on a zero tolerance principle to trafficking through penalties that are more stringent and that laws are thoroughly enforced. This chapter identified key factors that are responsible for the gap we still see in trafficking from Nigeria today including the human rights neglect by the Nigerian government, which renders people vulnerable to trafficking in the first place. However, when persons are trafficked from Nigeria, it is in the UK that the exploitation takes place.

Therefore, Chap. 6 examines UK's response to Nigerian victims of trafficking that comes to the attention of the authority. Like Nigeria, the UK has shown its commitment to international cooperation for anti-trafficking by ratifying the relevant international laws against human trafficking.

In 2015, the UK enacted the Modern Slavery Act, which became the first independent law the UK has ever created for anti-trafficking that led to a new Anti-Slavery Commission. Before this new law, the UK integrated laws against trafficking across its national laws like the Sexual Offence Act amongst others. Trafficking suffered limited prosecution due to the insufficiency of the law to thoroughly prosecute offenders for the crime of trafficking. However, the new law breaks new grounds not just in tightening and extending the penalties for human trafficking, but also in broadening the responsibilities of stakeholders including those in the supply chain industry. Since the Modern Slavery Act 2015 and its strategies are still new, this chapter based empirical analysis on the gaps that it hopes the new law will practically enforce. The UK has always valued the human rights approach to anti-trafficking, and in many cases, it is at the forefront of its operation. However, when it comes to migrant victims as seen in Nigerian cases of trafficking, the conflict with its anti-migration agenda sets in. This is compounded by the inability of frontline practitioners to ascribe victimhood to Nigerian victims due to a lack of understanding of the peculiarities of trafficking in the context. Due to the limitation in identifying victims and the priority to protect borders, Nigerian victims have missed out on protection and support and faced criminalisation that may sometimes lead to deportation and in some cases re-trafficking. Prevention programmes are often limited, short-term and often lack the right coordination mechanism both within the UK and in Nigeria. This therefore sets the basis for interstate cooperation between Nigeria and the UK towards playing key agreed roles to addressing human trafficking together across their borders.

Section three of this book which is entitled "Cooperating for anti-trafficking: a case study" examines how the UK and Nigeria have explored bilateral cooperation in this regard. In 2004, Nigeria and the UK signed a Memorandum of Understanding (MoU) to fight against human trafficking. In Chap. 7, the MoU is reviewed in light of how both countries currently collaborate. Apart from the structural factors that hinder collaboration, the agreement also suffers the possibility of being forgotten and the fact that both countries place very different priorities on their problem. This chapter practically illustrates the importance of mutual

understanding in negotiating future collaborations so as to help bring rights that are situated and contextually meaningful to Nigerians in need of protection in the forefront of their bilateral relations. It concludes with the hope that the current plan of the UK Anti-Slavery Commissioner will resurrect the MoU towards a fresh and more directed collaboration that will make a real difference. Chapter 8 concludes this book by encapsulating the learnings from this study by articulating the inherent problem of trafficking from Nigeria to the UK. It reiterates the fact that the anti-trafficking regime can only make a difference once it begins to operate beyond a law enforcement framing. It adds that the diversity inherent in the case study used in this book as well as the identified gaps can only be tackled through a shared understanding by both states while considering their history, culture and sociopolitical underpinnings. The chapter ends by offering actionable recommendations that aim to address the gaps identified with the primary objective of putting human beings at the heart of anti-trafficking response.

Notes

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PART I

The Global Perspective of Anti-Trafficking and International Cooperation

CHAPTER 2

Conceptualising Anti-Trafficking and Protecting People

Introduction

Since the emergence of the Palermo Protocol, scholars have continued to debate across different disciplines concerning what may or may not be trafficking. These various articulations of the concept of human trafficking have also led to proposed approaches in tackling the problem. Anti-trafficking cannot be fully conceived without understanding how the problem of trafficking is conceptualised by different actors and across diverse perspectives, including migration, feminism, human rights, globalisation, culture and economics.[1] These diverse perspectives offer significant insights into the problems and are interconnected, making it almost impossible to tackle one without touching upon the other. This is what makes it a complex, yet interesting topic to explore. For the purpose of this study, significant emphasis is laid on the human right's perspective of human trafficking, which adopts a rights-based approach to anti-trafficking. Human rights have the longest history when it comes to analysing human trafficking.[2] Its perspective offers an insight into the cause and consequences of human trafficking that sets the foundation for similar arguments in other perspectives of human trafficking and their approaches. Although the points made in this chapter lean towards promoting the rights-based approach, a 'human-centred approach' is introduced as part of extending the claims of rights to that which truly addresses the obstacles and grievances of those it sets out to protect in this discourse. The argument it generates extends to other major perspectives of human trafficking, as examined in this chapter.

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Human Rights Perspective

'Human rights' is a cause, consequence and solution to human trafficking. The claims of rights within the trafficking discourse are relevant at different points; as a cause of trafficking, 'the right to an adequate standard of living' can be invoked; in the actual process of trafficking, 'the right to be free from slavery' can be invoked; while in the response to trafficking, 'the right of suspect to a fair trial' can be invoked.[3] Human trafficking as a major violation of human rights is first embedded in the United Nations' Universal Declaration of Human Rights (UDHR), Article 4 of which proclaims, "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms."[4] Human trafficking violates the following human rights, including but not limited to: the right to life[5]; the right to freedom of movement[6]; the right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment[7]; the right to be free from gender-based violence.[8] Human trafficking has accrued high human cost in terms of its consequences on human beings. Several pieces of research, illustrating the experiences of trafficked victims, have highlighted both the physical and psychological impacts on people and even communities at large. Other effects include social exclusion, crime, undermining public health and eroding human capital.[9] When it comes to human rights linked to human trafficking, the violator is not just the trafficker, but also actors who fail in their obligation to reduce the vulnerabilities of people at risk. Human rights violations occur when actions by states or non-state actors breach any part of the UDHR.

Beyond the UDHR, many international legal instruments have also prohibited human trafficking; even though the phrase 'human trafficking' is not specifically mentioned in any of these instruments, they touch upon elements that constitute human trafficking. The prohibition of slavery forms part of *jus cogens* and peremptory norms of international customary law.[10] The 1926 Slavery Convention described slavery as "… the status and/or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised". The 1956 UN Supplementary Convention also offers a definition of servile status and 'slavery-like practices', such as debt bondage; serfdom; forced marriage; and the exploitation of young people as well as 'slave trade'.[11] The European Court of Human Rights also confirms the application of human trafficking as a human rights violation as provided by a 2010 judgment made in *Ranstev vs Cyprus and Russia* case law, where the Court was required to consider

Article 4 of the European Convention of Human Rights (ECHR), which prohibits slavery, servitude and forced compulsory labour.[12] It concluded that:

> There can be no doubt that trafficking threatens human dignity and the fundamental freedoms of its victims and cannot be considered compatible with a democratic society and the values expounded in the Convention…[13]

This is a case that resulted in the loss of human life (the victim). The same Article 4 of the ECHR was also relied upon in *Siliadin v France*, where the European Court of Human Rights confirmed that:

> … Art.4 entailed a specific positive obligation on Member States to penalise and prosecute effectively any act aimed at maintaining a person in a situation of slavery, servitude or forced or compulsory labour. In order to comply with this obligation, Member States are required to put in place a legislative and administrative framework to prohibit and punish trafficking.[14]

Specifically focused on women, the Convention on the Elimination of All Forms of Discrimination Against Women (the CEDAW Convention) is designed to protect women from continuing discrimination and human rights violations, offering a wide range of actions to be pursued by State Parties in combating trafficking of women. It specifically mentions trafficking in Article 6, stating, "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."[15] The Convention on the Rights of the Child (CRC) also confirms human trafficking as a violation of human rights, obliging States Parties to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or trafficking of children for any purpose or in any form.[16] It emphasises that the best interests of the child should be the primary consideration in all actions concerning children.[17]

Where human trafficking occurs across borders, victims tend to be identified as 'aliens' in countries outside their country of citizenship. Therefore, they often require protection from international human rights laws that appeal to their status as non-citizens, especially where the victim is an adult. The international human rights system has repeatedly affirmed the special vulnerabilities faced by migrants and the particular nature of the violations to which they are subject.[18] However, international human

rights laws do not provide extensive protection for migrants beyond those identified as being applicable to non-citizens. The rights assigned to non-citizen victims of human trafficking generally flow from the non-discrimination clauses found in several international legal instruments that do not permit differentiation in the treatment of nationals and non-citizens in terms of fundamental human rights. This is not often adequate in dealing with the unique vulnerabilities of this category of victims, especially those who have entered the host country illegally. Nevertheless, several international treaties, including the ILO instruments protecting migrant workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention) 1990, offer relative protection, but suffer from limited ratification by member states.

According to Pitrowicz, "to treat trafficking as a human rights violation as such requires overcoming the accepted notion that human rights obligations operate vertically, between states and those subject to their jurisdiction, and accepting some kind of horizontal application."[19] In terms of jurisdiction, the Organized Crime Convention Article 15 establishes a series of jurisdictional bases that are relevant to trafficking. In this context, states are obliged to provide jurisdiction based on the principle of territoriality,[20] nationality[21] and passive personality.[22] Following the rights violated by human trafficking as predicated in international human rights law, states have both positive and negative obligations in ensuring that human rights are respected, protected and fulfilled within this context. As a positive obligation, they are obligated to prohibit trafficking, prosecute traffickers, protect victims and prevent trafficking in a manner that falls within the principles of international human rights law standard.[23] As a negative obligation, individual states are responsible for acts and omissions that cause or contribute to human trafficking. Here, states are held responsible where they fail to exercise due diligence as stipulated in the Articles of State Responsibility.[24] "Under the standard of 'due diligence', the State is not held responsible for the acts of others, but rather held responsible for its own failure to prevent, investigate, prosecute or compensate for the commission of the act."[25]

The link between human rights and human trafficking is quite clear as it relates to the consequences of human trafficking. It therefore makes sense that it naturally informs the responses to the problem. It encapsulates all the diverse perspectives of human trafficking, given that there are often rights to be claimed and actors accountable to those claims in many

instances. It is on the basis of establishing the human rights obligation of states that many scholars have suggested a human rights-based approach as an effective tool for tackling trafficking.[26]

A Rights-Based Approach

According to the Office of the High Commissioner for Human Rights (OHCHR), "A human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights."[27] In general, a human rights-based approach is said to be founded upon a number of core principles that guide all aspects of the response at all stages: universality and inalienability; indivisibility; interdependence and interrelatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law.[28] Obokata supports that a human rights framework to trafficking presents two advantages, including addressing a wider range of issues and promoting a victim-centred approach.[29] This approach requires analysis as to how human rights violation arises throughout the trafficking cycle.[30] It is so crucial in the identification, protection and support of victims, which has often raised issues over time. The invisibility of the victims due to the failure to officially and accurately identify them, especially when their case is conflicted with migrant smuggling, is not a new issue, but one that renders rights granted to such persons illusory. When victims are accurately identified, then destination states have the immediate responsibility to take reasonable measures to protect them from harm, alongside other support needed. Depending on the circumstances of the case, protection may also extend to others (e.g. families) who could be intimidated or harmed by the traffickers and their accomplices.[31]

In line with international guidelines, trafficked persons as victims of crime and of human rights violations have a right to be treated with humanity and respect for their dignity and human rights—and are entitled to measures that ensure their well-being and avoid re-victimisation.[32] The human rights approach also recognises that some trafficked persons may unlawfully enter into a country, and therefore, face special dangers and vulnerabilities as a result. Some victims may also commit a crime under duress during the trafficking process or as part of their exploitation, which may cause them to be arrested, detained and even prosecuted. Criminalisation of trafficked persons is quite commonplace in cases of

human trafficking and is highlighted for consideration in adopting a human rights approach. Consequently, adopting a human rights approach means that trafficked migrants who are illegal are given temporary residence permits and reflection periods where non-conditional support is given with the sole objective of granting the victim time and space to initial recovery. The non-criminalisation of victims is also considered in this approach to ensure their rights are not denied where it is most crucial as criminalisation is often tied to a concurrent failure on the part of the state to accurately discern when a person is a victim or a criminal. This is often complicated when the victim is an adult, as would be established in this study.

While the human rights framework may be versatile, it is often limited in its operationalisation from the stance that it conflicts with the interest of states and sometimes lacks a sociocultural lens in its application to anti-trafficking. First, human rights frameworks have to contend with the interest of states as the trademark of the international system.[33] States as sovereign actors remain one of the most important actors in determining the extent to which people enjoy human rights. For instance, even though international human rights law promotes freedom of movement, it also grants states the supreme authority within their territories and denies the existence of any higher authority within these borders.[34] In this regard, while states may express their concerns regarding the well-being of individuals, their actions tend to lean towards the pursuit of their autonomy.[35]

Second, empirical findings of this study suggest that there are aspects of human trafficking that transcend legal understanding and are likely to hinder the actualisation of human rights within anti-trafficking. The factors that underscore this limitation are well grounded in sociocultural underpinnings held by certain communities, in line with how they understand or construct trafficking. This context-specific pattern of trafficking makes human rights murky and difficult to achieve beyond contending with states' interests. Scholars such as Kokko assert that "trafficking is culturally patterned"; therefore, better understanding of the cultural context in which human trafficking occurs and by which the "normalcy of certain behaviours is justified, is a valuable starting point to developing counter-trafficking efforts".[36] Such an understanding is necessary in articulating how states cooperate towards ending human trafficking, especially where states have diverse identities, and in some cases, lack the knowledge and consensus as to what constitutes trafficking beyond their borders. In support of this notion, Surtees states that "central to the understanding of the

contributing forces of trafficking is how this practice is understood within the country of origin and how it forms part of traditional social structures."[37] As such, what may seem common in one culture may be unacceptable in another.[38] In a cross-border study such as this, where two countries with different identities/cultures need to cooperate, an absence of such understanding can be detrimental to the achievement of its cooperative goals.

Nevertheless, attributing cultural diversity to human rights is an area that has been largely debated in the international arena, probably due to the contradiction between cultural relativism and universal human rights. In relation to trafficking and empirical findings on how people of certain cultures understand trafficking, there seems to be a notion by some communities that the concept of trafficking is basically constructed by the West to tarnish the traditions and struggles of developing and underdeveloped countries such as Nigeria.[39] An example is seen is the relationship between traditional fostering and domestic servitude in Nigeria and how that conflicts with the construct of human trafficking, as detailed later in this chapter. While communities reserve the right to preserve their culture/belief system—and that should be respected by anyone, including the West—it is just as important that they do not condone the enslavement of a person[s]. According to Kokko, "it is … feared that the cultural justification of human trafficking would pave the way for uncritical and biased preference of policies limiting immigration."[40] In a similar light, human rights supporters may find the cultural lens unacceptable as admitting cultural factors will be detrimental to the quest for better recognition to victims of trafficking.[41] Although there is a point to the latter, the problem with totally rejecting the cultural lens is that it limits the understanding of human trafficking, which constrains the extent to which the rights-based approach achieves its objectives for trafficked person or those at risk.

Likewise, Donnelly insists that in justifying the efficacy of human rights, certain forms of 'relativity' and 'contingency' must be acknowledged.[42] In other words, cultural diversity should not be devalued in this regard.[43] The acknowledgment of diversity is not suggested in this regard to condone violence or the violation of people's rights, but rather, provokes an attention to culture and history that potentially invites a richer analysis of social problems or human rights issues such as trafficking.[44] The Bangkok Declaration supports this notion as it included a controversial statement that Asian states

> [r]recognize that while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.[45]

Essentially, to depend solely on the universalist notion of human rights would mean to 'close off the possibility of creative expansion' in the discourse of human trafficking.[46] According to Cushman, "from the perspective of social constructivism, human rights can only be seen as cultural representations, which are projected, objectified, and internalized by social actors to varying degrees at various times and places in world history."[47] Scholars such as Stammers and Nash have extended the literature on how social movements play a role in the construct of human rights. Social movements have made significant difference to the evolving nature of anti-trafficking, especially from the perspective of promoting the rights-based approach. The movement, which is largely made up of NGOs (at various levels), individuals and the epistemic communities, continues to seek knowledge and understanding, advocates, monitors and acts as watchdog to governments to ensure that the very people whose rights need protecting do not miss out on gaining the protection and support they need. Social movements within the trafficking discourse have continually sought ways to ensure that anti-trafficking is beyond written laws, pledges or cooperation and coordination agreements, but rather, one that leads to practical results for victims. This requires a dynamics to human rights that reflects time and reality of the trafficking cycle. Scholars such as Monshipouri et al. contend that even universal human rights are dynamic, historically contingent and socially constructed.[48] Hence, human rights are not static or absolute, but should continually question whom and in whose interest the rhetoric is being deployed.[49]

Beyond Human Rights: A Human-Centred Approach

Although the right-based approach has enjoyed a wide array of praise as the best practice, recent empirical studies and theoretical arguments have raised questions about the extent to which the approach, in itself, can achieve the interests of those it intends to protect. The human rights approach to anti-trafficking has raised a number of drawbacks, including the fact that States remain that primary actor for signing up and implementing rights; 'Statism' in the form of national interest remains an ongoing setback; its short-term

nature of interventions limits the extent of the approach and what it covers over time.[50] Scholars such as van de Anker suggest a 'cosmopolitan approach' as part of extending the human rights-based approach, asserting that the "boundaries of nation-states are not boundaries of morality, and duties of justice are owed to all human beings".[51] The essence of this approach is to proffer a long-term and international cooperative focus on anti-trafficking that also considers structural factors of global inequality that often underpin the root causes of trafficking. Van der Anker's cosmopolitan approach, which is set against the backdrop of global justice principles, does not reject a human rights approach, but rather, insists that it needs to be broadened to move beyond 'statism' and build in "international duties of support to countries of origin".[52] Scholars such as Agustin and Anderson et al. extend and support discussion on the extension of human rights, especially in relation to migrants and the importance of cosmopolitanism and transnationalism in related approaches. For scholars such as Agustin, "cosmopolitanism should give us another way to position migrants" beyond identifying them as either 'victims' or 'criminals' and extending the role of the 'rescue industry'.[53] Cosmopolitans such as Anderson et al. proposed a "no border approach", which calls for a rethink in response to migration and its effect on migrants, even with the challenges it may present.[54]

This study joins the cosmopolitan bandwagon to push for an approach that is more human-centred in nature towards making the rights-based approach stronger. A human-centred perspective of human trafficking, which extends the protection framework, holds that a people-centred viewpoint is necessary for addressing human trafficking at all levels. It recognises the agency of persons affected by trafficking and insists that such understanding is considered in devising policies that are culturally and locally grounded towards achieving the best outcome for the prevention of human trafficking. This approach challenges the traditional notion of national interest, but remains indebted to the human rights tradition. It builds upon a rights-based approach by adopting principles of international human rights law with the aim to effectively articulate obligations, which can be imposed upon all relevant stakeholders, especially states.[55] It strengthens the approach by propelling the need to move beyond the current legality towards addressing the underlying root causes of trafficking within diverse communities that may have no legal bearing. According to Jones, "the theory of human rights is a practical theory; it is a theory about what people should be able to do and what they should not suffer."

If, in effecting human rights, one should take a pragmatic approach, the approach must take full account of the world it intends to change.[56] The challenge with a human-centred approach is that human needs are diverse and those who offer services to victims may consider some of these human needs unrealistic, or, in some cases, misconstrued. For this reason, a human-centred approach proffers opportunity for tailored measures dealing with the various peculiarities of human trafficking within reason. The importance and practicality of this approach is further expanded across the diverse perspectives of human trafficking in the sections below.

A Migration Perspective

Migration is an important aspect of trafficking, especially where traffickers move their victims [ill] legally across borders. Although some scholars argue that migration and trafficking are separate phenomena, the difficulty to meaningfully separate them has often been highlighted in practice.[57] Contrary to the notion of scholars such as Evans and Bhattarai, trafficking may not always require movement; however, migration has been a major conflict issue for trafficking and remains at the consciousness of states in anti-trafficking approaches.[58] There has been strong political pressure to divorce the debate on trafficking from the more general phenomenon of migration and to treat 'smuggling and trafficking' as distinctive phenomena.[59] This distinction, according to Anderson and O'Connell Davidson, is relatively different in the perceptions and priorities for key advocates—those with the political priority to issues of national sovereignty/border control and those whose primary concern is to promote and protect the rights of migrant workers.[60] The uneven handling of trafficking across various entities is actually "more a question of approach and context than a difference of intent".[61] More problematic in the migration perspective to human trafficking is the fact that there is no clear demarcation between trafficking and smuggling despite their legal definitions. Both concepts can be 'two sides of a coin' with a great deal of crossover.[62]

From a state-centric perspective, trafficking threatens the national border security of states. It is thereby problematised as an immigration dilemma for destination states such as the UK. For instance, in 2007, the United Kingdom Action Plan on Tackling Human Trafficking made it clear that trafficking must be tackled first, as an 'immigration crime'.

> As human trafficking often involves crossing international borders, it is essential that measures to address it are mainstreamed into the UK's immigration system. Dealing effectively with human trafficking will be an integral part of the new Border and Immigration Agency's business, delivering the Agency's objectives to strengthen our borders and ensure and enforce compliance with immigration laws.[63]

Viewing human trafficking as an immigration problem is not so much the issue; it is the response it prompts towards combating human trafficking that raises concern. Scholars such as Hathaway insist that this sort of approach drives the ongoing migration agendas of states over the human rights of victims of trafficking.[64]

Trafficking from a state-centric migration viewpoint, especially in Europe, stems from a wider regional politics against migration from non-EU countries. Over the last 20 years, receiving countries in Europe have increasingly portrayed migrants and immigrants as a source of threat and an obstacle to 'the governance and maintenance of the liberal world system'.[65] For this reason, illegal migration into Europe has become a central issue in its political agenda following the ongoing development of its regional legal frameworks. Despite highlighting the need to address illegal immigration from its origin and the need to safeguard victims of trafficking in the process, as reinstated by the European Council of Tampere in 1999, only border security seems to dominate the discussion and legislative drafts.[66] Geared towards strengthening Europe's borders, the fight against illegal immigration in the context of combating smuggling and trafficking became a political priority for member states. Subsequently, states insist that tightening migration channels to make it difficult for 'others' to move across fortress Europe should be a way forward for tackling trafficking.

Migration into Europe is de facto reserved for only those who are highly skilled or economically and otherwise privileged.[67] Hence, illegal migrants often face deportation when they come to the attention of law enforcement authorities. Furthermore, even though international human rights laws such as the UDHR insist on the freedom of movement, states have the undisputed right to determine which aliens they let into their jurisdiction. The only exception was derived from the Geneva Convention's non-refoulement clause, which prohibits an alien's expulsion under certain conditions.[68] It is important, however, to bear in mind that the enactment of this clause is highly dependent on the extent to which these states

conclusively identify a person as meeting the conditions that may prompt this clause.

Articulating this from a human-centred viewpoint, restrictive borders and the failure for source countries to promote socioeconomic rights increases the vulnerabilities of persons to trafficking. Socioeconomic inconsistencies; sociocultural values of migration intertwined with migration restrictions serve as a root cause of trafficking. A human rights perspective shows that the vulnerability of trafficked persons starts from the lack of socioeconomic opportunities in origin states where state government do not take all measures to respect and fulfil their obligations to protect their citizens. According to Todres, "human trafficking persists, in part, when societies tolerate denials of the dignity and humanity of vulnerable individuals."[69] This includes the denial of economic and social rights, discrimination and poverty.

According to a Human Rights Watch Report, although "Nigeria has produced several hundred billion dollars worth of oil since its independence in 1960 … Ordinary Nigerians have derived appallingly little benefit from all that wealth".[70] The government's performance in "providing for basic health and education services has widely been viewed as a shocking and disastrous failure".[71] As a result, citizens of Nigeria seek other means to a better life, through migrating to developed countries to escape poverty. Poverty as one of the root causes of trafficking is a major factor but a simple fact. According to Feingold,

> Trafficking is often migration gone terribly wrong. In addition to the push of poverty or political and social instability, trafficking is influenced by the expanded worldviews of the victims—the draw of bright lights and the big cities.[72]

The way migration is perceived by migrants from different countries explains how and why some people are inherently vulnerable to trafficking. Many Nigerians have often viewed migration as a means to escape the socioeconomic issues (such as poverty) that they face in their country of origin. While poverty is a common push factor for migration and trafficking, poverty is also relative to the sociocultural values of various communities. Many who migrate or fall into the hands of traffickers are not always from extremely poor backgrounds.[73]

A good number of Nigerian victims of trafficking are also persons from average economic backgrounds and may be university graduates or others

who have paid large sums to be smuggled to the UK only to find themselves in a trafficking situation.[74] Economic factors being a major reason for migration in this context, some Nigerians often make rational decisions to migrate because "a cost-benefit calculation leads them to expect a positive return".[75] This reflects in the sociocultural value of migration in Nigeria as a significant determinant or the starting point of vulnerability to trafficking for some intending migrants. This by no means is intended to downplay the possible gains that migration may prompt.

However, vulnerability often increases due to sociocultural expectations from migration that increases submission to trafficking and the 'threshold of exploitation'. Threshold of exploitation in this context resonates from the extent to which exploitation is constructed by victims and their communities and determines their tolerance, resilience or passive attitude to trafficking. In other words, exploitation becomes what they make of it, even though the Trafficking Protocol clearly defines what exploitation constitutes.[76] The passive attitude of some victims and their communities reflects in their view of exploitation as a 'rough passage' that they have to get through in order to achieve a better life for themselves and their families. This notion is not only held by Nigerians, but also held by other Global South countries where poverty may be prevalent. Anders Lisborg used the Thai proverb "Pai tai auo dap na", which literally means "go prepared to die in front of the sword" to describe the permissive and passive attitude of the Thai people towards bonded labour—a type of modern slavery.[77]

The problem with the construction of migration in Nigeria is the fact that it is often misguided due to the lack of factual or 'one-sided knowledge about emigrating'. Ignorance, the global media, the Internet and the 'success stories' of returning migrants or those whose families have profited from remittances, often boosts this high expectation of economic opportunities.[78] Some of the diaspora Nigerians in Britain demonstrate their 'successes' by building 'big' houses in their villages in Nigeria and driving glitzy cars when they visit home briefly. They give testimonies of how they have suffered for a period in Europe and 'succeeded' later. Many who aspire to seek a better life often view such signs of success as a motivating factor to want to migrate to Britain without really understanding the reality behind these success stories. Blindfolded by the temptation to replicate these 'success stories', many of them fall into the hands of traffickers. Despite the awareness of the sort of exploitation they may encounter, the 'success stories' increases the threshold of exploitation for those

who are desperate to migrate to a better life, even though it means being trafficked. To this extent, some families go as far as investing their children in the business of trafficking.[79]

Nevertheless, it is important to make clear that some of these families, while aware of the conditions of their investment, do not necessarily perceive the operation as trafficking, but rather, as an investment for a better life. Some Nigerians go as far as classifying it as 'hustling'.[80] For some of these Nigerians, the end justifies the means. They rationalise and compare the inherent exploitation experienced during trafficking to their sufferings resultant from poverty in their state of origin. Hence, despite the increased awareness of human trafficking, many still insist on putting themselves at great risk. For instance, a victim of trafficking from Nigeria to the UK stated,

> Probably if I was aware of trafficking and the problems with it, I think I still would have come. To be honest, because my situation in Nigeria at the time was just really bad, poverty, and I was having all these problems with family and things like that. So yeah, I would have still come—there's not any leaflet or flag or any awareness saying please stop the traffic … the children will go and say, please I want to be trafficked because I'm tired of this country—even if we should get the town crier to run around the whole of Nigeria to ring a bell that … telling the parents 'don't send your kids', they're not going to listen—its rare for a poor person to send a rich person away and say 'No, don't help my family'…[81]

There is a consensus that people will still move across borders, but this is further complicated by the restrictive nature of immigration from Nigeria to prominent developed countries such as the UK. For instance, where migration from Nigeria to Britain is mostly directed to the 'best and brightest', people who do not meet these criteria have to seek other means to fulfil their quest for a better life. Current migration policies in receiving countries also foster the vulnerability of third-country citizens to "exploitation by smugglers-cum-traffickers or unscrupulous employers".[82] With strict border restriction policies of the UK and the further tightening as a strategy to reduce trafficking, migration is made a scarce and difficult process for Nigerians who choose to emigrate.[83] Generally, migrating with a Nigerian passport can seem like a 'curse' for many, as the country is often blacklisted by many nation-states, except for West Africa and a few states that operate relevant free movement systems.

Where restrictions are placed on the international movement of third-country nationals, these restrictions are sometimes doubled for Nigerians, in terms of the level of criteria to obtain visas from a number of foreign embassies. Hence, many migrants from Nigeria are prone to experiencing difficulties in meeting the criteria for international migration, thereby causing a lack of trust in legal immigration systems. As a result, some may seek immigration documents elsewhere, mainly from smugglers, and in some cases, from traffickers.[84] The difficulty of attaining legal migration gives rise to a lucrative niche for entrepreneurs and institutions dedicated to promote international movements, whether legally or illegally, for profit, thus 'yielding a black market in migration'.[85] This ever-growing underground market creates conditions that breed exploitation and victimisation. Hayter contends that existing border controls lead potential migrants into the hands of unscrupulous agents.

According to Hancilova and Burcikova, these restrictive migration channels particularly affect women, mainly because they are more likely to migrate into unskilled, unregulated sectors—in particular, sex work and domestic services.[86] As these areas are often not seen as 'work' and may lack the required regulation, they increase women's inability to access regulated migration and their propensity to seek unregulated work that renders them vulnerable. European policies on immigration may emphasise the need to safeguard victims of trafficking in their border securitisation. However, this is only reactive, rather than proactive. European policy on immigration does not address vulnerability. Even where victims of trafficking are intercepted at the borders, their immigration status often takes precedence over human rights, especially where it concerns adults. Scholars such as Green and Grewcock further contend that the intentions of protecting the rights of trafficked victims have been integrated into state policies of control and scrutiny and the wider political scheme of 'state identity'.[87] Therefore, "a hegemonic European character built upon principles of exclusion" is promoted.[88] With that in mind, anti-trafficking has been used as a tool for European receiving states to drive their ongoing immigration policies under the guise of protecting the rights of victims.

When vulnerable people become victims, traffickers often utilise states' restrictions to immigration as a tool to intimidate the victims in order to keep them in exploitation. They do this by brainwashing victims into believing that law enforcement authorities will arrest and deport them (victims). However, this is often confirmed by state's approach to trafficking. Traffickers withhold the victims' travel documents or even threaten to

report the victims to the border authority.[89] Restrictive UK immigration policies indirectly result in less protection for victims of trafficking due to the fact that a clampdown on illegal migration often tends to undermine other aspects of trafficking cases.[90] The fear of deportation keeps victims at the mercy of their traffickers. Thus, restrictive immigration has remained an ammunition for traffickers to gain control over their victims. Nigerian traffickers who have being prosecuted in the UK are mostly nationalised within the British system; hence, immigration has not been a personal problem for them. Victims are unable to come forward to the authorities or agree to be referred on the NRM because they are illegal immigrants.[91] The available evidence of a victim's deportation further complicates issues.[92] The NRM is an identification mechanism developed to identify victims of trafficking by competent authorities such as the National Crime Agency (NCA) and the UK Border Agency (UKBA).

The work of UKBA can also be called to question concerning sustaining the re-trafficking of potential victims from Nigeria. The UK migration approach to suppressing human trafficking to the UK has resulted in UKBA deporting potential victims of trafficking even before they cross the border.[93] These persons may be identified as potentially trafficked, but may not be put through the NRM system for verification. As far as they do not cross the UK border, they are not the UK's problem. While deporting these persons may appear to save time and resources for the UK government, it only recycles the trafficking process. There is a lack of literature and intelligence around re-trafficking, especially within this context. However, the risk remains obvious. On the other hand, those who are successfully identified as victims and qualify to receive support are likely to face repatriation as part of the anti-trafficking process. Although reintegrating survivors of trafficking into their country of origin may seem like a positive way of dealing with trafficking, this does not often appeal to Nigerian survivors of trafficking. As a result, most of these survivors are constantly engaged in legal battles to remain resident in the UK on the grounds that they may be re-trafficked. While research to substantiate this claim is scarce, there are several conditions that often prompt these appeals, including stigmatisation, lack of police protection in source country, economic insecurity and violent threats that transcend the understanding of the courts. The testimonies of victims who have been repatriated support the true nature of the aforementioned conditions.

Survivors of trafficking from Nigeria often have to grapple with the stigma attached to prostitution. Sex is a sensitive subject in most African

societies, and even currently is seen as taboo. On return and attempting to reintegrate into their communities, survivors have to deal with the stigma of failure and being perceived by their communities as carriers of deadly diseases contracted abroad as also accusations that they have brought dishonour to their families.[94] In certain situations, repatriated survivors are often initially put in prison, and sometimes, mistreated by Nigerian authorities upon return. As it is illegal for Nigerians to sell sex abroad, there is potential for prosecution.[95] According to Camilla, "parents had to look for money to come and bail them out from the prison".[96] Without the appropriate police protection, some of these 'survivors' are in physical danger following the debt bondage attached to their exploitation.

These factors could potentially lead to re-trafficking, and therefore, may justify the application of the non-refoulement principle. Non-refoulement protection is available under the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT).[97] The principle of non-refoulement encompasses a protection regime where the refugee definition evolves in tandem with human rights principles set out under the CAT and the ICCPR. Although it applies mostly to refugees,[98] it could be extended to trafficking cases, especially when the governments of some origin countries are unable to protect their citizens who are vulnerable to their traffickers.[99] The principle of non-refoulement applies when there is evidence that a person would be subjected to inhuman treatment perpetrated by non-state actors.[100] Although cases such as *Mohammed Lemine Ould Barar v. Sweden* were unsuccessful on the grounds of this principle,[101] the principle is gradually emerging as complementary to the protection of trafficking survivors.[102] One of the ways to secure the principle of non-refoulement is through issuing temporary or permanent residence permits so that those trafficked can legally reside in a given state where they can be safeguarded. However, with the limitation of knowledge on trafficking and its evolving dangers for victims, this principle remains difficult to achieve within the anti-trafficking discourse.

At the regional level, the EU adopted a Council Directive on the Short-Term Residence Permit Issued to Victims of Action to Facilitate Illegal Immigration or Trafficking in Human Beings. However, this is conditional to victims' cooperation with the competent authorities in the provision of information relevant to investigating the crime.[103] In the absence of specific assistance programs for victims of human trafficking, the

Refugee Convention has proved to be a useful alternative, even though it suffers some conceptual limitations from being the best protection solution.[104] That said, in order to understand Nigerian survivors' attitudes towards repatriation to Nigeria, it is important to consider what they left behind in their home country, which motivated them to leave Nigeria in the first place.[105] The same attitude to migration also applies to other perspectives.

As a By-Product of Forced Labour

Human trafficking is a subset of forced labour and vice versa. The International Labour Organisation (ILO) posits that forced labour emerges from privately imposed labour that includes both commercial sexual exploitation and economic exploitation.[106] As a subset of trafficking, it is one of the different types of exploitation that constitute trafficking. Nevertheless, forced labour is not identical to trafficking, but in both cases, there are concerns of labour standards violations. According to Beirnaert, it is difficult to draw a clear line demarcating "exploitation as a violation of labour rights from forced labour or human trafficking specifically".[107] In response to this blur in understanding the latter, the ILO has set out indicators towards viewing trafficking as forced labour along a continuum of labour exploitation and to see the protection from such abuse along the continuum to suppress and prevent the process leading to forced labour.[108] This will require viewing trafficking for labour exploitation mainly as a subset of forced labour, which would not only concentrate on the 'real problem' (the exploitation of workers) and avoid the confusion with illegal migration, as explored earlier in this chapter.[109] According to Morehouse, placing trafficking in the larger framework of labour exploitation overcomes gender-specific conceptions of trafficking.[110] Nevertheless, there is still a disconnection between trafficking and migration for work stemming from a widespread reluctance by states and others to include child labour and enforced prostitution as 'work'. There is also the challenge that emerges from dealing with typical forms of trafficking within the private sphere, including domestic servitude. As a result of such disconnection, the rights of trafficked persons as 'workers' has been rarely articulated.[111]

In the light of addressing human trafficking from a labour exploitation angle, there has been a growing need to address the demand and supply aspect of cheap labour. On the one hand, one could argue that poverty

and desperation experienced in countries such as Nigeria have expanded supply and demand accordingly.[112] Anderson and Davidson have highlighted that often, it is the high supply of migrants who are willing to undertake such cheap labour that may also fuel demand.[113] In other words, if industrialists can find cheaper labour, they will take advantage of it. According to a report by Anti-Slavery International, "the demand for cheap labour and the supply of migrant workers are part of a structural process in the global economy"; however, there are still options for governments, agencies and individuals to address it.[114]

A state-centric perspective views this from a criminal justice framework that brings with it an approach of saving victims from perpetrators without acknowledging them as workers and active agents in the labour market.[115] Additionally, states' migration regulations as a means to combat trafficking as previously explored comes into play in this perspective. Most migrants often move for work. As the ILO estimated in 2008, out of 191 million migrants worldwide, 95 million left their origin country directly in the search for better work.[116] A focus on migration overlooks the need to adequately address real labour shortages in national labour markets that increases demand. Where migrant workers' residence status is linked to employment, it has generated a tool for exploitation and trafficking.[117] The continuous demand for cheap labour in industrialised countries such as Britain have created and remained a "pole of attraction for migrant workers".[118] For instance, the UK's food and drinks industry needs to find 118,000 skilled workers to replace those who would retire from or leave the industry.[119]

Despite the existence of laws and policies around this issue, responses are neither comprehensive enough nor target perpetrators effectively. The complexities of migration and labour regulations in receiving countries such as the UK remain a barrier.[120] Rather than focus on protecting the rights of irregular migrant workers and enabling channels for economic migration as a preventative measure of trafficking, EU policies "prioritises repressive migration policy over clear policies against labour exploitation".[121] The introduction of the Employers' Sanction Directive that provides minimum standards on sanctions and measures against employers of illegal third-country nationals is a typical example.[122] These types of policies often drive third-country nationals such as those from Nigeria into the hands of unofficial intermediaries and put them at risk of criminal organisations that profit from labour exploitation.[123] Trade unions have often campaigned for the rights of migrants who are undocumented for reasons

beyond their control to be given amnesty. However, this may be futile if better migration regulations are not adopted. The absence of regulations that protects the rights of undocumented migrant workers "benefits no one but abusive and exploitative employers".[124]

Even where state authorities have attempted to rescue those in forced labour, victims' identification is clouded by a migration agenda. Specifically, this difficulty often lies in the inability of relevant authorities to demarcate criminals from victims. As a result, victims are often mistaken as criminals and deported without compensation for any abuse suffered. State authorities such as the police, entrusted with the competence to control workplaces to identify trafficked workers, do not have a mandate to protect workers, and therefore, police raids have often been counter-productive.[125] According to the OSCE, if trafficking for labour exploitation is to be tackled, focus needs to be placed on promoting

> Decent work … [That] builds societies free from the cancer of organised crime and corruption, based on the principles of non-discrimination and the rule of law, and inspired by the ideal of social justice, in which human rights and fundamental freedoms can really flourish.[126]

Non-citizens sometimes do not often qualify for benefits or gain access to work, and therefore, in order to survive they enter the informal labour market to support their families. In many cases, they are willing to work for below minimum wage due to the limited choices available to them and the rationalised fact that the remuneration seems better than opportunities available to them in their home country.[127] Therefore, as stated by Hancilova and Burcikova, "drawing a line between exploitative and non-exploitative conditions will, obviously, be inherently difficult, for there are no objective criteria on how to balance the need to protect against exploitation with 'the right to be exploited'".[128]

The current state's approach to labour exploitation disempowers migrant workers due to factors such as language barrier, limited knowledge of rights or capacity to access rights, tenuous migration situations, family obligation and so on.[129] The International Convention on the Protection of the Rights of All Migrants Workers and Members of their Families was adopted by the General Assembly in 1990 to expand upon existing rights.[130] The Convention explicitly extends fundamental human rights to all migrant workers and their families, whether documented or undocumented.[131] The Convention obliges State Parties to protect all

migrant workers "against violence, physical injury, threats and intimidation".[132] According to Gallagher, the Convention was developed "as a mainstream human rights issue", even though "its sole reference to trafficking is brief and preamblar".[133] Despite the protection provided within this Convention, not many states are signatories or have ratified the Convention. As of July 2013, the Convention has only 46 parties, 35 signatories and 29 ratifications.[134]

Although Nigeria accessioned the Convention in July 2009, the UK is not a party or signatory to the Convention. In spite of the global campaign to ratify this Convention, Gallagher insist that "the current situation is not expected to change in the near future", especially in terms of prompting the obligation of destination states.[135] While not all migrant workers are trafficked, many trafficked persons are migrant, at least within the case study of this book. There is an aspect of inclusiveness also compromised by this Convention in Article 3 where it exempts certain categories of persons, including refugees and stateless persons. This exclusion is on the basis that people who fall within these categories are protected under other international instruments. Given that the Trafficking Protocol was adopted seven years after this Convention, such exclusion may include trafficked persons on the latter basis.[136] As such, it becomes more of an advocacy tool, rather than a source of substantive rights like other widely accepted international human rights treaties.[137]

Nevertheless, in applying principles of equality and non-discrimination, states cannot treat documented and undocumented migrants, citizens or non-citizens differently to the extent that it harms human rights. International law prohibits the discrimination of trafficked persons in substance or procedural law, policy or practice on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.[138] Concerning legal status and undocumented migrants, an advisory opinion issued by the Inter-American Court of Human Rights in 2003 affirms, "States may not discriminate or tolerate discriminatory situations that prejudice human rights."[139] The Court adds that while it does not encourage states or individuals in a state to offer employment to undocumented migrants, in a situation where these migrants are engaged in work, they immediately possess labour rights.[140] As such, they cannot be discriminated against because of their immigration status.

Beyond the role of international human rights law, the way certain cultures within Nigeria construct labour, especially concerning child labour and domestic servitude, is very crucial to understanding one of the root

causes of trafficking for labour exploitation. This highlights the need for a human-centred perspective of trafficking for labour exploitation. There has been a growing concern that West African children brought to the UK under what is viewed as private fostering arrangements were being trafficked for the purposes of domestic servitude or benefit fraud.[141] This was evident in the case of a Nigerian pastor who was jailed in the UK for trafficking two children under the guise of private fostering using falsified documents.[142] African traditional fostering, which originated from a culture that obliges communities to collectively raise children, has been a source of support for children, families and the development of their communities at large. Traditional fostering often takes place in the form of parents giving their consent for their children to be taken away by extended family members or strangers for a given period. According to the ILO, many individuals and families have taken advantage of this cultural tradition of fostering where the less privileged often send their children to other families for educational and employment purposes.[143]

In Nigeria, fostering comes in different types, kinship fostering,[144] crisis fostering,[145] alliance/apprentice fostering,[146] educational fostering[147] and domestic fostering. Domestic fostering is the type of fostering that is key to the argument within this section. In Africa, children are an important part of the domestic labour force and may be fostered to redistribute availability of services between households. Fostering of children for domestic tasks may have taken a new dimension at present where many working families take up children as domestic servants, housecleaners and baby-tenders in exchange for their maintenance, training and/or token wages to their family.[148] According to Okunola and Ikuomola, the perceptions, ideas and attitudes towards children in pre-colonial era on fostering have been rendered impracticable by the quest for materialism and increasing level of poverty in Nigeria.[149] Riisoen et al. observed that the lack of "norms of accountability" in traditional fostering arrangements has also been detrimental to the vulnerability of children to trafficking.[150]

In the UK, it has been evident that some victims of child trafficking have been trafficked by close relatives or members of their communities. Traffickers often tend to recruit these children from their parents under the guise of traditional fostering. The parents are lured by the expectations that their child will acquire a British education, and therefore, be better off economically. Despite the risk of trafficking, some parents do not consider domestic servitude as a danger for their children, and therefore, willingly seek to give their children away. It is important to highlight that domestic

servitude from Nigeria is not so much a crime perpetrated by criminal groups, but rather, by individuals who endeavour to preserve the culture of servitude. The presence of a domestic servant in some Nigerian households or small businesses in the UK not only help perpetrators save money in areas such as childcare, but also fills an emotional vacuum for families far away from their country of origin.

The willingness for parents to supply their children, and the demand from Nigerian households in the UK for such labours, can be explained against the backdrop of the social construct of childhood in Nigeria. The varying preconceptions that encompass the notion of childhood, and inform the expected role to be played by children in a society, differ across cultures and cannot be fully understood outside the context of other variables such as class, disability, tradition, religion, race, nationality, gender and ethnicity and/or 'caste system'.[151] Scholars contend that how children live in developing countries is shaped by the belief, norms and customs of their communities.[152] Even though, by law, a child is a person below the age of 18 years and not obliged to engage in certain types of labour, in practice, this is not often adhered to.

In Nigeria, there are certain expectations of children, often dependent on the economic capacity of the child's family. It is usually poorer children who often find themselves in vulnerable situations where they may have to contribute to the running of the family—whether by way of working as domestic servants for richer families or engaging in other forms of labour. Some parents often see this as an informal training for their children to be better equipped to deal with life.[153] Thus, such exploitation is couched within the sphere of culture/tradition of raising children in Africa. Even though the laws in Nigeria condemn this notion, the practice is commonplace in the culture of many communities through the 'house-boy and house-girl' system with the undertone of traditional fostering. According to McGillivray, "We are blinded by our context, our place in history, our socialisation from knowing not only how children are treated but how they should be treated."[154] This culture of servitude in the form of child labour and trafficking goes against international human rights law, which protects children. While the culture of traditional fostering can be beneficial to some children and families, it is the duty of the Nigerian state to ensure that children are safeguarded in the process.

In addition, as part of protecting children, it is the responsibility of the state to fulfil the economic and social rights of parents, in order to prevent such abuse. This culture of servitude, which should be completely denounced,

coupled with the labour-related issues highlighted within this section, complicates the experiences of victims and strategies to combat human trafficking. These notions cannot be overlooked when devising means to address trafficking. Adopting laws within this perspective is not lacking, but instead, it lacks the consideration of sociocultural factors surrounding laws that can influence the outcomes of anti-trafficking. Similar dilemma is evident in the gender perspective as seen in the following section.

Gender Perspective: As a Result of Prostitution?

Gender drives an understanding to human trafficking that, in itself, is divided across several schools of thought—from who human trafficking affects, how it affects them and who perpetrates it. A number of myths surround human trafficking from a gender perspective often accredited to popular public belief. They include: 'human trafficking affects just women', 'Men are the perpetrators', 'women in the sex industry are trafficked' and the like. A gender perspective not only demystifies these popular beliefs but also analyses the feminist arguments it has generated. When it comes to gender and human trafficking, the topic of prostitution has dominated most of the arguments.

Trafficking for forced prostitution is estimated to be one of the most prevalent forms of exploitation in human trafficking.[155] There has been a close link between the discourse of prostitution and trafficking. This link emerges from feminists' debates on prostitution before, during and after the drafting of the Trafficking Protocol. This debate has dominated and still dominates discussions on human trafficking from several standpoints. First, they offer a gender perspective to the understanding of trafficking, and second, they make a case from the viewpoint of the sex work discourse. While there are merits from injecting a gender perspective, it focuses only on women and girls, leaving out the exploitation suffered by boys and men.[156]

Despite the high level of research it has generated, there is an existing gender imbalance in scholarly focus. Samuel Jones, in his article "The invisible man: the conscious neglect of men and boys in the war on human trafficking", sheds more light on the need to commence research on the experiences of men.[157] Jones agrees that females have historically suffered enormous levels of harm, particularly at the hands of men (presently, including women); however, the truism does not preclude the empirical reality that males have also suffered enormous exploitation at the hands of both males and females.[158] Abramson insists that this comes to play in the stereotyping of women and children as vulnerable beings in need of

protection while men are seen as mere economic migrants.[159] The narratives of human trafficking, often media-driven, tend to augment the notion of predominantly men enslaving women for sex, "complicities with an ideology that males cannot be victims".[160]

The limited attention on the trafficking of men has alienated men in the justice system as perpetrators and those who play a role in identifying human trafficking victims are reluctant to attach victimhood to men, especially when the victimiser is female.[161] Miles and Blanch add to this dearth in literature on males with their field exploration in Cambodia, illustrated in their article, "What about the boys? …".[162] With the high rate of male sexuality in places such as Cambodia, males are often seen as a lucrative commodity. Hence the Cambodia proverb, "Women are like cloth and Men are like gold."[163] While the level of male victims of trafficking from Nigeria is not apparent, there is a strong case for including men and boys on research into victimhood within human trafficking. Otherwise, it implicitly narrows down the discourse on human trafficking.[164]

Alongside the focus on females, the emphasis on sex work within the context of human trafficking has been a major and continuous debate driven by feminists. Both the radical (abolitionists) and the liberal feminists drive the debate on prostitution from different standpoints.

The glaring reality that some people, whether men or women (in this case, women as majority sex workers), could consent to be trafficked for sex work is an idea that feminists continue to explore, especially for clarification through the definition of human trafficking. The radical feminists in this case are of the viewpoint that consent should be meaningless in the anti-trafficking laws.[165]

There is a continuum for this group of feminists that the sex industry is, by definition, exploitative. Their premise is based on their anti-prostitution movement, which also highlights that prostitution is neither about an individual nor choice, but about an institution of 'male dominance'.[166] Opposing the standpoint of radical feminists, the liberal feminists emphasise the free will of people to make choices about their lives, or at least exercise considerable agency.

They insist on an inclusion of such capacity to consent in the Trafficking Protocol from the viewpoint of equality. It is the assertion of some of these liberal feminists that sex work is a "form of empowerment to realize equality in the workforce and to assert female self determination"… "[In essence] prostitution is seen as an 'apogee of female liberation'".[167] For this feminist, violence against women is a human rights violation, whether the woman is a prostitute or not.[168]

The Global Alliance Against Traffic in Women (GAATW), a coalition of civil society organisations, advocated for the definition of prostitution as 'work' while the Coalition Against Trafficking in Women (CATW) favours the abolitionists' ideology.

According to Hancilova and Burcikova, "At the extreme ends, both camps tend to disregard, albeit to a varying degree, the diversity of sex markets and experiences of actors and the complex personal experiences of persons engaged in prostitution."[169] Abolitionists believe that the human rights of women are best protected when prostitution (which is already a deeply prejudiced institution) is abolished.[170] From an abolitionist standpoint, it becomes difficult to demarcate between voluntary prostitution (which actually exist) and forced prostitution. This standpoint has often encouraged the state-centric standpoint of criminalising prostitution as a way of addressing human trafficking for sexual exploitation. This latter risk, supporting a conservative anti-migration agenda, aimed at restricting female mobility and agency.[171] For Cameroun and Newman, this has resulted in flawed legal strategies that are both 'anti-migrant' and 'anti-sex work', which has enormous implication for victims, especially migrant women.[172]

The liberal feminists, on the other hand, insist that prostitution should be considered as a legitimate form of labour, and as a result, enjoy the same protection as other forms of labour. Neither international nor EU legislation takes a position on the treatment of voluntary prostitution as work.[173] Instead, it is left to the discretion of individual countries, and as a rule, it continues to be a highly divisive issue. The ILO Forced Labour Convention No. 29 considers voluntary prostitution of adults as a form of work.[174] The ILO maintains that it is not particularly useful to categorically demarcate between labour and sexual exploitation or treating trafficking of women, children or men as separate issues.[175] Criminalising prostitution will only drive the business further underground and increase the vulnerability of victims. Morehouse contends, "Policy makers should refrain from weakening anti human trafficking efforts by attaching restrictions that have nothing to do with combating human trafficking."[176] Anderson also insists that:

> It is the lack of protection for workers in the sex industry, rather than the existence of a market for commercial sex in itself, that leaves room for extremes of exploitation, including trafficking. The solution to the problem thus lies in bringing the sex sector above ground, and regulating it in the same way that other employment sectors are regulated.[177]

While liberal feminists would agree that women should be able to exercise their freedom of choice, the key here is the sum of accessible alternatives available to women who are drawn to sex work as a means to survive. Radical feminist often overlooks the sociocultural realities of third-world migrant women as to why women may choose this trade even through exploitative means such as trafficking. They seem more concerned about a static standpoint, which does not ultimately protect women nor address their real concerns.[178] As a result, it may have no real effect on anti-trafficking as it lacks the acknowledgement of agency, which may provide answers as to why people consent to prostitution in the first place.

Underneath these discussions of coercion and consent is the representation of victimhood and agency as contradictions within contemporary feminist theory. Laura Agustin, who has researched extensively on migrant women sex workers, emphasises the need to acknowledge the driving factor that make women vulnerable to traffickers, rather than just narrowing them as victims without agency.[179] Agustín argues that labelling these women as 'trafficked' does not accurately describe most migrants and that the rescue industry disempowers them. 'Social agents' in the form of policy makers and NGOs do not tend to probe prostitution discourse from the social construction of people they intend to help.[180] Instead, "they position themselves as benevolent helpers, in what seems to them to be a natural move".[181] In some cases, some of these women refuse to be rescued. This is seen with Nigerian women, who are trafficked for prostitution, but return to their traffickers after being rescued.

Additionally, Doezma re-emphasises that current debates about coercion or consent into prostitution facilitates avoidance on the challenges posed by sex workers' rights arguments.[182] For Doezma, if these women are coerced by poverty and do not consent to trafficking, then policy responses that focuses on border and immigration control is evidently inadequate.[183] She also adds that such debates challenge the identification of trafficked victims where it presents women who choose prostitution as undeserving of human rights protection and those who do not choose trafficking as 'real victims'.

The issue of consent is inevitably more complex than that.[184] Whether or not African women choose to go into sex work, the key within the discourse of trafficking is the exploitation they experience, rather than the moral consciousness of states. Where trafficking is equated with migration and sex work as previously highlighted, victims are unable to report or seek support, for fear of further exploitation by laws that portrays them as

criminals or undeserving. Often times, they consequentially lack access to support (e.g. to public health) due to their status as illegal immigrants, and this can amount to unresolvable health issues, further complicating the impact of trafficking. Protecting these women and recognising the choices they make cannot be overemphasised. Although laws are important to offer the latter guarantees, it is the enforcement of these laws in protecting their rights and privileges that makes the difference.

Conclusion

Human trafficking is a multi-disciplinary subject which can be examined from various perspectives and therefore offering various anti-trafficking approaches. Among existing perspectives of human trafficking, human rights offer a more holistic advantage to analysing the subject, encompassing other perspectives. In finding useful solutions to this heinous human rights violation, many scholars and activists have leaned towards promoting a right-based approach to human trafficking. This does not overrule the law enforcement approach, but rather, requires a balancing act in actualising the primary objective of anti-trafficking, which is 'protecting people'. It would have been so simple if the right-based approach provides a lasting solution to human trafficking. However, the latter approach has also documented some shortfalls, which is gradually growing in literature. One of its limitations is its conflict with state sovereignty, which was explored in this chapter, especially in the section that examines migration.

Beyond the conflict of state interest and human rights, this chapter examined the social construction of migration from source countries such as Nigeria, which increases the threshold of exploitation within the trafficking discourse. Such discoveries are often missing when arguing for a rights-based approach. Even though international definitions explain what exploitation should mean, potential victims and their communities construct exploitation in such a way that determines their tolerance, resilience or passive attitude to trafficking. This was the case for the labour and gender perspectives explored in this chapter. As identified in this chapter, the rationale of victims and their communities, which often have no legal bearing cannot be undermined, but rather, it gives an understanding to trafficking, which is often overlooked by the generalised debates within the trafficking discourse. It is for this reason that this chapter argued for a human-centred approach, which extends the protection framework to

accommodate the agency of persons affected by trafficking and their communities.

The absence of such diversity in understanding undermines international cooperation for anti-trafficking and how related stakeholders can be engaged to find lasting solutions. The chapter makes it clear that for anti-trafficking to gain ground in protecting people, human rights needs to be broaden to make a real difference to people across borders.

Notes

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3. United Nations Human Rights, Office of the High Commissioner, (2014) Human Rights and Human Trafficking Fact Sheet No. 36 http://www.ohchr.org/Documents/Publications/FS36_en.pdf (Accessed 10 May 2017).
4. Slavery Convention, 1926, article 1; Supplementary Convention on the Abolition of Slavery, 1956, article 1; Convention Concerning Forced and Compulsory Labour, 1930, articles 1, 2 and 4; Universal Declaration of Human Rights, article 4; Convention Concerning the Abolition of Forced Labour, 1957, article 1; International Covenant on Civil and Political Rights, article 8; European Convention on Human Rights, article 4; African Charter on Human and Peoples' Rights, article 5; Rome Statute, articles 7 (c) and 7 (g).
5. Universal Declaration of Human Rights, article 3; International Covenant on Civil and Political Rights, article 6; Convention on the Rights of the Child, article 6; European Convention on Human Rights, article 2; African Charter on Human and Peoples' Rights, article 4.
6. Universal Declaration of Human Rights, article 5; International Covenant on Civil and Political Rights, article 7; Convention against Torture; Convention on the Rights of the Child, article 37.

7. European Convention on Human Rights, article 3; African Charter on Human and Peoples' Rights, article 5; Protocol on the Rights of Women in Africa, article 4; Non-treaty source: Declaration on the Human Rights of Individuals who are not Nationals of the Country in which They Live, article 6.
8. Ibid.; see also Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) article 6.
9. Kathleen Fitzgibbon, Modern-Day Slavery? (2003) 12 African Security Review, No. 1, pp. 81–89.
10. "Jus cogens are rules within customary international law which have a special status above treaty-based law"; See Sandhya Drew, Human Trafficking and Human Rights: Law and Practice (Legal Action Group 2009).
11. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 U.N.T.S. 3, entered into force April 30, 1957—See Article 1 and 7.
12. It also violates articles 2, 3 and 5 of the ECHR.
13. Rantsev v. Cyprus and Russia, Application no. 25965/04, Council of Europe: European Court of Human Rights, 7 January 2010.
14. See OOO & Others v Metropolitan Police [2011] EWHC 1246 (QB) quoting Siliadin v France, European Court of Human Rights Application no 73316/01, para. 285; see also Holly Cullen, Siliadin v France: Positive Obligations under Article 4 of the European Convention on Human Rights (2006) 6 Human Rights Law Review, No. 3, pp. 585–592.
15. CEDAW—article 6.
16. Convention on the Rights of the Child, articles 35 and 37.
17. Convention on the Rights of the Child, article 3.
18. Anne Gallagher, International Law of human Trafficking (Cambridge University Press, 2010). See also Human Rights Committee, general comment No. 15 (1986) on the position of aliens under the Covenant, para. 7. "Aliens … have an inherent right to life, protected by law, and may not be arbitrarily deprived of life. They may not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; nor may they be held in slavery or servitude. Aliens have the full right to liberty and security of the person …."
19. Ryszard Piotrowicz, "Human Security and Trafficking of Human Beings: the Myth and the Reality" in Alice Edwards and Carla Ferstman (eds.) Human Security and Non-Citizens: Law, Policy and International Affairs (Cambridge University Press 2010) 406.
20. Organized Crime Convention, Article 15 (1) "states may establish extra-territorial jurisdiction for domestic prosecution in lieu of extradition when the latter is denied on the ground of nationality".

21. Organized Crime Convention 2000, Article 15(3).
22. Organized Crime Convention 2000, Article 15(2) States parties are further encouraged to establish jurisdiction on the basis of active and passive personality principles, namely when their nationals are perpetrators or victims of related offences; UNODC, Anti-Human Trafficking Manual for Criminal Justice Practitioners, Module 6: International Cooperation In Trafficking In Persons Cases (UNODC 2009).
23. Tom Obokata, 'A Human Rights Framework to Address Trafficking of Human Beings' (2006) 24 Netherlands Quarterly of Human Rights, 3, pp. 379–404.
24. The agreed articulation of those rules is contained in the International Law Commission's draft articles on responsibility of states for internationally wrongful acts with commentaries, Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 (A/56/10); Malcolm Shaw, International Law (5th edition Cambridge University Press 2003) pp. 721–724; Dinah Shelton, 'Private Violations, Public Wrongs and the Responsibilities of States' (1989) 13 Fordham International Law Journal, p. 1.
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CHAPTER 3

International Cooperation on Cross-Border Human Trafficking

Introduction

One of the key progresses made in anti-human trafficking is the consensus to criminalise the act under international law and getting states to sign on as part of a collaborative effort to address this global problem. International law remains an important bedrock for interstate cooperation especially in reaffirming the obligations of states to tackle human trafficking. One could say that the anti-human trafficking regime has formed a crusade of its own. Over time, the principles that govern the anti-trafficking regime have continually evolved to cover a broader conceptual understanding of the issue. This chapter examines the extent to which the existing international legal frameworks have influenced states' behaviour in addressing the issue. It attempts to investigate how and why states have cooperated for anti-trafficking so far; this chapter analyses the major theories of international regimes and how they have influenced cooperation.

The Anti-Trafficking Regime

As human trafficking takes centrestage in galvanising the attention of states especially the 'superpowers', so has it generated a new regime in the fight against this multifaceted transitional crime. One may struggle to identify the anti-trafficking movement with regimes, yet it embodies a crucial element that lends to the topic of this section, at least by definition. Scholars such as Margaret Young and Stephen Krasner are known for their

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contributions to the international law/relations scholarship in ascertaining what international regimes entail. For Young, "international laws and institutions have historically developed to address particular issues and objectives…" and the "disparate results are commonly described as 'regimes'."[1] International regimes have been popularly defined as, "Implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice."[2]

The Basel Convention which governs international movement of hazardous waste, Biological Weapons Convention and the Kyoto Protocol can be seen as examples of international regimes. However, in review of numerous related literature in the understanding of regimes, it appears to be not so straightforward. As a result of its various understandings, it has been long perceived to lack conceptual clarity.[3] Notwithstanding, it has survived in its quest to address a central issue in international relations in the form of international cooperation. Regimes also vary in their degree of specificity, geographical scope and membership.[4] However, in this case, we adopt the understanding of regimes seen as multilateral agreements among states aimed at regulating national actions within an issue area.[5]

As a global transnational problem, human trafficking has led to the emergence of an international regime set out to coordinate states' behaviour for the eradication of human trafficking; hence, the 'anti-trafficking regime' through the Organized Crime Convention and related international conventions. The fight against human trafficking is not a new phenomenon. However, the principles, rules and decision-making procedures within the regime have experienced several changes over time. As observed from Krasner's definition, "only if principles or norms are altered does a change of the regime itself take place; all other changes in regime content are changes within a regime."[6] Given the multidisciplinary nature of anti-trafficking, its regime often interacts with other existing regimes or at the very least touches on them. For instance, anti-trafficking can find the basis within the human rights regime whose principles, norms, rules and decision-making procedures form part of the argument that human trafficking is a human rights issue, as set out in the previous chapter. That said,

the anti-trafficking regime has over time set its own rules through various international legal frameworks that this chapter explores.

From the later part of the twentieth and on to the twenty-first century, we have witnessed a proliferation of international legal frameworks and rules aimed at combating human trafficking.[7] From 1904 to 2000, treaties and conventions have been initiated and modified to reflect the crucial elements of this global dilemma. Each framework had something more to offer, the latter extending the scope of the former. For instance, the 1921 Anti Human Trafficking Convention avoided any reference to 'White Slavery' and applied a new notion of 'immoral trafficking'; the 1933 Anti Human Trafficking Convention on the other hand expanded the results of trafficking to include all sexual and immoral purposes, not just prostitution. The United Nations Convention Against Transnational Organized Crime (UNTOC) and its supplementary Protocols is, so far, the most comprehensive universally accepted international legal framework specific to addressing human trafficking and ratified by at least 117 nation states.[8]

Scholars such as Brand are among the few who have examined anti-human trafficking from a regime perspective. In her 2010 working paper on 'International Cooperation and the Anti-trafficking Regime', the author illustrates how the principles of the anti-trafficking regime have extended between the 1949 Convention and the 2000 Protocol.[9] These principles moved from that which attempts to counter human trafficking from a feminist's perspective focused on prostitution to one that attempts to employ what she specifies as a 'comprehensive approach' but with emphasis on transnational organised crime and border control.[10] Here, a comprehensive approach connotes broadening the scope of protection: (a) beyond women and children to include all trafficked persons and (b) to include all forms of trafficking beyond sexual exploitation.[11] These principles, which stem from the understanding of trafficking from different perspectives, have clearly informed how states currently cooperate within the anti-trafficking regime.

The upcoming sub-sections will elaborate on the existing international rules governing anti-trafficking, starting with the Trafficking Protocol and followed by other related regional legal frameworks. It clearly demonstrates the influence of the current anti-trafficking laws on the regime to eradicate trafficking, whose vital strand of legitimacy is currently strained by national security concerns and negligence of states. This section tends to support the argument that the existing inconsistency in the rules governing anti-trafficking weakens the anti-trafficking regime.

International Law and Anti-Trafficking: The Trafficking Protocol

There have been numerous international legal frameworks from global to regional, which lend support to the anti-trafficking regime, including those that touch on the area of migration, child rights, women's rights and then specifically human trafficking. Whilst these international legal frameworks present an opportunity for the anti-trafficking regime to flourish, they can often make international cooperation complex. Institutions such as the International Organisation of Migration (IOM), the United Nations (UN), and the International Labour Organization (ILO) amongst others provide the institutional basis to support the collaborations required to support these laws. Specifically, for human trafficking, the Trafficking Protocol stands out. The Trafficking Protocol is based on a 4P model which includes prevention, protection, prosecution and partnership. These are foci areas in tackling the problem of trafficking and stand as the main objectives of the Trafficking Protocol. According to Article 2 of the Trafficking Protocol, the purposes of this Protocol are:

1. To prevent and combat trafficking in persons, paying particular attention to women and children;
2. To protect and assist the victims of such trafficking, with full respect for their human rights; and
3. To promote cooperation among States Parties in order to meet those objectives.[12]

The Protocol provided a universally accepted but debatable definition of human trafficking as illustrated in the introduction of this study. The Protocol not only focuses on the transnational nature of the problem but also insists that State Parties ensure the criminalisation of human trafficking within their domestic legislation.[13] According to Coontz and Griebel, "criminalization is the centre-piece of the Protocol"[14] with other key features including guidelines on protection, prevention and interstate cooperation. Article 5 of the Protocol obliges State Parties to impose measures to investigate and prosecute the crime of trafficking.[15] Although not directly stated within the Protocol, the Convention encourages State Parties to establish jurisdiction to investigate, prosecute and punish the crime within their territorial jurisdiction.[16]

Concerning protection, the Protocol suggested several protective provisions necessary to assist victims of trafficking.[17] They include protecting the privacy and identity of trafficking victims in 'appropriate cases' under domestic law[18] as well as 'consider' implementing measures to ensure the physical, psychological and social recovery of trafficking victims.[19] This aspect of the Protocol is considered within the human rights dogma as being too 'soft'.[20] The choice of words further establishes the vagueness of some of these provisions. For instance, State Parties are required to "consider" certain measures; to "endeavour" to take action in "appropriate cases", "to the extent possible". The Protocol essentially relinquishes the aspect of protection to the disposition of states. Such vagueness also applies to the legal status and repatriation of victims. Both origin and destination states have to ensure the safe return of trafficking victims. While such return, "shall preferably be voluntary",[21] states are not obligated to keep it so. Therefore, the rights afforded to trafficked persons within the Protocol remain dependent on existing domestic law/policies or the provisions made by bilateral or multilateral agreements signed by states.[22]

In the area of prevention, Article 31 of the Convention outlines a list of measures to be taken by states to prevent, inter alia, trafficking in persons (this is supplemented in the Trafficking Protocol).[23] Article 9 of the Trafficking Protocol clearly emphasises that State Parties shall establish comprehensive policies, programmes and other measures to prevent and combat human trafficking as well as protect victims of trafficking from re-victimisation. This aspect of the Protocol further requires states either to cooperate bilaterally or multilaterally to alleviate the factors that render persons vulnerable to trafficking and the demands that fuel such exploitation.[24] Preventing human trafficking as illustrated in Chap. 2 encompasses a wider array of human rights factors, which requires the effectiveness of other national and international legislations. Although the Ad Hoc Committee did not directly address the potential use of national anti-trafficking measures for discriminatory purposes or results,[25] the interpretative notes clarifies that "the protocol is without prejudice to the existing rights, obligations and responsibilities of state parties under other international instruments", such as the international human rights law, refugee law and so on.[26]

The provisions for anti-trafficking in the Trafficking Protocol could be seen to be in congruence with the international human rights regime in terms of the obligations it sets out for states, whether strong or weak.[27] However,

the anti-trafficking law has a distinctive difference from other human rights treaties because it explicitly addresses transnational crime. It is the inclusion of trafficking under the umbrella of transnational crime that raised the level of states' interest in ratifying the Trafficking Protocol. In fact, for some scholars, a treaty on trafficking would not have been actualised if left within the realms of the human rights system.[28] While aligning the Protocol with transnational crime gives it more strength, it raises a number of limitations as potential threats towards meeting the objectives of the regime from a human-centred perspective. As Todres submits, one of the central failings in response to human trafficking has occurred at the design stage of its regime following the existing legal rules.[29] This radiates in the approaches it leaves room for: promoting the interest of states over human rights.[30] In other words, it emphasises criminalisation or law enforcement over the concerns of those at risk of being trafficked, victims and survivors of trafficking.

This emphasis has been demonstrated by the Protocol's strong obligations in its criminal law provisions, which creates an "anchoring effect", making it probable that subsequent efforts will be framed by a law enforcement approach.[31] The protocol encourages the framing of human trafficking as a security and migration or in some cases, issue of prostitution as seen in Chap. 2. It narrows the existing approach and marginalises other vital areas, which are of equal or even greater importance. According to Lee and Lewis, the "Protocol is a law enforcement instrument whose humanitarian provisions exist to enhance the effectiveness of law enforcement efforts".[32]

While the existing principles of the anti-trafficking regime have been broadened, by recognising some of the scope of the problem, it has been inconsistent in ascribing stronger obligations on states to deal with the entirety of the scope.[33] From a border security perspective, the Protocol insists, "States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons."[34] The Protocol relegates the potential immigration issues that may arise from trafficking to the domestic discretion of the nation states concerned.[35] While border control measures are important to intercepting traffickers, it reinforces the longstanding agenda of nation states to protect their borders from illegal 'aliens'. The prediction that anti-trafficking will exacerbate anti-immigration responses to international migration has proven to be an accurate reality as seen with the focus of many Western states.[36] In the course of criminalising the victim for offsetting immigration laws, sometimes traffickers are often misplaced, especially

where trafficking has not even been identified. Criminalisation of the victim is the product of a wider criminalisation focus of the anti-trafficking regime. Even where the focus is on dismantling organised criminal groups, victims are treated as a resource for the criminal justice system, rather than as bearers of rights.[37]

While 'organised' trafficking networks that need to be intercepted exist, this does not describe the very nature of some perpetrators of trafficking. The Organized Crime Convention describes 'Organised criminal group' as:

> A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.[38]

Within certain contexts, trafficking does not always require organised criminal groups, especially in countries such as Nigeria, where trafficking could sometimes occur as a family-friend transaction. For sending countries such as Nigeria, criminalising human trafficking from a criminal group lens may result in ill-directed investigations that exaggerate the true nature of the crime. The current perception of the crime has not improved the rate of prosecution of actual criminal (traffickers).[39] Convictions are still difficult to achieve even in the best circumstances.[40] Apart from the countless pitfalls that render the prosecution of traffickers ineffective, especially in countries where trafficking is most prolific, a human-centred focus can be advantageous to the prosecution of traffickers.

First, not only would an approach that addresses the interest/needs of victims protect victims, but it would also allow them to become better potential witnesses simply from the virtue of securing their safety during the hearing, offering them justice and supporting their psychological capacity to testify.[41] Consequentially, victims are able to regain control of their lives in a safe manner.[42] Second, it reduces re-trafficking that could potentially lead to 'double victimisation', amplifying the cost for states for revisiting the same case again. This also includes focusing attention on causes of trafficking including social mores, economic, legal and cultural practices as well as the social stigma that foster trafficking as stated in Article 9 (4&5) of the Trafficking Protocol.

While this will entail a costly venture in addressing the root causes of trafficking, it is an investment worth pursing following the wealth of

untaxed traffickers' profits from the business. An approach that leaves human rights on the backseat, as previously highlighted, risks breeding more traffickers resulting from trafficked victim-cum-recruiter. These breeds of traffickers recruit other women either to pay off their debt bondage or establish their own brothels as 'they consider themselves already ruined', stigmatised as prostitutes.[43] Third, it is easier to protect victims than prosecute the trafficker. Although both objectives are important, its effectiveness is still limited. However, focusing more on the human rights of victims could at least offer the opportunity to remove the victim from his/her current exploitative situation. As a preventative measure, it could suppress trafficking from the root. That said, there is the aspect of prostitution to contend with in the analysis of the Trafficking Protocol.

From the stance of prostitution, the long and bitter feminists' debates were highly influential in the negotiation of the Trafficking Protocol. However, in the end, the Protocol's compromise within this debate invariably linked trafficking to prostitution "in an ambiguous and confusing manner".[44] This is most obvious in the difficulty for some feminists to move beyond consent and how exploitation has been presented in the Trafficking Protocol's definition. As Jordan puts it,

> The terms 'exploitation of the prostitution of others' and 'sexual exploitation' are not defined in the Protocol or anywhere else in international law. They are undefined and included in the definition as a means to end an unnecessary yearlong debate over whether or not voluntary adult prostitution should be defined as trafficking. Delegates were unable to reach any agreement on this point and so finally compromised on the last day of the negotiations by leaving the terms undefined.[45]

While the compromise proffered by the Protocol attempts to recognise the difference between forced and voluntary adult participation in sex work, it relegates the ultimate decision of the legitimacy of prostitution to individual states. The latter can have a conflicting impact in the treatment of prostitutes, as many states do not view prostitution as legitimate work. This is pertinent where the action of some states towards prostitutes contravenes international standards of human rights.[46] Therefore the Trafficking Protocol "leaves 'room' for sex workers to exist only outside the protected space carved out for trafficking victims".[47] The narrow construction of trafficked victims within the Trafficking Protocol offers nothing to sex workers who are also prone to a number of human rights

abuses, including trafficking, for lack of the needed protection. The latter further strengthens states' criminalisation of sex work as an anti-trafficking approach and some ways impacts of how states with different notions of prostitution work together in this regard. Additionally, it relatively preserves the ongoing law enforcement versus human rights approach debate within the anti-trafficking discourse, which focuses on traffickers, rather than those at risk.

Nevertheless, the constant dispute between the law enforcement focus and the human rights approach cannot be reduced to a "simplistic opposition between (good) human versus (bad) state interests".[48] The interconnectedness of both approaches is important to ensuring the complete eradication of the problem of human trafficking and may simply require a balancing of approaches as Krieg highlights.[49] Law enforcement creates a platform for the direct prosecution of traffickers, offering the potential for concrete results.[50] However, the current focus on criminal prosecutions ensures that "the international community would be stuck in an endless cycle seeking to prosecute perpetrators and therefore [would] only aid victims after trafficking has occurred".[51]

Ironically, the current limitation of the Protocol's victim protection provisions undermines the effectiveness of the law enforcement framework.[52] The uninhibited cooperation of victims of trafficking is highly crucial for the successful prosecution of traffickers. Nevertheless, it is one thing to promote the interest of victims and others at risk of trafficking but without cooperation amongst states, it is all futile. States cannot tackle the dilemma of human trafficking alone. Suppressing trafficking depends on the ability of states to cooperate with one another by enforcing and implementing anti-trafficking through fulfilling their human rights obligations. In order to monitor and coordinate the cooperation of State Parties, the Organized Crime Convention established the Conference of Parties (CoP) to oversee and support the implementation of the Trafficking Protocol.[53] At the moment, the United Nations Office on Drugs and Crime (UNODC) has taken up the CoP's coordinating role, but continues to face the challenge of states complying with the regime beyond their national interest or negligence. Nonetheless, anti-trafficking regime is not just dependent on the Trafficking Protocol but on other regional coordinating frameworks, bilateral/multilateral agreements as well as the convergence of norms through informal means. Given that this book focuses on the case study of Nigeria and the UK, regional institutions such as the

EU and the ECOWAS and their role in the global anti-trafficking regime are the most significant.

EU Anti-Trafficking Legal Frameworks

The anti-trafficking laws in Europe are consolidated within the European Union (EU). The EU became actively involved in the issue of human trafficking from the mid-1990s.[54] Starting with the release of the Joint Action on Trafficking in 1997,[55] the EU introduced a number of legislations against human trafficking binding on its members. These legal instruments include the 2000 EU Charter of Fundamental Rights[56]; the 2002 Framework Decision on Combating Trafficking in Human Beings[57]; and a Joint Action on short-term residency permits for victims of trafficking.[58] Another important EU legal instrument in this regard is the Council of Europe Convention Against the Trafficking in Human Beings, which addresses some of the omissions within the Trafficking Protocol on issues that it overlooked.

While the 2002 Framework Decision retained and in some respect significantly expanded the Trafficking Protocol's criminal justice focus for its European members, some of its enduring prominent criticisms were its weakness on victim protection as well as its lack of an anti-discrimination clause.[59] The 2004 Directive covered these weaknesses by granting short-term residency permits to third-country nationals. However, this was subject to their cooperation with authorities towards the prosecution of smugglers and traffickers.[60] The Directive, in granting such exchange, demonstrates no concern for victims and this is made even clearer in the explanatory memorandum accompanying the initial proposal. It explicitly states that the protection of victims is neither its aim nor legal basis.[61] With the intent to address the shortfall in the human rights of victims, the recent EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims proposed by the European Commission in March 2010 replaced the EU Framework Decision on Combating Trafficking of 2002.[62]

Taking further measures, the Council of Europe Convention on Action against Human Trafficking came into force on February 1, 2008. The Convention sets out measures to protect and promote the rights of victims of trafficking that states are obliged to implement. This included standards in relation to: identifying victims, providing assistance, putting in place a recovery and reflection period, residence permits, compensation and legal

redress, and ensuring any return to the home country is safe and dignified.[63] According to the Secretary General of the Council of Europe, this Trafficking Convention is one of the most important achievements of the Council during its over 60 years of existence and most important human rights treaty in recent time.[64] In comparison to the Trafficking Protocol, the Convention embodies significant improvement in recognition of the rights of victims irrespective of their nationalities as well as the connection between the protection of those rights and the improved criminal justice.[65]

In contrast with the Trafficking Protocol, the Convention is specific on states' obligation to ensure mandatory recovery and reflection periods for victims of trafficking. According to Gallagher, the Convention represents a 'revolutionary' way of thinking about trafficking and its victims.[66] States are obliged to ensure a minimum standard of assistance to all victims irrespective of their willingness to cooperate with criminal justice authorities.[67] In the realities of the current immigration regime, the Convention is limited by the natural reluctance of Member States to grant victims immigration provisions. There is nothing substantial to stop states from criminalising victims and prosecuting them for the violation of labour and migration laws within their jurisdiction.[68] So far, there has been additional attention placed on the aspect of victims' criminalisation relevant to the case study utilised in this book, which will be further explored in a later chapter. Despite the limitations of the EU legal frameworks for anti-trafficking, the EU provides for a more robust regime than the Trafficking Protocol offers. As a result, it has been a source of attaining justice for victims of trafficking, as highlighted in Chap. 2 through Article 4 of the ECHR. However, the strength of its regime is limited by its membership and can only extend to other countries based on jurisdiction. Therefore, for the purpose of this study, it is necessary to explore the provisions of the African regional legal frameworks on trafficking.

Anti-Trafficking Legal Frameworks in Africa

In the light of the EU anti-trafficking legal frameworks, it is expected that the African Union would take the front seat in promoting anti-human trafficking in Africa. Although the institution has not introduced legal frameworks directly focused on human trafficking, it addresses it within the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003. Article 4 of this Protocol specifies the

rights to life, integrity and security of the person. Paragraph 2 (g) states that State 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.[69] This Protocol is limited in its representation of the problem of trafficking in Africa as it focuses on women and does not specify measures through which prevention, prosecution and protection can be achieved.

Following this shortcoming in the African region, sub-regional organisations have taken up the responsibility of tackling the problem across their sub-regions such as the Southern African Development Community (SADC) and ECOWAS. Relative to the scope of this thesis, ECOWAS has been more significant than the African Union (AU) in promoting anti-trafficking within West Africa. Fighting human trafficking within the ECOWAS region has been a tricky dilemma. Some scholars such as Sessay and Olayode contend that trafficking has become more problematic because of traffickers' abuse of the Protocol on Free Movement of Persons and the Right of Residence and Establishment, of May 1979.[70] Free movement within Africa potentially enables economic growth and relations between West African states, but it is the limited provision to safeguard people in the course of migration that is one of the many problems of trafficking within this sub-region. Trafficking within West Africa has currently been on the increase and has been one of significant importance to ECOWAS.

In order to address the problem that trafficking presents, ECOWAS adopted the Ouagadougou Action Plan on November 28, 2002.[71] This Plan requires its Member States to fully implement vital international instruments to strengthen laws against trafficking in persons, especially women and children. The Plan, like the Trafficking Protocol, makes provisions along the lines of prevention; protection, monitoring and evaluation of the Plan of Action; information exchange, amongst others. ECOWAS Heads of States adopted the interim Plan of Action at the 25th ECOWAS Session in Dakar in December 2001. During its sub-regional expert meeting, ECOWAS recommended that national task forces of Member States should coordinate all national measures in the fight against trafficking in persons. Accordingly, the ECOWAS Executive Secretariat is required to assist member countries in their efforts to establish their national task forces and facilitate their coordination.[72]

Additionally, the ECOWAS Convention on Extradition[73] and the Convention on Mutual Assistance in Criminal Matters[74] were established

as useful tools to aid cooperation amongst its members. The Convention on Extradition empowers national courts of law with an effective instrument to arrest, try to enforce penalties against offenders who flee one Member State to seek shelter in another. The Convention on Mutual Assistance in Criminal Matters allows member countries to assist in proceedings or investigations in respect to offences, which at the time, falls within the jurisdiction of other Member States. Unfortunately, this Convention has not been signed and ratified by all the Member States.[75] While the legal frameworks adopted within this sub-region rely on Member States' cooperation, they are hampered by the low level of commitment of most of these countries, sporadic and uncoordinated actions, lack of adequate data and technical incapacity for surveillance and tracking down of traffickers, which comes as no surprise.[76] There is also no effective and practical framework for exchanging information between law enforcement and criminal justice agencies of member countries in the fight against trafficking.

Although the existence of bilateral agreements between states further extends the political will to coordinate counter-trafficking measures, the existence of corruption—especially within major strategic national security agencies—constitutes a serious impediment in the fight against trafficking within ECOWAS regions. Consequently, this limits the integration of human rights, which is not relatively prominent within its framework. While ECOWAS efforts against trafficking are limited to the scope of its Member States, its anti-trafficking frameworks potentially supplement states' obligations towards meeting the objective of the anti-trafficking regime. Similarly, the regime is further augmented by non-treaty instruments that are relatively significant as part of soft law to guide the actions of states.

Non-Treaty Instruments Within the Anti-Trafficking Regime

Non-Treaty instruments often come in the form of bilateral or multilateral declarations, codes, memoranda of understanding, 'agreements' and United Nations resolutions, as important sources for guidance. As part of soft law, these instruments give the impetus to the development of legal norms and standards.[77] The 2002 United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking

(Trafficking Principles and Guidelines) is one the most important non-legal international instrument in the area of trafficking, based on international treaty laws. While insisting on the primacy of human rights, parts of this document go further by using accepted international legal standards to develop more specific and detailed guidance for states in areas such as legislation, criminal justice responses, international cooperation, victim detention and victim protection and support.[78] This Trafficking Principles and guideline was further updated in form of the 2010 Recommended Principles and Guidelines on Human Rights and Human Trafficking.[79] The latter guideline is one of the most detailed guideline on how states should integrate human rights in the way they address human trafficking. According to the OHCHR Commissioner,

> Despite the impressive achievements of the past decade, the rights of individuals and the obligations of States in this area are not yet widely or well understood. As a result, the potential of international law to guide and direct positive change is only partially being fulfilled. The Commentary seeks to remedy this situation.[80]

Quasi-legal and non-legal instruments have also been developed at regional levels, expanding existing legal principles and sometimes going beyond what is formally agreed between states. They often ascertain the direction in which international law is moving with respect to a particular issue. These instruments extend support to states in the form of guidelines on how to implement and enforce international rules and standards within their territory for the eradication of trafficking. While its non-binding nature does not instil any legal obligation for states, it complements the legal trend within the anti-trafficking regime towards promoting cooperation in keeping with the required norms. Non-treaty instruments alongside other international legal instruments as addressed within this chapter, despite their inherent limitations, provide the foundation for cooperation between states against trafficking.

However, it does not guarantee that states will comply with the obligations that it sets out. Consequently, regimes have taken different forms to ensure that its norms and principle are not just written obligations but ones that states take seriously. While the different international legal frameworks present a foundation for international cooperation to combat trafficking, the argument presented in Chap. 2 asserts that some of the issues within anti-trafficking transcend legal groundings following

political and social realities. Hence, international cooperation within the anti-trafficking regime needs to operate beyond its legal ramifications to address existing norms within the trafficking discourse. Non-treaty agreements (whether bilateral or multilateral) present opportunities for the latter. Both international law and international relation scholars have explored the extent of international cooperation through regime and compliance theories. Therefore, the subsequent chapter utilises this theory to elucidate how cooperation emerges within the anti-trafficking regime and its implication for anti-trafficking.

Anti-Trafficking Regime: Theorising International Cooperation and Compliance

According to Little, regimes are established to enable cooperation within the international system.[81] Keohane defines cooperation as "when actors adjust their behaviour to the actual or anticipated preferences of others, through a process of policy coordination".[82] Here, 'policy coordination' supposes that the policies of each state will be adjusted to reduce negative consequences for the other states.[83] For issues of international concern such as human trafficking, cooperation is important in initiating collective action for the agreed outcome to suppress trafficking as stipulated within its legal frameworks, guiding principles and norms. Cooperation is the raison d'être of the Organized Crime Convention and its Supplementary Protocols. Article (1) of the Convention states that "the purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively."[84] In signing up to this Convention and its Protocols, states inherit the obligation to meet its objectives. Cooperation emphasises the positive aspects of human activity as all participants in a cooperative effort are maximising common interest and/or minimising common aversions.[85] Given the existence of international anti-trafficking laws created to eradicate human trafficking, why do states still find it difficult to cooperate in this regard? It has become obvious that the extent to which states will obey this international law, seeing the way they relate, is contingent to a number of factors grounded in their political, socioeconomic identities.[86]

State leaders seeking to build favourable political images of themselves often use the concept of cooperation loosely as 'political propaganda'. We see this everyday with politicians who often use the term 'international

cooperation' to describe an agreement between two or more countries. When leaders exchange opinions at summits, they emphasise their reinforcement of cooperation and peaceful resolution to international issues as a conclusion of a summit.[87]

Such rhetorical usage of cooperation can be confusing when politicians mention international cooperation. To an extent, this sort of ambiguity in the conceptual treatment of cooperation by politicians seems to be generally accepted without critical thought.[88] In exploring international cooperation in the anti-trafficking regime, emphasis should be laid on how members of the international community comply by adjusting their domestic legislation and norms in positive contribution to the global public good provisions. This also applies to ways through which states have intensified cooperation vis-à-vis bilateral or multilateral agreements.[89] By ratifying the Organized Crime Convention, states take the first step towards establishing cooperation. However, ratification does not always mean that states will comply with the principles of the anti-trafficking regime. Hence, it is the operational framework of international cooperation that is often the critical point for empirical analysis.[90] Such analysis will include actions taken by cooperating states to comply with the anti-trafficking regime.

Within the international law and international cooperation scholarship, compliance is simply defined as "a state of conformity or identity between an actor's behaviour and a specific rule".[91] The fact that states comply does not necessarily guarantee 'effectiveness' which occurs as a change in behaviour. As we often tend to see with the international legal frameworks outlined in this issue area, international agreements often 'reflect a lowest common denominator dynamic' that simplifies compliance but results in negligible influence on the behaviour of states.[92] Challenges of states' compliance with the anti-trafficking regime stem from different factors, which include how regimes are formed. Scholars have devoted time in literature in explaining how regimes are formed and how they anticipate regimes will enable compliance for international cooperation from three major standpoints explained against the backdrop of regime theory.

Neorealist: The US Sanction Regime

Regime theory emerges from the neorealist, neoliberal and constructivist standpoints. Although these theories help explain why states cooperate, they do not guarantee the internalisation of norms amongst all cooperating

parties in certain issue areas. Neorealist regime theorists are of the view that states' self-interest and absolute/relative gains are an explanation for regime formation.[93] This rationalist focuses on the role of power structure in regime formation centred on the existence of a hegemon. In other words, they are of the view that a strong hegemonic way makes for a successful regime. Neorealists use 'hegemonic stability theory (HST)'[94] to best explain this regime formation, where a hegemon establishes the norms for conduct on several issues.[95] In this instance, compliance may occur for 'instrumental reasons' to avoid sanctions from powerful states.[96]

A manifestation of the realist viewpoint on anti-trafficking could be demonstrated with the USA anti-trafficking regime where the USA has self-appointed itself as 'global sheriff or watchdog' for anti-trafficking.[97] This US mandate emerges from its domestic legislation as part of its foreign policy on anti-trafficking through the Trafficking Victims Protection Act (TVPA).[98] This led to the Trafficking in Persons (TIP) report which sets out to monitor almost all states' response to anti-trafficking, ranking countries according to their compliance with the TVPA minimum standards from Tier 1 to as low as Tier 3.[99] In line with the TVPA and as a matter of policy, the USA will not grant any humanitarian aid or related assistance to countries that do not comply with the TVPA.[100] In addition, such countries are likely to face US opposition when seeking the assistance of the IMF and the World Bank.[101] As Susan Strange points out, institutions such as the World Bank, International Monetary Fund (IMF) and other related organisations established after World War II are only tools of 'American grand strategy'.[102]

While this sanction regime's 'name and shame' technique may have prompted how some states perceive themselves or are perceived by others within the anti-trafficking discourse, it does not essentially promote significant change in states' behaviour in tackling the reality of the issue essential for cooperation. Rather, it coordinates the actions of states towards principles and norms that are less legitimate for effective international cooperation.[103] Countries such as Nigeria utilise the US sanction regime as a benchmark for their performance but most likely only when it boosts their reputation. Conversely, where it has reduced the status of Nigeria from Tier 1 to Tier 2, it seems unclear as to what difference it makes to Nigeria's reputation and willingness to improve. International relations theorists and international lawyers have long argued that reputational concerns help ensure that states maintain their agreements.[104] However, this may be diluted through multiple reputations, which some states possess.[105] States

cannot afford to ignore the reality that failure to keep a particular commitment will affect other states' estimates of its reliability/value as a partner in other future agreements.[106] As a result, even if some states possess poor reputations within the anti-trafficking regime, they are not regularly excluded from new agreements in other issue areas.[107] For a country such as Nigeria that is rich in oil, the chances of its exclusion from economic-related agreements due to its poor compliance within the anti-trafficking regime are slim.

Furthermore, the US sanction regime also suffers the limitations associated with second-hand data that inevitably breeds a negative impact on international cooperation by causing governments to downplay the seriousness of their trafficking problems in order to avoid the consequences of the sanctions. The US sanctions regime once again also reaffirms standard critiques of US unilateralism and its effects on international law/institutions.[108] The regime constitutes an incentive to comply that is coercively 'persuasive'.[109] Coercive action through imposing sanctions is not the best way to enforce legal norms, as opposed to a change in the way that people think about themselves.[110] Otherwise, the critical factor, which is the eradication of trafficking, may not be altruistic or normative.[111] The sanction regime, taking a realist route, demonstrates some empirical realities within the anti-trafficking regime but does not proffer the best solution for cooperation.

Liberalist: Common Interest and Issue-Linkages

Neoliberal assumption posits that cooperation cannot be hampered by a clash or imbalance of power, but by a conflict of state interests. While relatively sensitive to the effects of power differentials, they emphasise the role of international institutions in helping states actualise common interest. Compliance from a liberal approach is based upon self-interest and fairness.[112] Liberalism focuses upon both state accountability and individual liberty.[113] It emphasises the plurality of states in international law including institutions such as the United Nations (specifically, the UNODC) taking up a coordinating role; individuals, NGOs; and multinational corporations (MNCs).[114] Liberals base state cooperation on the concept of the 'public goods'[115] and an anticipated concurrence between collective interest and the self-interest of states.[116] In exploring international cooperation within the global refugee regime, Bett used the liberal approach to demonstrate how the global North and South impasse has been addressed

through issue linkages.[117] The notion of issue linkages here "refers to the way in which issues are grouped together in formal inter-state bargaining".[118] Therefore, Bett asserts that "interests in linked issue-areas have been necessary for cooperation" and that international institutions such as the United Nations play a massive role in helping states to recognise their interest.[119]

In this instance, Bett's hypothesis assumes that states can find a common interest or common gains to cooperate. However, in reality, 'interest' means different things for different states, and therefore, creates a clear disparity in the capacity of states to cooperate. When dealing with states with different identities, possessing different interests, it is often difficult to enable a change in their behaviour that does not consider their differences. Resonating from the basic maxim of international law, theorists such as Slaughter and Moravcsik argue that democracies are more inclined to 'do law' with one another.[120] Similarly, a human rights framework within the EU system may work better because it is made up of liberal democracies that share motivations for 'collective obedience'.[121] Hence, it is arguable that the EU frameworks, as demonstrated earlier, remain more robust than the Trafficking Protocol even though they both conform to a liberal approach. However, within the context of the case study for this book, the countries of interest differ in their identities and interest.

Although Nigeria and the UK have agreed to cooperate towards suppressing human trafficking as a common goal through the ratification of the Trafficking Protocol, complying upon ratification depends upon many different aspects.[122] These include questions on whether the provisions towards reaching that goal appeal to their identity. Hence, the real motivation for ratification is crucial. Some states may be 'sincere ratifiers' but also join a treaty to avoid criticism or even use the membership to disguise the abuse of such norms.[123] Given that not all aspects of human rights reflect the interest of many states, states take solace in other interests that the anti-trafficking regime makes available.[124] At best, Member States try to signpost their interest within the anti-trafficking regime, in line with their diverse identity.

As previously illustrated, some states are able to align the trafficking to their border control and national security agenda. For states like this, the fight against such human rights violation falls in line with their identity as 'human rights crusaders'. At its best, it gives a 'humane face' in the pursuit of other selfish agendas. For this reason, some states have taken the cooperation against trafficking more seriously,

whether or not it is at the detriment of human rights. As seen in the first section of this chapter, the Trafficking Protocol is not only insufficient in dealing with the human rights factors in anti-trafficking, but it is restricted by its legal parameters in dealing with the human-centred concerns of trafficking within the context of this study. Although the main objective of the Organized Crime Convention and its Protocols is to promote international cooperation against trafficking, it has not in practice guaranteed interstate cooperation beyond its legal ramifications nor even guaranteed compliance.

The previous chapter demonstrated that a comprehensive measure in addressing the human rights of human trafficking requires broadening the right-based framework to include aspects that transcends legality; the anti-trafficking regime has to make provisions for the convergence of norms that are beyond international law in order to effectively promote international cooperation that reflects the identities of states it intends to influence. While states may have to adjust their behaviour to reduce negative consequences within this international issue, some aspects of these policy adjustments cannot be uniform amongst various states, given that they may not possess the same identity. Hence, policy adjustments should reflect the diversity of states towards addressing the reality of trafficking in those states rather than conforming to the foreign policies of powerful states that may result in negligible change in behaviour that is more coercive than normative.

In essence, the problem with dealing with a country such as Nigeria whose limited interest in the reality of trafficking is defined by the foreign policy of funding states is to get the country genuinely interested in promoting the concerns of its citizens beyond the parameters of the anti-trafficking movement. In fostering interstate cooperation against human trafficking beyond just enacting laws, two questions are obvious: first, how do they see human trafficking? Second, what do they stand to lose or gain as a country within this issue area? These questions essentially determine the interest of various states (whether source, transit or destination countries) in tackling trafficking. The interest of states which are in line with the critique of the Trafficking Protocol seem to lean more on the interest of Western countries. Western states are largely major destination countries, and as a result, they have more at stake mainly from the standpoint that their borders are challenged, they face economic losses from untaxed income made from trafficking within their domain and they also have to bear the 'most' cost for anti-trafficking through the number of investigations and victims protection they have to undertake within their territories.

Hence, combating trafficking from a Western viewpoint is an urgent issue, for the most part, to reduce huge trafficking flows into their countries. As a result, major destination countries such as those within the membership of the EU tend to cooperate better as they possess similar identity and interest—at the very least, to secure fortress Europe. It is for this reason that Western states tend to function as 'quasi-enforcement tool' to ensure compliance.[125] However, what do these states seek to use compliance to foster and for whose interest?

In contrast, sending countries, which are mainly non-Western countries, may not view anti-trafficking totally the same way as the West following what they consider to be at stake for the interest of their territory. First, as sending countries, the exploitation occurs elsewhere, the problem is less noticeable and therefore less urgent.[126] In countries where there is high tolerance to human rights violation in general, the problem of human trafficking is likely to be ignored. According to Cho et al., some sending countries might also find concrete economic reasons not to comply, especially to do with the expectation of remittance and/or population pressure[127] and the high cost of compliance.[128] From this viewpoint, sending countries may comply due to external pressures, whether from Western states or other non-state actors. This does not mean that non-Western states may not experience some loss for not complying. They include the loss of human capital, damaged reputation and the violation of their borders. Despite these potential losses, it is not in the highest priority for some of these states in comparison to developed countries. Driven by financial aid, some of these source countries are likely to fulfil the needs of the Western states at the lowest cost.[129]

Following the difference in identity between the UK and Nigeria, to what extent does compliance with anti-trafficking norms underscore the diversity that exists in states' relations therein? Although the rationalist viewpoint makes valid points on how cooperation amongst states currently play out within the anti-trafficking regime, it does not present the best condition to fulfil the objective of the regime due to the inconsistency between the regime and the related behaviour of states. For this reason, the anti-trafficking regime, as it stands, may be considered weak within the context of this study. It is in the limitation of the rationalists' viewpoint that the constructivist position is emphasised to support the position that a constructivist approach presents a better condition for interstate cooperation to address the diversity that often obstructs the success of the anti-trafficking regime in some instances.

Constructivism: Diversity, Knowledge and Identity

Also known as the knowledge-based theorists, the constructivists assume that their central variable is based on norms and rationale for cooperation and is subject to collective identity formation. This theory encompasses a wider ontological stance, which examines how interests and identities are formed, and how they interact in the construction of reality.[130] Thus, it adopts an approach that scrutinises paradigmatic aspects of rationalists' theories that are often overlooked. Whilst the rationalists proffer an overview of how and why states currently cooperate, it has stifled the progress and legitimacy of the anti-trafficking regime following existing conflating agenda, especially between Western and non-Western states. As a result, some constructivists are highly critical of the rationalists for their flawed assumptions which includes notions that state actors are forever rational; their interests remains static and that the difference in interpretation of interest and power is not possible.[131]

Constructivists approach regimes from a sociological or post-positivist viewpoint that considers 'learning' or 'knowledge'. Essentially, they are of the belief that state actors cannot be separated from their sociopolitical surroundings, which in turn forms their identity. Thus, states' foreign policy depends primarily on their identities and what they believe to be in their national interest.[132] Though trafficking from Nigeria to the UK is also a problem of the Nigerian state, they may not perceive the problem in the same light due to other factors that surrounds or make up their identity. These factors are often enthused by the endogenous beliefs and ideas often held by individual decision-makers. However, both their belief and interest are subject to change following increased learning.[133] Despite the criticism of rationalists, some constructivists often describe their ideology as a 'middle ground' position, especially because it does not dismiss the rationalist positions completely as they have also made some valid points in the matter.[134] A constructivist approach to international cooperation within the discourse of anti-trafficking allows for a contextual articulation of how states can cooperate beyond legal limitations in order to eliminate the realities of human trafficking. The human-centred approach best illustrates these realities by setting the understanding and the solution of trafficking against the circumstance of the countries in question. In order to integrate such an approach in interstate cooperation, a constructivist standpoint must be adopted. This includes the opportunities it presents for international cooperation and compliance.

Armstrong et al. suggest that constructivism presents three reasons for compliance: persuasion, norm congruence and habit.[135] Persuasion in this context is explained as a process of 'social learning, information conveyance' or 'internalization of norms'.[136] Harold Koh, in stating his views on compliance, best explains 'habit' in this context. Although its emphasis on 'transnational legal processes' may seem to resemble a liberal approach, his description of the process is consistent with constructivism as its features are 'non-traditional, normative, dynamic and non-statist'.[137] Following Koh's assertion, compliance occurs when international law against trafficking is internalised in the domestic system through 'internalised obedience' or as Stavropolou puts it, 'internalisation of norms' rather than 'enforced compliance' as seen with the US sanction regime.[138] Koh's transnational legal process does not directly explain how and why states cooperate but instead proffers an empirical pathway to the internalisation of international norms. The process explains how countries can internalise anti-trafficking norms into their domestic system to the point that they take it for granted. The latter remains essential to interstate cooperation.

Elements within Koh's process of internalisation also resemble the 'spiral model' developed by Risse, Ropp and Sikkink. Essentially, Koh asserts that compliance is driven by the efficacy of domestic rules as part of 'bringing international law home'. However, the effectiveness of internalisation is dependent on the norm at stake.[139] Within the anti-trafficking regime and as proposed in the previous chapter, human rights norms are at stake and evidentially have not been the easiest to internalise. Whilst the domestication of international law is a positive step within the anti-trafficking movement, it does not guarantee that states and its citizens would change the way they see the problem of trafficking. Hence, a human-centred perspective, as articulated earlier, allows for a social constructive viewpoint that allows states to incorporate their real concerns in the process of internalisation. Such approach permits measures that touch upon the sociocultural realities that are concomitant to the diversity of states and their experiences of trafficking.

Constructivists are also interested in argument. Risse defines arguing as "a mode of communication in which mutual assessment of the validity of the argument is geared towards a 'reasoned consensus' rather than imposed instructions"[140] Arguing and persuasion can promote legitimacy by providing 'voice' opportunities to various stakeholders, broadening participation and ownership in the discourse.[141] The role of [Trans] national non-state actors as agents of socialisation is crucial to persuading actors

who oppose compliance.[142] This also includes the role of epistemic communities who provide the knowledge valid for such persuasion. Haas defines epistemic community as a "network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area."[143] Epistemic communities are knowledge-based experts who can play a role in articulating the cause-and-effect relationships of complex problems, thereby helping states to identify their interest, framing the issues for collective debate, proposing specific policies and identifying salient points for negotiation.[144] Haas proposes that the diffusion of new ideas through knowledge sharing can lead to new patterns of state behaviour for international policy coordination.[145] Such diffusion of new ideas creates space for the exploration of a human-centred approach as a new consideration in addressing international cooperation against human trafficking that transcends legal parameters.

These communicative processes from a constructivist viewpoint consider states' history, current political environment and the reputation that state wishes to achieve as well as their ability to internalise the norms in question. Elements such as history, culture and religion that cannot easily be changed have a profound consequence on the social reality of trafficking in any state. Within the anti-trafficking regime, some states still find it difficult to cooperate and comply in the real sense of internalising the regime's principles and norms due to a lack of shared knowledge. The 'carrot and stick' or 'logic of consequentialism' approach of the rationalist can only go so far as fulfilling the interests of the hegemonic, but will rarely change how state actors view what is appropriate and what needs addressing.[146] If states are to cooperate and comply with the anti-trafficking regime, [in] voluntary non-compliance states have to internalise new norms and rules of appropriate behaviour up to the point that it is "taken for granted".[147] Such internalisation often results in the redefinition of actors' interests and identities.[148] The diversity inherent in trafficking from Nigeria requires the shared understanding of both Nigeria and the UK as to what trafficking constitutes across their territory; otherwise, it is the rights of the victims that may suffer from existing skewed understanding. For instance, there was a constant reiteration by Nigerian officials that anti-trafficking is another 'invention' of the West and another method to 'blacklist' Nigeria.[149] Risse and Sikkink recognise this attitude in their spiral model and attributed it as part of the socialisation process.[150] This does not mean that Nigerian authorities do not agree that trafficking exists but

rather there is a lack of consensus with countries such as the UK as to what it constitutes that remains challenged. Within the context of this study, the way both countries understand the issue in congruence with their identity affects how they currently address the issue. This becomes more complex from a human-centred viewpoint where sociocultural factors within countries such as Nigeria reduce the recognition of rights, especially where UK stakeholders have to deal with victims affected by these factors. Attributing this to how states cooperate in the human rights regime, An-Na'im asserts that:

> Restricting international human rights to those accepted by prevailing perceptions of the values and norms of the major cultural traditions of the world would not only limit these rights and reduce their scope, but also exclude extremely vital rights. Therefore, expanding the area and quality of agreement among the cultural traditions of the world may be necessary to provide the foundation for the widest possible range and scope of human rights.[151]

International cooperation for anti-trafficking depends on states' compliance to address the needs and grievances of those affected by trafficking utilising a human-centred approach. In order to meet the latter objectives, states have to adopt a human rights framework that incorporates existing perceptions and interpretations of cultural values and norms for cultural legitimacy founded on solid conceptual and empirical grounds.[152] While scholars such as Renteln suggest that a cross-cultural understanding will shed light on a common core of acceptable rights, a constructive element is needed to broaden and deepen cross-cultural consensus through the continual interaction of states.[153] In addition, Haas insists:

> How states identify their interests and recognize the latitude of actions deemed appropriate in specific issue–areas of policymaking are functions of the manner in which the problems are understood by the policymakers.[154]

External imposition of what anti-trafficking constitutes has been counterproductive towards ending the sale of human beings as it halts some states from recognising the real issue. It also brands the ownership of the regime norms towards powerful states and undermines its legitimacy for the use of their cooperating counterparts. The greater consensus on the international human rights standards in anti-trafficking for the protection of individuals against this form of cruelty on human beings can be achieved by

persuading states through internal cultural discourse and cross-cultural dialogue. This does not mean that states cannot cooperate in the absence of global cultural unity but rather suggests that it would create greater opportunity to achieve it. A cross-cultural measure reduces the prejudice linked with the ethnocentricity of 'others' and gently accommodate the human-centred approach whilst adhering to the rule of law. A cross-cultural measure is not proposed to neutralise moral judgement or impair actions against injustice but rather, it should be seen as an 'exchange of warnings' in order to promote vital concerns of trafficked persons across borders.[155] When countries are aware of the diversity and importance in the sociocultural factors that fuel trafficking, then it could serve as a starting point to effectively delineate the process of anti-trafficking in terms of identifying victims and preventing the crime.

This approach requires equal commitment from cooperating states from different world traditions. However, in light of significant disparities in sociopolitical identities and level of economic development, some states/cultural traditions are unlikely to engage in internal discourse as much as others and as a result unable to participate in cross-cultural dialogue as effectively as others. As An-Na'im puts it, this measure requires a "certain degree of political liberty, stability, and social maturity as well as technological capabilities that are lacking in some parts of the world".[156] This is where Global Northern states and international organisation should aim their humanitarian aid—towards continually creating opportunities, knowledge sharing and inclusive participation with an attempt to expand the collective ownership in this fight against trafficking beyond the existing provisions of international law. How Nigeria and the UK adhere to such suggestion in their bilateral cooperation as part of anti-trafficking is further expounded in later chapters. In the meantime, it is crucial to elucidate the concrete nature of the problem it intends to address within the geographical expanse of this study. It is in the concrete understanding of the operation of trafficking within this study that anti-trafficking approaches should begin to emerge, and in addition, inform the critical analysis of the anti-trafficking efforts of Nigeria and the UK so far.

Conclusion

Addressing human trafficking requires tackling the shortcomings of human rights that poses a challenge to anti-trafficking as demonstrated in the previous chapter. It would be anticipated that the Trafficking Protocol

and other regional legal frameworks would support such a protectionist framework. Instead, this chapter underscores that the principles of the anti-trafficking regime are not consistent with the human rights framework, let alone a human-centred prescription. The Trafficking Protocol provides for a border control and criminalisation approach that currently undermines human rights as seen with the analysis of the instrument. The EU anti-trafficking legislation, which is more robust to address the human rights aspect of trafficking, depends on states' interpretation that is more state-centric than human-centred, but also remains limited by its membership. On the other hand, measures employed by the ECOWAS have had limited influence in securing the commitment of its Member States. These legal instruments have set out the framework for international cooperation by obliging states to domesticate international law and set the foundation of how they cooperate. Nevertheless, why and how will states cooperate in promoting the anti-trafficking regime? This is especially critical in the proposal that human rights should not only take primacy in addressing trafficking but be broadened beyond legal frameworks.

Each of the theories explored in this chapter—namely, realism, liberalism and constructivism offer an insight as to why and how states cooperate within anti-trafficking regime. The US sanction regime is consistent with a realist framework while the Trafficking Protocol, EU and ECOWAS are consistent with the liberal approach with the assumption that states possess a common interest to combat trafficking. Without denying the points made by the rationalists, this chapter maintains that state identity varies and this affects how they perceive their interest in addressing the dilemma of trafficking. The identity of states, which includes their history, culture and political terrain, is crucial to how they view trafficking and their interest to address the issue. Ignoring such diversity is a recipe for failure to counter-trafficking, at least in a framework aimed at meeting the needs and circumstances of those at risk, victims or survivors of trafficking. It is for this reason that this chapter opts for a constructivist standpoint of international regime which allows for a more contextual framing and approach for cooperating within the anti-trafficking regime.

Cross-border trafficking is a process that involves at least two or more states at one time. In this connection, the cooperation of states is crucial but cannot be addressed solely from the viewpoint of Western identity based on border control and securitisation. The latter factors are crucial but limited to ending trafficking. Therefore, cross-cultural dialogue and the development of knowledge through epistemic communities and interstate

interactions are pragmatic ways to overcome the Western and non-Western impasse for cooperation in the anti-trafficking regime. It is in need to build this knowledge that the next chapter examines the MO of trafficking between Nigeria and the UK so that intervention by both states is evidentially positioned to address the real issues on the ground. Therefore, paving way for an evidence-based analysis of the efforts employed to deal with these realities by both states is illustrated in latter chapters.

Notes

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PART II

Putting Anti-Trafficking into Context: A Cross-Border Perspective

CHAPTER 4

Human Trafficking Between Nigeria and the United Kingdom

Introduction

Modus operandi (MO) often used in the area of criminology literally means 'way of operating'. MO has been historically used by law enforcement agencies to analyse crimes through behaviours of the offender.[1] Hazelwood and Warren contend, "It encompasses all behaviours initiated by the offender to procure a victim and complete the criminal acts without being identified or apprehended."[2] MO can be quite simple or very complex with different dimensions and degrees of sophistication.[3] Within the context of human trafficking, Gozdziak and Bump insist that there is still a poor understanding of the MO of traffickers and their networks.[4] One of the best strategies to address this gap is for law enforcement and intelligence agencies to develop greater "local intelligence that currently exists and a deeper understanding of personalities, modus operandi [and] culture…."[5] Within the context of this case study, it broadens the indicators for allocating victimhood to persons affected, as it acknowledges elements that may not fit into the general understanding of human trafficking as we often know it.

In order to clearly examine the existing MO for this study, the process of human trafficking is explored through three different stages as adopted by different scholars and as found in the formal definition of trafficking.[6] The three main stages include recruitment, transportation and exploitation. The interesting element in the case study of Nigeria as a source country is the sociocultural lens it often offers to the analysis and understanding

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of human trafficking. This includes the element of supernatural beliefs that comes into play in the form of 'juju contract' between the traffickers and their victims. Empirical data unveils other existing elements within the process of trafficking in rejection of a one-size-fit-all lens often used to simplify a complex problem. According to Lee, there is a great diversity in what trafficking constitutes.[7] Thus, "depending on the political winds and dominant social norms of the day, what is an illegitimate trade in one era may be a legitimate trade in another".[8] A generic understanding of the problem can often result in a generic approach that is less than ideal for societies such as Nigeria with certain uniqueness in case study.

Trafficking Between Nigeria and the UK

Nigeria is a country made up of almost 160 million people.[9] This Post-colonization is one of the world's largest oil producers but is still inhabited by some of the world's poorest citizens who are living on less than $1 a day.[10] Up until today, the country has not had a respectable human rights record, and human trafficking is just one of the many social issues prevalent in Nigeria.[11] The trafficking of human beings in Nigeria is an old phenomenon that has gained new attention in the last decade. Nigeria is a source, transit and destination country for the trafficking of people. According to the United Nations Educational Scientific and Cultural Organization (UNESCO), Nigeria has acquired a reputation for being one of the leading African source countries for human trafficking including cross-border and internal trafficking.[12] Existing literature focuses more on cross-border trafficking even though trafficking within Nigeria is still on the increase.[13]

Similarly, this study is also limited to cross-border trafficking but points out that internal trafficking may also lead to cross-border trafficking as indicated by some survivors of trafficking.[14] They are first trafficked from their rural villages to the urban areas and then subjected to other levels of trafficking. As a source country, Nigerian victims are trafficked mainly to Europe, the Middle East and to other African countries. While the trafficked persons originate from all parts of Nigeria, some regions tend to be more prominent than others. These regions include Ebonyi, Akwa Ibom, Cross-River, Edo, Imo, Kano, Delta, Ogun, Oyo and Lagos.[15] According to UNESCO, about 92% of Nigerians trafficked to Europe are from Edo State.[16] There have also been records of recruitment from other Nigerian states such as Enugu, Anambra and Akwa Ibom following the increased attention placed on Edo State.[17]

Europe is the major destination continent for trafficking from Nigeria. Prominent European destinations for trafficking from Nigeria include Italy, Belgium, Spain, the Netherlands, Germany and the UK. In the UK, human trafficking has received a great deal of attention in the last decade. The UK remains a major destination country for about 51 countries around the world in various proportions. Many victims of trafficking in the UK come from Eastern Europe, Asia, Africa and South America. However, Nigeria remains a major source country for human trafficking to the UK, as proven by existing statistics.[18]

The estimated scale of the problem has been on a highly recycled figure of 4000 victims of trafficking.[19] In order to address problems associated with these statistics, the UK introduced the National Referral Mechanism (NRM) and so far, has kept a quarterly annual account of trafficked persons identified in the UK. In 2012 alone, the UKHTC (later became the National Crime Agency [NCA]) recorded 1186 persons referred to the NRM. In 2014, the NCA estimated that 2744 persons, including 602 children, were potential victims of trafficking for exploitation in 2013, an increase of 22% on 2012.[20] However, another statistics provided by a charity called UNSEEN contends that in 2015, the UK identified 3266 people as potential victims of trafficking.[21] This shows a 40% increase on 2014 figures. In 2016, 3805 potential victims were referred to the NRM as seen in the report published by the NCA in 2017.[22] These figures however do not reflect the true scale of the problem due to the hidden nature of the problem; limited reporting and/or referrals; and the fact that not all victims referred to the NRM system are positively concluded as trafficked.

Like Nigeria, the UK also has a problem of internal trafficking, mainly of British girls.[23] Without diving deep into the latter topic, it is worth mentioning that the awareness of internal trafficking within the UK ignited the increased focus on human trafficking in general within the UK. As the reality of the problem was increasingly identified close to home with British citizens affected, the level of moral panic for the issue also increased. Even though human trafficking has always existed in the UK mainly affecting non-citizens, the issue started to gain unprecedented attention as soon as it became clear that British citizens in the UK were also significantly affected. As a result, the focus also extended to migrant trafficked victims, thereby provoking the need for the government to understand the source, nature and depth of the problem. As one of the top

source countries for trafficking into the UK, the need to understand the MO of trafficking from Nigeria has been of great importance in the last five years, especially after the Lord Laming report and the Victoria Climbie case.[24] The upcoming sections will focus on breaking down the MO of human trafficking in order to understand its process between Nigeria and the UK.

Human trafficking is a process that involves different stages, rather than a single offence.[25] According to Naylor, "crimes follow 'scripts' which permit them to be broken down into a series of constituent acts regardless of the identity of the particular criminal".[26] Victims of trafficking pass through these various stages involving different persons at each stage of the process. The three major stages as identified within the Trafficking Protocol and most literature on trafficking are the recruitment, transportation and exploitation stages. However, as asserted by Van den Anker, the definition as presented by the Trafficking Protocol is too narrow and does not always fit into the majority of human trafficking cases.[27] For trafficking into the UK, Pennington et al. add another stage, which is called the 'victim disposal' stage.[28] At this stage, victims are 'disposed of' once they decline in value or are of no use to their final owner. From a law enforcement perspective, an additional stage would be the 'criminal proceeds', which may include money laundering, tax evasion and investing in other criminal activities.[29] While these stages of human trafficking might be universally known and accepted, the patterns of human trafficking are different across diverse societies. Trafficking in Africa alone is characterised by sub-regional differences.

According to Aronowitz, within West and Central Africa regions, two major patterns of trafficking can be witnessed.[30] "One involves intra-regional trafficking flow … [of children] for the labour market; the other, the trafficking and sexual exploitation of girls and young women in forced prostitution to destinations in Europe, the Middle East and the United States".[31] In the coming sections, these three major stages of trafficking are used to establish the MO pertinent to understanding Nigeria/UK trafficking. Recruitment within this context represents the sourcing and enlisting of persons to be trafficked. The transportation stage involves the systemic mode through which the trafficker facilitates the movement of the victim. The exploitation stage entails the purposes of the trafficking of persons in completion of the human sale transaction. All of these stages are carefully illustrated, starting with the recruitment stage.

Recruitment Stage

Recruitment within this context refers to the process of sourcing/attracting, selecting, contracting and on-boarding certain persons to be trafficked for different forms of exploitation. Recruitment according to the Trafficking Protocol takes place in different ways including through deception, abduction and coercion.[32] Recruitment in cross-border trafficking takes place in the country of origin—in this case, in Nigeria. According to Bales, this process varies from case to case, but there are many commonalities.[33] A review of various cases of trafficking from Nigeria indicates that there have been fewer cases of 'abduction' and more of coercion, deception and in most cases willing participants who volunteer out of ignorance. Although Nigeria is a major source country for trafficking, there is little evidence in academic literature that clearly elucidates the process. Following empirical data gathered on the varying process of recruitment for trafficking in Nigeria, this stage is divided into two parts including the sourcing of potential victims and the agreement between traffickers and their victims (which would be referred to as 'juju contract' for the purpose of this study). Sourcing for victims takes different forms and involves different actors. Victims are sourced through travel agencies, employment agencies, grooming, media advertisements, peers, illegal adoption, families and even victims themselves. This often starts with deception or coercion with fraudulent promises of a better life in the UK, education and jobs. Potential victims are recruited from rural areas, universities or simply through oral conviction.

Sourcing for potential victims very often depends on the level of the criminal network. The crime could be carried out by 'individual traffickers',[34] 'loosely connected criminal networks'[35] or what Friesendorf call 'small-scale informal networks'.[36] The latter takes the form of small groups of individuals within limited family networks or ethnic communities that may extend across borders.[37] Many cases of trafficking from Nigeria (especially child trafficking) often fall within the context of small networks. Sometimes, victims are sourced through word of mouth and informal introductions within their communities. Victims and their families may be deceived or coerced with fraudulent promises of a better life in the UK and education for the child. A survivor of trafficking (Nkem) who was trafficked at the age of 11 years for domestic servitude from Nigeria to the UK stated:

> My village is really small; everyone is related one way or the other. So, when this Aunty[38] came for me, my parents felt it was okay to go with her with the hope that this was an opportunity for me to be better educated, since I was doing so well in school … I knew I was expected to help out with chores but not to the point that affected my education.[39]

Another survivor of trafficking, Efe (20 years old) stated:

> The Uncle told my parents that I am going to work as domestic help. I was deceived and taken to Lagos to work as a babysitter … I don't know the way to Lagos … after; I was taken to abroad for prostitution.[40]

Parents blatantly offering their children were also evident during fieldwork in some of the rural areas visited in Nigeria, where at least two parents offered their daughters whilst promoting their [the girls] domestic work skills.[41] These parents did not seem to mention education as a motivating factor. Informal employment agents also take advantage of this 'opportunity' by recruiting girls from rural areas and offering them to those who need their domestic services. These informal employment agents may not be directly part of a large criminal gang but tend to offer their services as part of the network. According to one of the survivors, the 'madam' tells the man how many girls she needs and the man supplies the girls and is paid for it. Afterwards, the madam resells these girls to another trafficker.[42]

The large-scale criminal groups are more sophisticated and have hierarchies that are more rigid, but do not work in isolation in the trafficking process. They often involve complex transnational criminal organisations that operate criminal distribution networks. They may also include several professionals that take part in the business.[43] According to Mozini, they include investors who are not directly involved, travel agents, debt collectors, brothel owners, forgers and lawyers.[44]

According to a former Met Police officer with many years of experience investigating Nigerian cases of trafficking in the UK, there seems to be a 'large family network of traffickers' following the fact that traffickers recently identified have been related through family ties.[45] Traffickers within the context of this study are either Africans or Europeans,[46] men or women. Although most literatures portray men as the main offenders of trafficking, women are key players in the recruitment and exploitation phases. All the survivors interviewed for this study asserted that their

traffickers were women. Additionally, the UKHTC Pentameter 2 statistics found that 57% of those arrested as suspected traffickers in the UK were Nigerian women.[47] These women, often called 'Madams', are sometimes former victims themselves. This puts them in positions to better understand the psyche of their prey.[48] Potential victims also take part in the sourcing by seeking the services of traffickers for migration purposes, or in some cases, they are aware of the sort of jobs they might undertake but not the gravity or real sense of the exploitation.

The second phase of recruitment peculiar to Nigeria cases of human trafficking is the juju contract—involving oath-taking rituals. This aspect of recruitment does not apply to all cases but seems to have taken the process of trafficking to a different dimension. For some cases, the phase is very crucial as to whether the trafficker would continue with the process or not. However, in other cases, it takes place at the destination country. According to a survivor, Mary (19 years old) in Pidgin English:

> When I reach there I swear make I no implicate her, I swear that I cannot send money home or tell anybody about the work you are doing … until you pay your debt.[49]

This is translated as follows:

> When I got there, I swore not to implicate her [trafficker], I swore that I would not send money home nor tell anyone about the work that I have undertaken until I pay my debt.

Most of the oath-taking ritual often happens in the source country—in this case, Nigeria. 'Juju', as most people call it, can be defined as a fetish or charm, believed by West Africans to have magical or supernatural powers. According to Opara, "psychological coercion has proved [to be] most productive for traffickers of African women", mainly due to the traditional belief in the supernatural and ancestral spirits held by some African communities.[50] Before the traffickers procure the travel documents as part of the trafficking process, victims undergoes oath-taking rituals[51] at juju shrines declaring to pay back their debts as well as obey their 'madam' or 'Oga' (traffickers) under all circumstances.[52] The amount of this debt is sometimes agreed during or before the ritual is performed and can range between £500 and £12,000 or more.[53] This juju ritual serves as a contract between the trafficker and the victim for the purpose of "allegiance,

secrecy, confidentiality and repayment of the cost of her journey" and other expenses incurred in the process, as solely determined by the trafficker.[54] As a survivor indicated, "I did the voodoo oath in exchange for the transport." Another survivor said:

> I was obliged to do juju several times during the journey. I was obliged to do it; otherwise, it would have been as if we did not trust them. It was so that we wouldn't talk to the police.[55]

It is also not easy for women to refuse this oath-taking.[56] This is for several reasons including that the victims often view the trafficker as an 'helper' or 'good Samaritan' and sometimes would volunteer to take the oath to reassure the trafficker of their allegiance.[57]

According to Gbadamosi, this ritual often requires personal clothing of the potential victim, their blood, pubic hair, finger nails and so on.[58] The entire scenario of the ritual generates an aura of fear, coupled with the rites which can be rather violent and the implications of breaking the contract—which is often sickness, misfortunes or death.[59] This 'Juju contract' breeds fear of reprisal on the African trafficked women and compels them to endure their 'sufferings in silence'.[60] In some cases, the trafficker holds on to some of the things taken from the victim's body during the ritual, almost like owning a piece of the victim, so that no matter where he/she is, they are never far away. Hence, running away is usually not perceived by some victims as a safer option. A Metropolitan Police indicated that the use of juju as a control mechanism has made Nigerian cases of trafficking a unique and difficult one to crack.[61] This aspect of the process of trafficking does not only complicate law enforcement but also has implications for victims in terms of being properly identified and supported.

Presently, in destination countries such as the UK, the element of oath-taking in a case of trafficking has been relegated as a form of 'brainwashing', which implicitly or explicitly dilutes the true effect of this control mechanism on Nigerian trafficked victims who take this seriously as part of their belief system.[62] It remains a tricky situation where law enforcement authorities are at the crossroads of either undermining the belief system of victims or denying them victimhood where it matters. Some of these women are detained because they are unable to give evidence and sometimes deported to their home country while the trafficker continues to run his/her business freely. Although current international laws insists that victims' support should not be dependent on their cooperation with the

investigation of trafficking cases, such evidence is still needed to conclusively confirm these persons as victims of trafficking in line with the NRM. An approach that is centred on the experience and culture of the victim plays a crucial role in helping practitioners explore beyond legal provisions so that they do not miss out on actualising the best outcome for anti-trafficking. Nevertheless, this aspect of recruitment could be prevented if Nigeria tackles this dilemma from the source as a preventative measure to protect potential victims before the trafficking process is completed.

In the meantime, it is important to highlight that this sort of traditional oath-taking ritual remains an acceptable and common feature of customary laws in Africa. Specific to Nigeria, Ikenga assert that "in spite of Western influences, oath-taking has survived as a legitimate judicial method which the Igbo[63] believe … [to be] one of the assured ways of obtaining absolute justice".[64] Several matters of arbitration have acknowledged the legal validity of oath-taking including cases such as *Charles Ume v. Godfrey Okoronkwo & Anor* and in *Ofomata & ors v. Anoka*.[65] According to Agbakoba,

> Oath-taking is a recognized and accepted form of proof existing in certain customary judicature. Oath may be sworn extra-judicial but as a mode of judicial proof, its esoteric and reverential feature, the solemnity of the choice of an oath by the disputants and imminent evil visitation to the oath breaker if he swore falsely, are the deterrent sanctions of this form of customary judicial process which commends it alike to rural and urban indigenous courts. It is therefore my view that the decision to swear an oath is not illegal although it may be obnoxious to Christian ethics.…[66]

Regardless of the validity in Nigerian Law, juju contract in the context of trafficking is a 'sham contract'.[67] While one would argue that the potential victim had agreed to the terms and conditions of the contract out of their own free will, "the supposed element of free choice, consent and freedom to leave technically negate the applicability of international instruments on the subject".[68] One cannot renounce their liberty and freedom for the benefit of another party in a contract.[69] According to Kant, "a contract by which one party would completely renounce its freedom for other's advantage would be self-contradictory, that is, null and void".[70] Additionally, trafficking as slavery has attained the status of jus cogens or peremptory norms as provided in the Vienna Convention on the Law of Treaties.[71] Hence, it

opens doors for domestic and international instruments to intervene in the nature of slavery from Nigeria in this context, regardless of an acceptance of juju contract.

Literacy of the law and ignorance also means that victims are often not aware of their options. It is therefore the obligation of the Nigerian government to protect its citizens from such psychological abuse and trap. The Edo State Criminal Code was amended to include the criminalisation of the administration of any form of oath on a woman or girl to travel out of Nigeria for the purpose of prostitution.[72] However, traffickers tend to resort to other unfounded strategies to bypass the legislation.[73] Despite its analysis in contract law, it is the traditional belief of these women that "this contract is spiritually binding and will harm them if they default" that poses a threat and keeps them in their vulnerable situation. The traffickers use different shrines with different deities, some of whose concept of justice is limited to the agreement rather than the very nature and circumstance of the agreement. For instance, according to Metuh, whenever Arusi[74] is invoked on somebody, "it blindly kills him whether he is at fault or not".[75]

Consequently, such an element within the process of trafficking from Nigeria produces an enormous fear factor that hinders victims from reporting their traffickers to law enforcement authorities. Even where these victims come to the attention of the authorities, their stories have often been inconsistent because they often resort to lies as a way to protect themselves from the reprisal of the oath of secrecy taken. Without knowledge of this cultural influence on the results of victim identification, anti-trafficking as a whole within this context can be significantly undermined. Therefore, in articulating anti-trafficking approaches, the processes within recruitment cannot be overlooked by both countries. When these traffickers successful complete the sourcing for potential victims and establishing initial control with the juju contract, the trafficker starts to arrange to transport their new 'commodity'.

Transportation Stage

The transportation stage, which involves moving the potential victim into the destination country, takes different routes depending on whether it would be through legal or illegal means. This stage of the trafficking process shares significant similarity with smuggling except for the part of exploitation.[76] The stage involves different players depending on the

complexity of the operation. According to Bajrektarevic, several sub-units are involved in this stage including the 'navigating unit' (those who make arrangements in Nigeria), the 'logistic unit' (those who provide support services including food and accommodation) and the 'data collecting unit' (responsible for collecting the transportation fee and keeping persons to be smuggled and trafficked in a safe house).[77] For the sake of this case study, this stage has been divided into four phases including sourcing for documents, grooming, en route and border crossing. Sourcing of documents involves distribution networks aforementioned in the last section. This may involve travel agents, black-market migration intermediaries and corrupted government officials. In order to enter the UK from Nigeria, migrants need a visa for different categories as visitors or workers. Documents are either forged or legitimately procured.

Furthermore, it is often difficult to acquire this visa due to the stringent criteria often attached to them, even more for workers' visas. Hence, traffickers who want to take the legal route may apply for a visitors' visa. However, it would have been slightly difficult if the UK Home Office confirmed its £3000 bond on anyone who intends to visit the UK.[78] In the case of domestic servitude, the traffickers sometimes present the potential victims as one of their children or purchase forged adoption papers. During this process, the trafficker may decide to use a different name or illegally change the name and age for the victim. As it currently stands, traffickers often take advantage of the loophole in UK immigration system especially concerning children. Therefore, traffickers often aim at reducing the age of the potential victim who might be an adult, to the age of a child. They pay exorbitant fees for these documents, which mostly include allotting bribes to the government officials involved. The bribe continues at the airport where the victim's documents are neither properly checked nor scrutinised. During fieldwork visit at one of the immigration offices in Nigeria, samples of passports previously seized by immigration officials from potential trafficked victims were observed. Some of these passports had legitimate visas but fake names and date of birth. For instance, one passport with a legitimate visa had a birthday for '30 February'.[79]

En route (depending on the route taken), potential victims have different experiences, some of which may be detrimental to their health and life. Through illegal migration routes, trafficked persons are taken through longer routes, may encounter rape, illegal deprivation and forced prostitution in the process.[80]

UNICEF painted a graphic picture of the tortuous journey in the following words:

> Many Nigerian girls and women are obliged to take long routes across the Sahara to North Africa and make the hazardous journey across the Mediterranean in small boats. Several of them never reach their destinations because either they are abandoned en route or they drown. Those that reach their destinations are sold off to prostitution rackets and or engage in other forms of commercial sex work.[81]

Several television documentaries have shown how dangerous these routes can be for migrants. One of the many filmmakers include Paul Kenyon whose sense of injustice at the plight of migrants trying to cross the border to Europe prompted his book entitled *I am Justice: A Journey out of Africa*.[82] The book portrays migrants endangering their lives to cross the Sahara desert and the coast of Libya to enter Europe. According to Keyon, "Once there, they'd made contact with a gang of people smugglers who would pack them into a makeshift boat, and told them Europe was only a matter of hours away. Days later, having run out of food and water, their boat had capsized alongside a fishing net."[83] Some of them are captured and tortured in Libya jail before being deported. According to a reporter who interviewed one of the migrants and followed his story for two years "… if I was faced with such grinding poverty, would I have the courage to do the same?"[84]

Taking the legal route, transportation from Nigeria to the UK is often through Lagos Murtala Mohammed Airport to London airports even though the level of security involved in air transportation is continually increasing. These days, traffickers tend to target smaller UK airports to avoid the increased surveillance operations in major UK airports such as Heathrow.[85] Extant literature regarding the route of human trafficking specific to Nigeria often focuses on routes into Europe in general. A recent report by the UK Home Office, discussing available evidence on the routes of trafficking to the UK, once again relied mainly on Europe-focused reports, which do not directly give evidence on UK routes from Nigeria.[86] Traffickers often view the UK as a bridge to enter other European countries in expanding their operations. Hence, traffickers may sometimes transport their victims to the UK as an initial destination, but afterwards trade the same victim off to another trafficker in other parts of Europe.[87] The case of Anthony Harrison best demonstrates this.[88]

Traffickers from Nigeria often use the UK as an entry point into other parts of Europe. Hence, it is not uncommon to come across cases of human trafficking where victims, after being exploited in the UK, are transported into other parts of Europe such as Spain, the Netherlands or Belgium. Due to the existence of the Schengen migration scheme, the use of the Eurostar (Train) from the UK and the laxity in the inspection of visas within Europe, traffickers take advantage of the opportunities which this may generate. While the UK does not participate in the Schengen visa scheme, fewer precautions are placed on the border where people emigrating from the UK to other European countries as opposed to the rigour placed on border security when the same persons are coming from Nigeria with a Nigerian passport.

As the UK Border Agency (UKBA) consistently changes its policies and procedures to tighten their borders, so do traffickers endeavour to master the system for their criminal use. The tactics used by traffickers often depends on the purpose of trafficking. For domestic servitude, which often involves extended family members, the victim may travel with the trafficker as his/her child/dependant. For sexual exploitation, traffickers move their victims (especially as children) through the UK asylum routes. Here, traffickers intentionally arrange for the child to come to the attention of the authorities. The child is groomed prior to travelling to the UK to stick to a particular story for the benefit of the operation. This scenario often happens after sourcing the document but plays out upon arrival to the UK. According to Bales, the cooperation of the victim is often needed to "successfully navigate border crossings and immigration controls".[89] Sometimes victims are brainwashed to believe that the law enforcement authorities do not operate in their [victims] best interest and will deport them if they were found out.[90] Victims who most of the time truly believe that they will gain a 'better life' in Europe would do all they can to stick to the plan of the trafficker.

Generally, when children arrive from abroad and present themselves as unaccompanied or separated, local authorities are obliged to offer a variety of services for their safety and wellbeing regardless of their nationality as predicated in international law.[91] The exclusion of rights that applies to non-citizens often does not apply to children. According to Gallagher,

> Of all the core human rights instruments, the Convention on the Rights of the Child (CRC) provides the most clarity on the point of its application to non-nationals … All trafficked children within the jurisdiction of the State Party would therefore be entitled to full protection of that instrument, irrespective of any other factor.[92]

As the UK has ratified this instrument, the state is obligated to ensure the best interest of the child. This is manipulated by traffickers to get children into the country at the very least until the next stages of the trafficking process. These children often aged between 15 and 17 years who arrive in the UK unaccompanied are initially taken into temporary care. Within a short period after being taken to care (in a matter of weeks), these children are reported missing.[93] The 2007 report by Child Exploitation and Online Protection (CEOP) on child trafficking in the UK showed that 55% of the total children within the data sample of their survey were indicated 'missing'.[94] According to a law enforcement officer, these potential victims often leave the safe house to meet their traffickers and never come back.[95] The UK government is yet to come up with the most appropriate methods to address the loopholes in the system that traffickers often prey upon. Once victims escape to meet their trafficker, then the exploitation stage commences.

Exploitation Stage

According to the Trafficking Protocol, "exploitation … includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices, and the removal of organs." Nigerian victims of trafficking found in the UK, both children and adult, are mostly trafficked for forced prostitution and domestic servitude. In some situations, both forms of exploitation tend to overlap. The 2012 NRM report shows that at least 53% of victims trafficked for sexual exploitation, 37% for labour exploitation and 10% for both.[96] However, specific to Nigeria and according to the 2016 NRM statistics, adults are trafficked more than minors and mostly trafficked for sexual exploitation.

However, within labour exploitation, males were more affected than women while females dominated trafficking for sexual exploitation. The Poppy Project, which supports women who have been trafficked, indicated that Nigerian women who have been trafficked for sexual exploitation mostly occupy their shelters.[97] In 2012, SOCA statistics showed that out of the 1186 persons referred to the NRM from 39 countries; over 17% of them were Nigerians. The 2016 NRM statistics from the NCA's MSHTU, which was published for 2017, showed that out of 3805 referrals from 108 countries, over 6% were Nigerians. These statistics has shown that Nigeria has maintained top rank as source country for trafficking to the UK.[98] However, its rank as source country as related to referrals does

not translate to positive conclusive decisions on the NRM system at the same level.

Once these victims cross immigration borders, the traffickers instil another form of control, depending on the type of trafficking. Starting with sexual exploitation, Nigerian women or girls who fall within this category find it difficult to retell their experiences and at times can be quite defensive about it.[99] This form of exploitation often involves regular rape and sexual assaults by clients. Victims are taken from house to house and forced to have sex with as many men as possible. These girls are sometimes drugged and clients may not use condoms, exposing the girls to deadly diseases such as HIV.[100] According to one victim from Nigeria aged 22 years trafficked for forced prostitution,

> … [I was] forced to have sex with about seven men a day, for about three to four months. I had no control over condom use. I fell pregnant and was forced to abort by drinking lots of whisky and taking tablets.[101]

Similarly, the case of Grace illustrates many cases of forced prostitution of Nigerian girls in the UK. Grace was 15 years old when she was brought to the UK by a woman called Rose after her parents died in a car crash. She was told that she would work as a domestic worker in England, but when she got to the UK, she found out that she was to work as a prostitute. The next day, she was introduced to a man called John. According to Grace,

> He came round and he raped me—I was terrified; I hadn't had sex before. Rose said that if I didn't do what she said, then John would keep beating me until I did. She also told me that the passport she got me was fake, and if I went to the police for help I would be put in prison, and if I tried to go back to Nigeria, her family would find me and kill me. Rose left me in the house with John and she went back to Nigeria. John forced me to have sex with lots of different men who came to the house. It was horrible and I was desperate to leave. Some of them beat me and sometimes they didn't use condoms so I was given a pill to take every day. The men were paying to have sex with me but I didn't get any of the money and I wasn't allowed outside. After about three months, I noticed that the front door was left open so I ran away. I slept on the streets for a few days until I was found by the police.[102]

In another recent case, a Nigerian Osezua Osalase was convicted in the Canterbury Crown Court in the UK for inter alia trafficking young

Nigerian orphan children for sexual exploitation.[103] The victims were raped, sexually abused and had juju rituals performed on them to control them. It was reported that Osalase told the teenage girls that they would die or never bear children if they tried to escape or revealed what had happened to them. Even though Osalase knew that he had HIV, he still raped the girls without using condoms. According to the Judge Williams who prosecuted him,

> You were dealing in exploitation and manipulation and degradation … You are undoubtedly a very, very dishonest man. You are arrogant and manipulative; you are devoid of conscience, devoid of any compassion to your victims.[104]

Some Nigerian women that are trafficked to the UK to work as sex workers are made to believe that they were coming to the UK to work as hairdressers or seamstresses (of popular demand within the African communities in the UK).[105] Some were even told that they would be enrolled into school but are subsequently coerced or forced to work as prostitutes in the UK. Following the recent case of Thomas Carroll in the UK, some of these Nigerian women were further trafficked from the UK into Ireland to continue their work as prostitutes.[106] Such trafficking rings for the sale of Nigerian women run by white British citizens are not common, but recent evidence has shed a new light on the issue. Thomas Carroll was jailed for seven years at Cardiff Crown Court after being found guilty of controlling prostitution and money laundering. This was a business, which he ran with his wife and daughter. Although he was not convicted specifically for trafficking, amongst the people he recruited for prostitution were Nigerian women who the law enforcement authorities believed were trafficked into the UK.

With respect to understanding trafficking for domestic servitude, Tohbecky's case is useful.

> My name is Tohbecky. I was born in Nigeria and came to the UK when I was 11 years old. I came to the UK on a visitor's visa. My mother sent me to live with my aunty and go to school here. I lived with my aunty and her husband and used go to school near their house. I used to do all the housework. They made me do this. My auntie's new husband raped me twice when I was 15 years old. He told me what would happen if I told anyone. He talked about juju and I was frightened. One day I could not keep quiet any longer and told my teacher. The social worker took me out of the care of my aunty.

> Her husband is in hiding somewhere and is wanted by the police. My mother is in Nigeria. She does not believe me and has said I am troublesome. She does not want me back. My aunty does not want me back. I have nobody here. I do not know what is going to happen to me. I will be 16 years old soon.[107]

Domestic servitude, as seen with Tohbecky's experience, can take different forms and deceptive tactics. This form of exploitation often involves the use of children as commodities to fulfil this role because they are often easier to manipulate and control for this form of exploitation. The story of persons trafficked to work as domestic servants often include being restricted from having any dealings outside the home to keep them hidden. They are usually required to do all the house chores. Most of the time, these children are not enrolled into education. In situations where they are allowed to go to school, they are made to miss school due to the level of chores assigned to them. This form of exploitation includes physical and emotional abuse. Similar to the case above, another Nigerian girl trafficked in the UK indicated that she was often beaten by her 'aunty'[108] and abused by other members of the family.[109] She also mentioned that she was sent out of the house when she turned 18 years old. Because she was a child when she first came to the UK, she was unaware of the importance of an immigration status. Now as an adult, she has been trying ever since to regularise her stay in the UK while recovering from her experiences.

Unlike cases of domestic servitude and sexual exploitation, cases of labour exploitation from Nigeria are not as visible in the UK. However, this does not deny its existence. Both adults and children from Nigeria are trafficked into the UK for this form of exploitation. Children may be found working in African shops, homes, restaurants or similar services while the adults may be found working within the service industries (restaurants, hotels, cleaning), nursing and care homes.[110] According to Anderson, the exploitation experienced by migrant workers in the UK includes long hours of work with minimal pay while the constant immigration threats from their employers keeps them in exploitation.[111] A Nigerian woman who had been exploited in this way in her cleaning job indicated that she was made to work very long hours with very little pay. She mentioned that they (the workers) were made to complete and sign a form as an indication of their consent—in her words, "you sign your life away".[112] Some Nigerian men and women tend to emigrate for the purpose of finding skilled work to earn a living, and at times, they seek work through

illegal means. Employers tend to prey on the illegality status of these men and women, which renders them vulnerable to the exploitation they eventually experience. Labour exploitation often raises the constant conflict between smuggling and trafficking, especially because in practice, the UK government tends to focus more on the illegality of migrants rather than the exploitation that these victims experience.[113] The latter may better explain the nonexistence of labour trafficking case law from Nigeria to the UK but an area of trafficking that is beginning to gain unprecedented attention in general.

Conclusion

The MO of trafficking between countries is necessary for adopting appropriate measures to address the problem that human trafficking presents. This chapter presents empirical evidence on key factors that are instrumental to the trafficking process from Nigeria. Hence, the MO was systematically broken down in stages of recruitment, transportation and exploitation. The recruitment stage, which was divided into 'sourcing victims' and the 'juju contract', exposed the Nigerian criminal network and revealed the involvement of family members and victims themselves. It submits that the recruitment networks are informal and may not fit into the general understandings of the trafficking process. Nigerian victims are sourced from both rural and urban areas of Nigeria and include informal agents who are accomplices to the process including professionals. The juju contract is a unique element of trafficking from Nigeria and was briefly explored from the perspective of law and African traditional religion. Its importance in this study is related to its influence in controlling victims and restraining them from being instrumental to investigations, thereby keeping them in exploitation against their will due to a deep-rooted cultural belief in the fear of juju and its reprisals thereto.

After sourcing and initiating potential victims through oath-taking rituals, they are groomed for the transportation process. This process, which may be legal or illegal, allows the trafficker to move persons as commodity to the destination where sales are consummated. Nigerian traffickers take advantage of the loophole in the UK immigration systems and bribe Nigerian border officials in order to get victims across. They mainly reduce the age of their victims so that victims come across as children and the UK authority has no choice than to take initial steps to safeguard these children. Once these 'children' pass through the borders, they reconnect with

their traffickers, after which the exploitation stage commences. Exploitation in this context takes the form of forced prostitution, domestic servitude and forced labour. An extensive number of case studies reflecting Nigerian victims' experiences were utilised to shed more light on their first-hand experiences in the UK.

Following the empirical analysis presented in this chapter, it becomes pertinent to ascertain how Nigeria has dealt with the problems highlighted from the source and how the UK has supposedly tackled it within the context of a destination country. The coming chapters attempts to answer this questions by examining the approaches employed by both countries through their laws and policies to intercept the different stages of trafficking in line with fulfilling their human rights obligations.

Notes

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CHAPTER 5

Anti-Trafficking in Nigeria: The Context of a Source Country

Introduction

Nigeria is a major source country for trafficking to different parts of the world and poses a challenge to the global fight against human trafficking. Top on the agenda of many destination countries, preventing human trafficking from Nigeria has been an ongoing quest that requires much of the cooperation of anti-trafficking stakeholders in Nigeria to identify existing root causes for the purpose of devising the best solution. As part of fulfilling its obligations and cooperating with other states, Nigeria has ratified the necessary international legal instruments relevant to trafficking, including the Organised Crime Convention and its Supplementary Protocols. Consequently, the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (hereafter, NAPTIP Act) was enacted in 2003. Ever since, Nigeria has continued to enhance its response to trafficking through adjusting its existing laws and creating new policies along the lines of prevention, protection, prosecution and partnering with relevant stakeholders. Unfortunately, there are still gaps in response due to ongoing economic, cultural and sociopolitical factors that hinder the anti-trafficking movement in Nigeria. The extent of anti-trafficking efforts in Nigeria and the existing factors that continue to disrupt the entire process of finding solutions to human trafficking from Nigeria to the UK is what this chapter sets to examine.

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National Anti-Trafficking Legal Frameworks in Nigeria

Nigeria has adopted a number of international legal instruments relevant to human trafficking. In 2003, Nigeria showed its commitment to anti-trafficking by creating the NAPTIP Act. The Act was amended in 2005 but then was repealed and replaced in 2015. Before the NAPTIP Act, elements of anti-trafficking were found within its existing national legal instruments. These legal instruments include the Nigerian Constitution 1990; Criminal Code Act 1990; Laws of the Federation of Nigeria; the Penal Code (Northern States); Federal Provisions Act; 1960 (the Penal Code); the Child Rights Act 2003 (CRA); the Labour Act 1990 and the Immigration Act 1990, as variously amended. For instance, the Nigerian Constitutions 1999, Section 34(1) prohibits the subjection of any person to slavery or servitude. It states that:

> Every individual is entitled to respect for the dignity of the 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.[1]

Although the Nigerian Constitution 1999, allows Nigeria to ratify international and regional laws and conventions, this should be done within the ambit of Section 12 (1–3), which states "No treaty between the Federation and any other country shall have the force of law to the extent to which any such treaty has been enacted into law by the National Assembly".[2] Additionally, due to the presidential system of government in Nigeria modelled after that of the USA, individual states within Nigeria have to adopt these laws in order to enforce them within their various jurisdictions. For instance, the Nigerian CRA was only adopted by 15 states out of 36 states in Nigeria as of 2007.[3] Section 30(2)(b) of the CRA provides that "a child shall not be used as a slave, or for practices similar to slavery such as trafficking of the child, debt bondage etc." However, the CRA allows extended family fostering in promotion of the traditional fostering and apprenticeship system in Nigeria.[4]

While this fostering and apprenticeship tradition in Nigeria has its merits in addressing the problem of under-development in the country, it has given a fillip to traffickers who hide behind the system to recruit children as domestic slaves. According to a report by the Nigeria Federal Ministry

of Women's Affair, "The practice of extended family fostering and apprenticeship provide the framework for most cases of abuse of children as domestic workers."[5] Similarly, Anti-Slavery International contend that the traditional system of educating children by initiating them into work has been distorted into a commercial transaction which may in turn lead to child trafficking.[6]

Despite the fact that the aforementioned legislations touch upon elements of human trafficking, they are limited in scope and lack the potency to address the true nature of trafficking. First, most of these legislations focus on females, marginalise prostitution (more or less criminalising the act), and do not specifically or clearly define trafficking nor sufficiently include other forms of trafficking. Besides, where forced labour has been included, penalties are often inadequate in deterring traffickers.[7] The value of the penalty is very low, and as a result, traffickers find it easier to pay a fine and continue their trade. The word 'trafficking' is only mentioned in the Penal Code where it states that,

> Whoever imports, exports, removes, buys, sells, disposes, traffics or deals in any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.[8]

However, it does not define the term 'traffic'. According to Pearson, the term 'as a slave' makes the provision extremely restrictive and may not be very useful in prosecuting traffickers.[9] Edo State has been one of the few states that have adopted an anti-trafficking law due to the high rate of trafficking from the state. Nevertheless, in June 2001, Nigeria ratified the Trafficking Protocol, which led to the enactment of a new anti-trafficking law in Nigeria in the form of the NAPTIP Act. This Act does not just meet the minimum standard of the Trafficking Protocol but also exists as a starting point towards complying with the anti-trafficking regime.[10]

NAPTIP Act 2003 (Amended 2005) and NAPTIP Act 2015

The NAPTIP Act 2003 was a major legislative attempt by the Nigerian government to address the problem of trafficking from Nigeria. Two years after the adoption of the Act, the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) was created to oversee the operational

framework of the Act. In acknowledgement of the shortcomings of the 2003 NAPTIP Act, the Act was amended in 2005. The amended act addressed administrative issues in line with membership of the Agency's board and which ministry it belongs to. It also included the Victims of Trafficking Trust Fund, which was to be funded by seized assets from traffickers, and created the provisions to prohibit employing forced labour and punishing employers responsible for the unlawful employment of a child. In 2015, the 2003/2005 Act was repealed towards enacting a more comprehensive law targeted to end human trafficking in Nigeria.

Nevertheless, the NAPTIP Act did not come to existence in a vacuum. As Koh puts it, transnational legal processes are not 'self-activating' but often require 'transnational norms entrepreneurs' to be successful.[11] These transnational norm entrepreneurs are usually organisations or individuals who, without political positions, "mobilize popular opinion and political support both in their host country and abroad".[12] The NAPTIP Act would not have materialised without significant pressure from Nigerian NGOs and the international community. Organisations including the United Nation agencies and Nigerian NGOs such as the Women's Consortium of Nigeria (WOCON), Committee for the Support of the Dignity of Women (COSUDOW) and Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), with a number of faith-based organisations, were all instrumental to the process of domesticating the Trafficking Protocol. This sort of advocacy is usually a process of great difficulty, especially in a country where the voices of non-state actors (in the form of human rights activists) are hardly influential and often times dangerous.[13] Nevertheless, through transnational issues networks, their arguments were finally given some political backing, which gave the anti-trafficking advocacy in Nigeria some backbone. Political offices like that of the wife of the then vice president, Mrs. Titi Abubakar, and some senators in the House of Assembly were influential for the adoption of the NAPTIP Act.

The NAPTIP Act sets the framework at which its agency is managed but most importantly establishes how Nigeria intends to address the 3Ps for anti-trafficking against the backdrop of existing relevant international law. The Act provides a more comprehensive national legislation dedicated to fight human trafficking beyond the Penal and Criminal code as previously highlighted. The NAPTIP Act synthesises all the prior anti-trafficking and related offences provisions in the various criminal codes, but there remains uncertainty as to the status of the Criminal and Penal Codes with respect to the NAPTIP Act. The 2003 Act provided more severe penalties

for human trafficking including life imprisonment, especially for the sex trafficking of minors. Although the 2003 Act focused on the 3Ps, its protection mechanism was limited with respect to victims, especially during prosecution. It did not provide enough protection for witnesses or victims (especially when victims have been involved in a crime under duress).[14] It required that trials be conducted in public (except where children are involved), which posed a threat to victims and adult witnesses, especially in the absence of witness protection programmes in Nigeria. This was amended with the 2015 Act, which allowed more provision for witness protection.[15] Concerning the treatment of victims, under section 36 of the 2003 Act, the Agency was obliged to protect victims without discrimination. However, the loophole in section 37 contradicted this provision with the clause 'where the circumstances so justify'.[16] This left the decision to detain or not to detain victims in the hands of law enforcement officials who often lacked substantive training enough to effectively identify and protect victims. The clause remains with the 2015 Act even though more provisions are added regarding the treatment of victims.

The main objective of the NAPTIP Act 2015 is to provide a comprehensive legal framework to prohibit human trafficking in Nigeria, protect victims and facilitate national and international cooperation in order to meet the first two objectives. The new law certainly extends its objectives beyond the old law by including elements of trafficking that identifies with the MO of trafficking in Nigeria today. In the 2015 law, the amenders removed the loophole in the old law which allowed the possibility for offenders to serve very reduced sentences. For instance, in the new law, it sets the minimum amount of sentence and fine to penalise offenders using the phrase "not less than" whereas in the old law, it sets penalties on the maximum, using the phrase "not exceeding" which gives the criminal justice liberty to offer sentences that are way below global standards.[17] While it would appear that the new law makes provision for stiffer penalties for human trafficking offenders, it is limited in many areas, giving 'richer' offenders the option of getting away with a fine. The NAPTIP Act 2015 prescribes between two to seven years imprisonment or a minimum fine of between 200 and 50,000 Naira (an average of 500 British pounds) and 2 million Naira (an average of 4000 British pounds) to different offenders of trafficking. Whereas in the previous law, although the fines were low, the penalties were higher, and in many cases of direct offence, there was no option of a fine, which made the penalty stiffer.[18] The fine stipulated in the new law does not reflect the potential profit that traffickers make enough

to dissuade them from the crime. Many of the traffickers will happily pay the fine. Apart from the employment of a child, the only areas within the 2015 Act where there are no options of fine are in areas that directly affect the state as it relates to impersonation of a NAPTIP Agent, illegal immigration and offences in relation to forfeiture orders.

The 2015 Act punishes anyone who is found to have illegal custody of a child under the age of 18 for the purpose of exploitation. However, the jail time allocated to offenders of forced labour was reduced from seven to five years and a fine of 2 million Naira and 1 million Naira, respectively. The reason for this reduction, according to the Nigerian Senate, was to make punishment consistent with similar offences under the Act. The Act also addresses the issue of domestic servants by prohibiting the employment and procurement of children under the age of 12 and generally protects children from all forms of exploitative and hazardous work. The age restriction for employing children as domestic servants still put children at risk of trafficking as seen with the age of children trafficked for domestic servitude in other destinations outside of Nigeria.

It is quite positive that the law extends the crime of trafficking to include those who give, receive or benefit to achieve the consent of a person having control over another person, for the purpose of exploitation.[19] This element in the law clearly identifies with the nuances of human trafficking in Nigeria, especially in recognising family members as accomplices to human trafficking, a subject in Nigerian trafficking that has never really been explored to the fullest. The old law relentlessly focused more on children (under 18 years), almost undermining adult victims of human trafficking. Although the 2015 Act does better in this regard, it still reserves the section for sexual exploitation to cater to children even though in reality, Nigerian adults are mainly the victims of sexual exploitation as seen with various statistics presented in reports both in Nigeria and abroad. However, it does acknowledge adults in this aspect of importation and exportation of a person for prostitution.[20] NAPTIP as an agency makes this demarcation in its data analysis, separating cases of exportation of persons for prostitution and procurement of persons for sexual exploitation. The 2015 law also makes several new provisions or extended existing ones including victim's right to information, the establishment of transit shelter and the Victim of Trafficking Trust Funds.[21] The new law also made provision for 'mutual legal assistance, change of information and extradition' to aid international cooperation for anti-trafficking.[22]

NAPTIP as an Agency

With the specific mandate to coordinate all laws and activities relating to trafficking in persons in Nigeria, NAPTIP created four operational departments to undertake investigation, legal, public enlightenment, counselling and rehabilitation responsibilities. Section 4 of the NAPTIP Act 2015 vests upon the NAPTIP agency a wide range of functions including coordinating and reinforcing all national, regional and international regulations and agreements on trafficking and related offences; adopting measures to protect and assist victims; facilitating cooperation and dialogue with key stakeholders; strengthening investigation and prosecution of traffickers; and promoting international cooperation and coordination on anti-trafficking measures. According to the ILO, NAPTIP's innovativeness resides within the agency's founding approach to address the problem of trafficking.[23] NAPTIP's approach attempts to be both 'comprehensive and integrated', "taking into consideration the multifaceted dimensions and the different institutional levels (national and international)".[24] Despite its existing shortfall, the agency should be acknowledged as one of the few government institutions in Nigeria attempting to address human right issues in the country.

Since inception up until 2016, NAPTIP has received 4620 cases, investigated 3376, rescued 10,470 victims and convicted 311 traffickers.[25] Trafficking for prostitution (16.6% and 20.6%) and employment of children as domestic workers (29.7% and 38.7%) are highest in the list of cases between 2015 and 2016.[26] However, the convictions associated to these crimes have been disproportionately low, with trafficking for sexual offences taking up over 65% and domestic servitude only attracting a very low conviction of 6.5%.[27] Nonetheless, even with the convictions under trafficking for sexual exploitation, the offences did not necessarily include trafficking for prostitution but rather for the recruitment of persons under 18 years for prostitution, foreign travels that promotes prostitution and recruitment of persons for pornography or brothel. Hence, the latest data shows that prosecution of trafficking cases still proves difficult to achieve in Nigeria. Women were found to be the main perpetrators for human trafficking for domestic servitude. This is mainly because of the gender roles in Nigeria where culture obligates women to take on the domestic chores of the home including taking care of children. Hence, women are more likely to employ child domestic workers to assist with the chores. Given the normalcy of domestic servitude as a way of life in Nigeria, it

seems rather difficult to address this problem even where the current law also accommodates this form of labour for children above the age of 12.

As at 2009, Nigeria maintained a Tier 1 status as seen in the United States Trafficking in Persons (TIP) report.[28] However, from 2012 to 2016, Nigeria's ranking was reduced to Tier 2 because it has not made significant progress in addressing the prevalence of trafficking. Although the US TIP report also suffers from accurate data on trafficking, it still establishes some obvious shortfalls of anti-trafficking from Nigeria. Such shortfall can also be attributed to trafficking from Nigeria to the UK where there seems to be an unacquainted focus. Literature on trafficking from Nigeria has always focused on certain countries mainly in West Africa and Southern Europe and thus, does not provide a rounded analysis of trafficking from Nigeria. This could be attributed to the fact that the UK may not be considered as one of the top five destination countries for trafficking from Nigeria even though Nigeria is a significant source country for the UK. The UK has not been attracted the same focus like other destination countries. That notwithstanding, the UK could still benefit from general prevention programmes employed in Nigeria. The UK and Nigerian citizens can also benefit from provisions enhance the safety of victims upon return. Despite the existence of the national legal frameworks in Nigeria, it does not guarantee effective implementation in practice. The existing framework exhibits some inherent limitations from a human rights perspective, let alone a human-centred focus. Using empirical data gathered from the field, the next section examines the extent to which Nigeria has enforced its laws and policies in reality and the factors that have limited such response.

Anti-Trafficking Response in Nigeria
Addressing Vulnerabilities

Human trafficking preys on the vulnerability of people, which often makes it easier for traffickers to coerce and exploit them. For instance, poverty and the search for a better life have driven people into the hands of traffickers as seen in many cases of trafficking. In this regard, addressing the vulnerabilities of persons in Nigeria can serve as a preventative strategic option towards addressing human trafficking from Nigeria to the UK. Based on the principles of state responsibility, it is the duty of states to prevent the occurrence of internationally wrongful acts. States are

required to take "all reasonable or necessary measures to prevent a given event from occurring".[29] Within the context of trafficking, this would involve addressing the root causes of trafficking by tackling causal factors that increase the vulnerability of persons or potential victims; create and sustain the demand for different forms of trafficking; and create or sustain an environment where traffickers and their accomplices can operate with impunity.

The Trafficking Protocol requires States Parties to take positive steps to address the underlying causes of trafficking by alleviating factors that make persons vulnerable to trafficking including poverty and underdevelopment.[30] The Protocol also requires State Parties to initiate awareness-raising programmes and other related measures to minimise the high risk of victimisation. Although the Protocol is not specific as to which state does what, some states are more likely to address some issues in a meaningful way than others, directly or indirectly. Concerning prevention, the Protocol insists that states shall "take or strengthen measures…", insinuating a shared responsibility. In order to prevent the trafficking of Nigerian persons to the UK from occurring, it is the responsibility of the Nigerian state as a source country to take all reasonable measures to address the vulnerability of potential victims. According to Gallagher, a number of contextual factors help shape the vulnerabilities of these individuals, which lead to their recruitment into trafficking, as identified in earlier chapters, utilising a human-centred approach.[31] The question is, to what extent have these factors been integrated into the measures adopted by the Nigerian state in addressing human trafficking.

Many, including those interviewed in Nigeria and the UK for this study, have argued that a 'better-life syndrome' fostered by poverty and greed is the underlying factor that drives trafficking from Nigeria.[32] Similarly, a situation assessment on child trafficking in 11 Southern Nigerian states indicated that major causes of human trafficking includes poverty, greed and low level of education amongst many factors.[33] While they both proffer a broad explanation, they oversimplify the root causes of trafficking and may not capture the complex dimensions of the problem. There are a number of social exclusion issues that increase the vulnerabilities of persons in Nigeria that must be tackled as part of preventative measures. They include forced marriages, inequality, traditional servitude, homelessness, family instability and other forms of domestic violence that may increase insecurity. Some of the victims seen in the UK are often people who tried

to escape abusive relationships and are subjugated to a continuum of exploitation when they arrive in the UK.[34]

Other factors include the general knowledge that forms the perception of trafficking and migration, existing socio-economic ills, social exclusion perpetrated by violence, inequalities and the issue of internal trafficking that affects mainly women and children in Nigeria.[35] The Nigerian states possess the positive obligation to ensure that the social, economic and political rights of its citizens are met following a human rights approach.[36] While addressing these human rights issues is highly significant to anti-trafficking in Nigeria, vulnerability to trafficking often transcends the actualisation of these rights. This includes sociocultural issues that form part of the belief and mindset of many Nigerians that shape their attitude to elements of trafficking or their vulnerability to it. Adopting a human-centred approach means exploring ways to change how Nigerians view elements of trafficking such as migration, exploitation, wealth and the culture of servitude, associated stigmatisation amongst others in a way that inculcates their circumstances and understanding.

The National Policy on Protection and Assistance to Trafficked Persons in Nigeria (hereafter, National Policy) implores that identified social factors need to be addressed by "empowering citizenry to reduce vulnerability".[37] Implementation strategies include conducting aggressive sensitisation/awareness programmes for families; implementing compulsory Universal Basic Education (UBE) policy; and introducing social security schemes for vulnerable groups and so on.[38] Furthermore, the National Plan of Action on Trafficking in Persons 2009–2012 was introduced in 2008, sponsored by UNDOC, UNICEF and supported by the governments of Finland, Switzerland and Norway to address prevention.[39] It includes an empowerment programme, which focuses on vulnerable women and youths by providing them with micro-credit, skills acquisition and vocational training. Activities such as these were carried out through NAPTIP, NACTAL and international organisations such as the IOM. About £388,000 were invested in programmes such as these covering the entire country. NGOs such as Idi Renaissance, Girl Power Initiative (GPI) and Network for Justice and Democracy have all initiated programmes to raise awareness. Government programmes, such as the National Poverty Eradication Programme (NAPEP) and those initiated by the National Directorate of Employment (NDE) and the local governments, have also been involved in addressing socioeconomic issues. However, there has been an inherent lapse in implementing government projects in Nigeria, including technical limitations and the fact that some officials are corrupt.

NAPTIP, independent NGOS and a number of external actors have employed various prevention programmes on the logical premise that vulnerabilities to trafficking exist due to a lack of knowledge of the reality of life in Europe and the deception of traffickers. Hence, focus has largely been placed on awareness-raising programmes. In spite of the high level of awareness programmes employed in Nigeria, there is still a low-level understanding of trafficking in Nigeria. This is mainly because many people in Nigeria still associate trafficking with prostitution. Therefore, they may not perceive other forms of trafficking as trafficking or associate certain countries with trafficking. As a result, victims who are lured into trafficking to the UK do not perceive any inherent dangers of exploitation.

Awareness-raising programmes also pose a difficulty for potential victims to comprehend the true situation of the exploitation that they might face in the UK, which often conflicts with the success stories of those who have migrated to the UK. Consequently, many communities in Nigeria maintain their deep-rooted belief that going to the UK is one of the routes out of destitution; hence, it becomes difficult to turn down offers from traffickers. This way of thinking has posed a huge challenge for NGOs working against trafficking through their various programmes. For the vulnerable people being sensitised in communities at risk for trafficking recruitment, there is often no replacement or alternative to aspirations of emigration which often means that sensitisation programmes are not usually well received by community members.

According to an NGO official, "some of these people just think that you do not want them to enjoy the opportunities abroad", and for that reason, they are not easily dissuaded.[40] Mostly, trafficking from Nigeria to the UK originates from Benin but the UK is not publicised as a major destination for trafficking. According to a research carried out in Benin, at least 70% of the respondents admitted to the fact that trafficking has not reduced despite the counter trafficking measures applied.[41] Reasons for this include the lack of the government's efforts to produce basic amenities, the high level of illiteracy and the inadequate sensitisation strategies in the community.[42] Additionally, families who have been enriched by the 'profits' of trafficking do not often support anti-trafficking projects.[43] This is mainly due to the apparent 'community development' brought about by the females who have been labelled as trafficked by NGOs. This above-mentioned report identified some houses, commissioned by victims/survivors of trafficking alongside boreholes, second-hand vehicles claimed to be proceeds from these trafficked persons who are members of these communities.[44] According

to this report, "these proceeds from relatively successful trafficked victims have drowned the voice of reasoning in communities."[45] In so doing, awareness programmes have not effectively discouraged trafficking.

Additionally, existing prevention programmes are often short-term, unsustainable and dependent on international agencies whose presences are often short-lived. Communities are not properly engaged in prevention programmes, as they often perceive interventions as an 'outsider thing' or as 'foreign projects'.[46] Anti-trafficking stakeholders including NAPTIP continue to be challenged by the pervasive perception of trafficking by certain communities. A number of community leaders in Benin apparently go as far as supporting the decisions of those who choose to be recruited by 'traffickers' without referring to the process as trafficking and questioning the very consensus that a quest to 'hustle' is seen as 'trafficking'. Some of these community leaders are of the belief that "it is not a bad way of survival, as it is better than armed robbery or murder".[47] In this context, traffickers are perceived as 'sponsors' and it is asserted that people (especially women) engage in it to cater for their families while reducing poverty in their community.[48]

Such a construct of survival skews the local understanding of trafficking and is further challenged by the value system of these societies where the dignity of womanhood has been eroded and values associated with labour skewed.[49] With the current twisted perception of wealth acquisition in Nigeria, sources of wealth are hardly investigated nor questioned and the 'end is believed to justify the means'; hence, trafficking becomes highly contingent to these social views and processes. According to a report assessing why Benin is a prominent source for trafficking in Nigeria, "family values have been eroded to the extent of 'he who pays the piper dictates the tune'."[50] As a result, communities mainly respond to economic opportunities, and hence, they have no concept of illegal migration. This way of thinking is not just limited to those vulnerable to trafficking but also extends to some NGO officials and government authorities who are equally sceptical about forms of trafficking such as domestic servitude, questioning, "Is that really trafficking? Is that not like housemaids?"[51]

From a human-centred viewpoint, these various perceptions (no matter how outrageous) cannot be overlooked whilst initiating measures to deal with trafficking from Nigeria. While a human rights approach is necessary to safeguard these communities from trafficking, a human-centred approach acknowledges the existing knowledge of the people whose rights it intends to safeguard. It does this by attempting to incorporate the underlining

root-causes of the problem and analyses why communities do not welcome trafficking, whether due to culture, economic problems or social trends. The national anti-trafficking framework in Nigeria is more concerned about the act of trafficking rather than the needs of the people it intends to protect. Within this context, it is apparent that for the Nigerian state and its agents to address trafficking in Nigeria, some underlying issues need to be addressed in a way that fulfils the essential economic needs of these communities and addresses some outstanding misconceptions.

In addition to the latter, these communities need to be re-educated about forms of trafficking prompted by sociocultural beliefs. This should be done without condemning the culture itself but by demarcating the positive and harmful elements of this culture rather than relegating them all to trafficking. Domestic servitude in Nigeria is typical of making such demarcations as carefully illustrated in the labour perspective previously elucidated. Thus, taking a human-centred approach would involve changing the conflicting language between domestic servitude/traditional fostering/apprenticeship and ensuring that such demarcation reflects in the existing laws and policies in Nigeria. This means critically adapting programmes, which are sponsored and initiated by international organisations (often using a Western approach) to the local context of anti-trafficking, which may not necessarily require a direct use of the word 'trafficking'. Such locally centred measures are most crucial for addressing the unique elements of trafficking in Nigeria which transcend Western knowledge—like the oath-taking element.

As highlighted in Chap. 3, the oath-taking phase often takes place in Nigeria before the victim arrives in the UK. Although NAPTIP endeavours to denounce the practice of juju contract as one of the indicators of trafficking and Edo state Criminal Code criminalises it, no one has been actively prosecuted on this ground. It is challenged by an ingrained cultural belief of oath-taking in Nigerian communities, which a claim of Christianity does not totally alter. This questions the extent to which working with churches as the main anchor of anti-trafficking in Nigeria would work with victims affected by traditional oath-taking.[52] Accordingly, the trafficking transactions are sealed with this oath-taking to frustrate law enforcement agents both in Nigeria and the UK, as victims vehemently refuse to give any information for fear of repercussions. In the past, NAPTIP has initiated 'reversal ceremonies', which were aimed at investigating and finding the 'native doctors' who have performed the oath-taking ceremonies and getting them to reverse the 'cause' placed on the

victim, as it is only then that most of these victims are invigorated to speak.[53] While the uniqueness of such approach cannot be denied for incorporating the needs of the victims beyond legal understandings, it still struggles with intrinsic limitations in terms of its validity and its international acceptance for international cooperation.

So far, the validity of this technique has not been measured in terms of the questions of ethics that it raises, as well as its absence in the existing National Policy. However, while this anecdotally eliminates aspects of the fear factor that affects some victims, it is more reactive than proactive. Based on the points raised so far, it is obvious that the current prevention programmes focused on raising awareness and micro-credits are limited in dealing with the current factors that increase vulnerabilities. While the Nigerian government reserves the obligation to ensure that the socioeconomic needs of its citizens are met, there is a need to address the growing perception and attitudes of the Nigerian society towards trafficking. While such a change of mindset is highly needed, an environment that sustains the trafficking business challenges measures employed. Tackling such an enabling environment is as important as tackling trafficking directly.

Tackling Enabling Environment: Corruption and Complicity

Human trafficking from Nigeria cannot be tackled without dealing with structural issues that enable the recruitment and transportation of these victims from Nigeria to the UK. In Nigeria, one of the biggest issues that stand in the way of anti-trafficking is corruption. Corruption has been defined by the World Bank as "the abuse of public power for private benefit".[54] Taking a broader approach, Transparency International defines corruption as "the misuse of entrusted power for private gain".[55] According to Demas, "Nigeria presents a prominent example of a country reputed to possess a 'culture of corruption'. Many who work or live in Nigeria say it is impossible to carry out any transaction without paying bribes."[56]

Corruption has always been addressed as a separate phenomenon. Although it has been mentioned as a key factor in human trafficking, there has been no strategy devised to directly tackle its effect on the problem.[57] For one, there has been a lack of integration in the approaches between the circles of anti-trafficking and anti-corruption.[58] According to Gallagher,

it is only recently that corruption has been linked to human rights violations.[59] Despite the lack of substantial literature on the parallels of corruption and trafficking, there are consistent indications that corruption plays a vital role in human trafficking following data gathered for other purposes, especially through the accounts of victims.[60]

It has been made clear from several testimonies by Nigerian victims in the UK that traffickers engage in the active involvement or complicity of public officials to move individuals across international borders for trafficking. Some victims claimed that security agents connived with the traffickers who let them pass through security checkpoints at the airports or land borders unchecked.[61] According to one survivor of trafficking in the UK (Female, 24),

> We arrived at the airport in Lagos and it seemed that he was well-known there. He was greeted by many of the officials. We handed over our papers and everything was stamped and no one asked any questions.[62]

According to Agbu, tackling human trafficking in Nigeria by the government means engaging with corruption directly.[63] The National Tasks Force was created to work with institutions such as the Nigerian Police and the Nigeria Immigration Services to address issues relating to intercepting traffickers at borders. The work of NAPTIP in this area could be perceived to be complimented with the official struggle to eliminate corruption in Nigeria by statutory organisations such as the Independent Corrupt Practices Commission (ICPC), created in 2000, and the Economic and Financial Crimes Commission (EFCC) created in 2004. In 2009, the Federal Government mandated the International Agency Task Team on Anti-Corruption (IATT) supported by NAPTIP, UNODC and the United Nations Development Programme (UNDP) to address the existing overlap in anti-corruption functions in meeting the requirements of the Organised Crime Convention.[64] It is not yet clear how the work of these organisations has been directed towards reducing trafficking. Despite the quest to fight corruption related to trafficking, there is no existing statistics of any trafficker intercepted en route to the UK and the Nigerian government has not initiated any investigations or convictions of government officials for corruption related to the trafficking of human beings.[65]

The existing nature of corruption in Nigeria poses a challenge to the fight against trafficking by preventing the power of legal protection from becoming a reality in the lives of vulnerable persons. According to the UN,

> New laws and new government agencies and commissions to control and reduce corruption have had less impact than expected at their often very public and vocal launch…. Anticorruption campaigns are not a substitute for the difficult tasks of public sector reform and capacity-building.[66]

Although NAPTIP collaborates with the Nigerian Police for anti-trafficking purposes, they are challenged by the general perception of the police in Nigeria. Nigerian citizens see police in Nigeria as oppressors instead of protectors and as a result dissuaded from reporting, due to the belief that they may not be protected from the consequences.[67] For victims of trafficking, corruption related to trafficking breeds mistrust between anti-trafficking authorities and agents.

Immigration officials in Nigeria have not made reasonable attempts to identify trafficked victims despite the intensive training programmes initiated by NAPTIP and other international organisations to build their capacity in this area. There is an existing collapse of a protective environment at the Nigeria border because of the laxity of security agents in discharging their duties. They exercise negligence in detecting fake visas at security checkpoints. Such negligence of duty may be attributed to poor salary for the security agents.[68] Nevertheless, the work of this officials are also challenged by the fact that some of the potential victims travel with valid visas obtained from the British Embassy in Nigeria, which gives them the permission to leave the country for their intended destinations. There has also been no existing measure to dismantle the intermediaries who assist the trafficking process in Nigeria, including those involved in document forgery in local governments and other institutions. According to an NGO official in Nigeria, "It is so easy to get any document you need in Nigeria, whether birth certificates etc…."[69]

Following what currently exists, there is a need for NAPTIP to integrate its work into the larger anti-corruption framework and overtly work with specific Nigerian institutions to address the concerns of corruption linked with anti-trafficking. As it stands, current limitation concerning the latter hinders anti-trafficking efforts. It obstructs international cooperation, the protection of victims, prevention and the prosecution of traffickers/trafficking accomplices. The issues highlighted in this sub-section have been significant to deterring the repatriation of victims. Repatriation should normally form part of reintegrating victims back into their society (country of origin), but with an environment where authorities collude with the highest bidder through bribery, it is very difficult for victims to survive. Traffickers can often pay off some

authorities who should normally protect victims and therefore can harass/assault their victims or even re-traffic them. As a result, Nigerian victims identified in the UK often deter from returning to Nigeria for fear of reprisals. The latter is yet to find commonplace in repatriation strategies in Nigeria, which requires facilitating an environment for the safe repatriation of victims.

Enabling Repatriation: Protecting Survivors and Preventing Re-trafficking

A human-centred approach in terms of repatriation goes beyond just fulfilling obligations set by law, but also provides that the contextual needs of repatriated persons must be mainstreamed in the returns programmes. Article 8(3) of the Trafficking Protocol obliges origin states to receive returning nationals without undue or unreasonable delay. Specifically, Nigeria is obliged to facilitate and accept such return with due regard to the safety of the person being returned.[70] The Trafficking Protocol thereby imposes a positive obligation on states to ensure that those who been repatriated are protected from intimidation, retaliation or other harm that they could face upon returning home, such as violation of the laws of the origin country.[71] In keeping with these obligations, Nigeria made provisions for the protection of victims of trafficking upon return in Section 61 of the NAPTIP Act 2015. However, it does not explicitly imply facilitating the return of victims who have been trafficked outside Nigeria. For their protection upon return, it states:

> The use by any person's history of being trafficked to discriminate or cause harm to any trafficked person or his friends in any way whatsoever, particularly with regards to freedom of movement, marriage or search for gainful employment is not encouraged.[72]

This provision partially focuses on reintegration rather than ensuring an appropriate and holistic return mechanism. Even where Nigeria has been engaged in the repatriation of trafficked persons, it has been limited in scope and has not included the UK. Nigeria's National Action Plan made provision for the return of Nigerian nationals but focuses mainly on West and North Africa and specifically on rehabilitation programmes. During fieldwork in Nigeria, it was impossible to identify any survivor of trafficking who has been repatriated from the UK. Many officials from NAPTIP as well as NGOs in Nigeria insisted that they had not identified survivors

repatriated from the UK and therefore, do not have any in their care.[73] However, another official from NAPTIP indicated that NAPTIP has in the past identified victims of trafficking returned from the UK but they were not repatriated—but deported.[74] A couple of explanations emerge from this testimony. First, many destination countries do not follow the recommendations of the Trafficking Protocol to identify victims and enable safe repatriation of foreign nationals, especially from third countries.

Due to the difficulty in identifying Nigerian persons as trafficked in the UK, especially those who are illegal migrants, trafficked persons may be treated as criminals, detained and deported with other criminals, making it difficult for them to be identified by Nigerian authorities. According to NAPTIP,

> They [i.e. the UK authorities] usually just send a list of names of deportees to various Nigerian agencies or institutions…. A copy is sent to the Nigerian Police, the executive Secretary of NAPTIP, NDLEA, Nigerian Immigration Services, SSS, and Nigerian Intelligence Agency…. Sometimes, there are victims on this lists but it is not made known to us…. When they send these people back home with other criminals this way, the victims are brainwashed by these criminals not to own-up to being trafficked … it makes our work difficult when we send our staff out with this list to go and check for potential victims at the airport.[75]

Second, most of the victims from Nigeria identified in the UK usually prefer to remain in the UK permanently in most cases and therefore may not be identified by NAPTIP.[76] This is mainly due to the limited nature of care and protection that are readily available to them upon return as indicated by one victim seeking to remain in the UK.[77] Following the extract from PO (Trafficked Women) Nigeria CG [2009] UKAIT 00046,

> (a) A very careful examination of the circumstances in which the victim was first trafficked must be undertaken and careful findings made. If a victim has been told that she is required to earn a particular sum of money ("target earnings") for the trafficker or gang, before being free of any obligation to the trafficker or gang, then, if the victim should escape before earning the target sums, there may well be a risk to the victim that on return to Nigeria she may be re-trafficked if found. The extent of the risk of the trafficking will very much depend on the circumstances in which the victim was originally trafficked.[78]

There are limited provisions made by the Nigerian government to enable the safe return of their nationals who have been trafficked to the UK. For these reasons amongst others, some identified victims of trafficking appeal to remain in the UK indefinitely. These reasons include the fear that they may not be protected from intimidation at the hands of their traffickers if returned to Nigeria; insufficient rehabilitation, reintegration and reintegration capacity; return to worse economic situations that may enable re-trafficking; or simply arising from the fact that UK offers more opportunity for their future well-being. This has been used as evidence for the asylum application appeals of Nigerian victims of trafficking in the UK.

However, it is parallel to the non-refoulement principle as indicated in Chap. 1 has not been duly utilised to obtain the needed justice for trafficked persons to be exempted from repatriation for protection reasons.

In addition, although victims of trafficking repatriated from the UK were not identified during fieldwork in Nigeria, the evidence for limited returns support can be substantiated by the level of support received by other repatriated survivors from Mali documented in this study. A number of issues were identified during fieldwork, which makes repatriation to Nigeria unsafe, despite the efforts of NAPTIP. These issues include the protection of victims' identity upon return as stipulated by the NAPTIP Act; insufficient shelters to meet demand; rehabilitation capacity to meet the needs of the victims; unsatisfactory reintegration that engages communities, stigmatisation; lack of police protection in Nigeria and economic insecurity.

As seen through many pictures publicised by the Nigerian Press and NAPTIP, the identities of returnees are hardly protected.[79] Section 61(g) of the NAPTIP Act 2015 stipulates that the identity of the victim must be protected, yet, this is hardly taken seriously. Revealing the identities of victims without any ethical caution could obstruct effective reintegration within their various communities. According to an NGO official in Nigeria, reintegration into the community is a gradual process, as the officials have to counsel the family of the victims to allow the victims back into the family.[80] One of the survivors during interview revealed that her family and community did not accept her when they found out she was trafficked.[81] Another revealed that, "up till today, my family is not aware that I was trafficked for prostitution. If they find out, they will kick me out because of the shame".[82] Some of these trafficked persons lacked the essential police protection against their traffickers whilst in Nigeria. This is

more prominent where these trafficked persons have been unable to pay off their debt before they were rescued. According to one victim,

> I am afraid [of going back] because I haven't paid back the money yet. If I am in Nigeria, the man can do anything to me. I have no money. The police only believe those who have money. The police is not protecting you in Nigeria.[83]

Even after being rescued, victims fear for their lives because their traffickers have not been apprehended. Whilst the law provides for the prosecution of these traffickers, victims have to grapple with the reality of prosecution limitations that sustains their vulnerability as a continuum of trafficking.

Some of these victims have complained that they did not receive adequate support to meet their needs after they were repatriated. First, there was insufficient shelter to meet the number of returnees, which may have resulted in quick turnovers regardless of recovery needs. There are 293 available bed spaces thinly spread across eight NAPTIP shelters in Nigeria. The length of stay is limited to six weeks, and those who require longer stay are referred to shelters owned by collaborating NGOs such as WOTCLEF. With about 1017 victims identified just in 2016, limited shelter capacity remains an ongoing problem.[84] Second, despite the measures put in place to rehabilitate the survivors of trafficking, the programmes have not prevented survivors from vulnerable situations that could enable re-trafficking. Idia Renaissance, an NGO in Benin, is one of NAPTIP's partner organisations that undertook the rehabilitation of about 93 victims returned from Mali in 2011.[85] Rehabilitation of victims in Nigeria usually involves vocational skills training such as dressmaking, hairdressing, jewellery making and catering as confirmed by Idia Renaissance and NAPTIP Counselling/rehabilitation department. Education was also included as part of rehabilitation for victims who wanted to go back to school. One victim confirmed that the latter was rarely fulfilled; instead, she was advised to get on with one of the vocational skills programmes while her quest for higher education was being considered.[86]

Victims confirmed that they were persuaded to take up these skills with the promise of gaining support to establish their own businesses. Unfortunately, some survivors have been known to drop out of rehabilitation centres and its programmes for several reasons including access to the rehabilitation centre as some complained that the centre was a long distance

from home and they could not afford the transport fares to the centre; lack of motivation; mortification of undertaking the kind of skills offered through the rehabilitation programme, which were amongst the many complaints from victims. According to an official at the centre, "not all survivors want to be hairdressers or caterers but this is what is available to them".[87] Although some of the returnees were glad to be rescued, many returned to their traffickers due to their dissatisfaction with rehabilitation as they felt that staying with their trafficker seemed more profitable to them.[88]

Apart from their experiences of rehabilitation, reintegration was often difficult for some of these victims. The narrow-minded perception and expectations held by community members/leaders of these trafficked persons makes reintegration difficult. Trafficking survivors repatriated from abroad are not expected to come back empty-handed. As a result, these survivors are pressurised to be economically viable upon return to avoid shame but given their exploitation, economic viability is hardly guaranteed. In addition, trafficked women often have to deal with the shame of being perceived by their communities as carriers of deadly diseases contracted abroad and bringing dishonour to their families.[89] Bamgbose contends that trafficking affects the reputation of the origin states, and therefore increases the prejudice these women experience upon return.[90] The trauma experienced by these survivors is often increased because of community stigmatisation. According to the UNODC, "Fighting trauma and stigmatization experienced by victims is a particular challenge".[91] Being blacklisted in their community often mean that they are unable to marry, unable gain employment or generally unable to lead normal lives in their communities. As such, they lack the family or community support network they once had before leaving for the UK and therefore find themselves in worse economic situations which drive them back into trafficking.

Survivors like Ada submit that she was back in poverty and that she has been worse-off after repatriation. She added,

> I'm still going to find a way out of here even if I have to suffer to get the money together … my family depends on me … other girls that I came back with have left the shelter back to the madam.[92]

Similarly, Dina added,

> If I were deported to Nigeria, I would of course go back to Europe as soon as possible. I would have to borrow more money. That would be difficult

> because I still have only paid US$ 20,000 of the other money (owned to trafficker for the first trip), but I would still find a way to go back to Europe. I know girls that are deported; they come back to Europe again.[93]

In essence, the stigmatisations by their communities as well as the economic difficulties they face bring them back to the level of vulnerability that often leads to re-trafficking. These socioeconomic conditions have prompted the asylum appeals of many Nigerian victims to remain resident in the UK rather than be repatriated, so that they do not fall back into the hands of their traffickers or are ostracised by their various communities. However, it is often difficult to prove in the court of law. The safe repatriation of victims of trafficking is not an isolated obligation of one state, but more of a shared responsibility between origin and destination states.[94] NAPTIP insists that the UK has to properly identify Nigerian victims and inform NAPTIP of any plans for repatriation. Now, NAPTIP lacks the mechanisms for accepting returnees, but at the time of this research, it proposed to consider developing one.[95] In this regard, NAPTIP requires not just the collaboration of the UK but also that of stakeholders in Nigeria in order to better address anti-trafficking problems in Nigeria as part of mutual cooperation to integrate the needs of trafficked persons in their anti-trafficking movement beyond just advocating for laws that looks like a paper tiger.

National Inter-Agency Collaboration and Cooperation

The Trafficking Protocol encourages cooperation at all levels, to enable these agencies to exchange information and expertise in tackling trafficking.[96] While international cooperation and coordination is important, a mechanism that enhances national coordination is essential. The UNODC insists, "Anti-trafficking National Coordination Mechanisms (NCMs) are a core element of an effective anti-trafficking response."[97] Similarly, the OSCE defines NCMs as the process of

> Identifying and integrating essential expertise and authorities needed to combat THB [Trafficking in Human Brings] [… and that they] are meant to provide leadership for the coordination of concrete anti-trafficking efforts and activities [and] organize the collective efforts of a country to produce the most effective […] results.[98]

NAPTIP has adopted a multi-agency approach aimed at overseeing the partnership and coordination of relevant stakeholders in Nigeria, such as the police, immigration services, relevant ministries, international/regional organisations and NGOs. In this connection, NAPTIP established a National Consultative Forum (NCF) in its early days. The forum was formed to bring together stakeholders working on issues related to trafficking. There was participation from the office of the Special Assistant to the President on Human Trafficking and Child Labour, Ministry of Women Affairs, Ministry of Labour and Productivity, Ministry of Cooperation and Integration in Africa, Ministry of Foreign Affairs, Ministry of Justice, and Ministry of Information. Other participants include representatives of Nigeria Immigration Services, Nigeria Police Force, National Human Rights Commission, ECOWAS, ILO/IPEC, IOM, UNODC, UNICEF, USAID, WOTCLEF, media organisations and other NGOs.[99] The forum was instrumental in developing and reviewing the National Action Plan on Trafficking in Persons, creating a network of partners and harmonising resources and programmes to avoid duplication.

As a strategy for coordinating the projects and programmes of NGOs, the Network of NGOs against Child Trafficking, Abuse and Labour (NACTAL) was established with support from UNICEF in 2004. The network with over 50 members from the six geopolitical zones of the country provides a forum for the coordination of NGOs and enables an integrated approach to be adopted for addressing issues of child trafficking, child labour and child abuse in Nigeria.[100] The existence of cooperation and coordination amongst various agencies in Nigeria was aimed at optimising resources in meeting the needs of trafficked victims. For instance, NAPTIP works with NGOs such as WOTCLEF and Idia Renaissance within the area of victim rehabilitation. These NGOs within their capacity supplement the limited bed space in NAPTIP shelters.

Despite the national coordinating efforts of NAPTIP, it has been criticised for not being as cooperative as was naturally expected following testimonies from other stakeholders that it dominates all work on anti-trafficking.[101] As a result, the organisation often closes the window for coordination. Some NGOs have criticised NAPTIP for working with only NGOs that it could manipulate to suppress any potential challenge to its competence.[102] Due to the position of NAPTIP, NGOs in Nigeria find it difficult to access funds as many international organisations focus their

grants towards supporting NAPTIP. As a result, these NGOs often lack the resources to work together or independently access the work of NAPTIP and anti-trafficking in Nigeria.

In spite of the attempts to avoid duplication, the lack of strategic coordination meant that this has not been avoided. This duplication of efforts also extends to the work of international partners in Nigeria. According to one official, resources from international donor agencies could be better coordinated.[103] However, due to lack of communication and fragmented agenda, resources are mismanaged and do not show any value for money in meeting the objectives of anti-trafficking in Nigeria. The bureaucracy that characterises relevant institutions in Nigeria impedes any progress towards an effective national anti-trafficking coordination. According to Nwogu, foreign donors should ensure they truly understand and support the needs of NGOs, especially those borne out of locally grown ideas and innovations to addressing trafficking.[104] However, foreign donors most ensure that they are accountable to trafficked persons with the projects they fund as part of acknowledging their (victims/survivors) stake in anti-trafficking.[105] Nevertheless, in addition to establishing necessary collaboration, Nigeria also extends cooperation to other countries through the signing of bilateral and multilateral agreements. So far, Nigeria has entered bilateral agreements with a number of countries including Benin, Niger, Italy and the UK. The question of how significant such an agreement has been and how it has affected the UK in promoting the anti-trafficking regime is most relevant to this study.

Conclusion

Nigeria is the only ECOWAS country that has taken tangible measures towards addressing human trafficking and therefore should be commended for its efforts. It has done this by adopting the necessary legal framework to tackle the problem. While this is fair on paper and demonstrates minimum compliance to the anti-trafficking regime, it has not sufficiently materialised in practice. Nigeria remains a challenge to the global fight against human trafficking and those who suffer most from this poor performance are Nigerian citizens at risk or affected by the trade. Despite the amount of funds invested in anti-trafficking measures in Nigeria, the business of human trafficking still flourishes. As long as the Nigerian government fails in its obligations to fulfil, respect and promote the socioeconomic rights of its citizens, the vulnerabilities to trafficking would continue to be on the

increase. Such vulnerabilities continue to create/increase the market for human commodity, which traffickers have preyed on.

Apart from legal obligations, there is the need to address traditional practices, cultures and social trends that provide the lethal ammunition to the trafficking operation. This includes the culture of fostering, which is not well addressed in the Nigerian Child Rights Act; the aspect of 'juju contract', which acts as a control mechanism for trafficking; and the elements of greed. These peculiarities associated with Nigerian human trafficking are well understood by Nigerians but at the same time, inadvertently overlooked by Nigerian authorities; hence, certain aspects of trafficking tend to be ignored or not given the required attention. This comes into light in the way trafficking is constructed in Nigeria in spite of the increased awareness of the crime. Furthermore, the government has not done much in tackling factors that usually encourage human trafficking. Nigeria is one of the most corrupt countries in the world and this affects the extent to which anti-trafficking enforcement is carried out by the state. Traffickers depend on the complicity of corrupt officials to carry out their business, and as long as this exists, any effort to address trafficking in Nigeria would continue to end in abysmal failure.

In Nigeria, trafficking is mainly understood to imply forced prostitution. This is contrary to what is obtainable in destination countries. It is evident from empirical findings that the UK is a not a significant destination and concern for Nigerian authorities. This has significantly affected the framing of interventions. Additionally, the difficulty in identifying repatriated victims from the UK does not help matters. Equally, the lack of a safe environment for safe repatriation of victims could also be a severe constraint. This lacuna is not just due to lack of police protection, but also to the communities' reluctant acceptance to the integration of survivors. This partly explains why victims who face repatriation from the UK may not voluntarily take the option of repatriation to Nigeria.

Arising from what has been discussed earlier, the need for collaboration both internally and internationally cannot be over-emphasised. Nigeria has demonstrated significant coordinating abilities, especially with NAPTIP as a pioneer coordinating body. However, its efforts are constrained by the creation of an amalgam of well-intentioned committees and networks that appear to work at cross-purposes with each other. On the international front, international organisations and governments mainly focus their attention on the aspect of prosecution. The lack of coordination amongst these external actors has led to the duplication of

efforts and waste of resources. In the context of this study, the UK also has an obligation to address other aspects of the trafficking process to ensure a holistic approach to stem the tide of human trafficking across borders. Therefore, the next chapter discusses the UK's response as a destination country.

Notes

1. The Nigerian Constitution 1999, section 34(1).
2. Nigerian Constitution 1999, section 12 (1–3).
3. See UNICEF Information Sheet—The Child's Rights Act (August 2007) [online] available at: http://www.unicef.org/wcaro/WCARO_Nigeria_Factsheets_CRA.pdf [Accessed 21 February 2012].
4. Nigeria Child's Rights Act 2003, sections 28(1) (b) (d); and 30(2)(a).
5. Nigeria—Convention on the Rights of the Child: Second Country Report, Federal Ministry of Women's Affair, (2004) 79 [online] available at: http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.70.Add.24.Rev.2.pdf [Accessed 13 April 2012].
6. Anti-Slavery International, 'Trafficking of children in West and Central Africa' (23 June–2 July 2001) 1 cited in Thanh-Dam Truong, Governance and Poverty in Sub-Saharan Africa: Rethinking Best Practices in Migration Management (UNESCO, 2008) 703.
7. Section 270 of the Penal Code imposes a penalty of imprisonment, which may extend to one year or just a fine.
8. Section 279 of the Penal Code.
9. Elaine Pearson, Human Traffic Human Rights: Redefining Victim Protection (Anti-Slavery International 2002) 160.
10. UNODC, International Framework for Action to Implement the Trafficking in Persons Protocol (UNODC 2009).
11. Harold Koh, 'Bringing International Law Home' (1998) 35 Houston Law Review, 647.
12. Ethan Nadelmann, 'Global Prohibition Regimes: The Evolution of Norms in International Society' (1990) 44 International Organization Issue 4, 479–526.
13. Laurie S. Wiseberg, 'Protecting Human Rights Activists and NGOs: What More Can Be Done' (1991) 13 Human Rights Quarterly, 525.
14. NAPTIP Act 2003, s 45.
15. NAPTIP Act 2015, s 47.
16. NAPTIP Act 2003, s 37—"Where the circumstances so justify, trafficked persons shall not be detained, imprisoned or prosecuted for offences related to being a victim of trafficking, including non-possession of a valid travel or stay permit or use of false travel or other documents."

17. See NAPTIP Act 2015, s 11 and NAPTIP Act 2004, s 22.
18. See NAPTIP Act 2005 for examples of penalties on human trafficking offences s12, s13, s14, s15(e), s16, s17, s18(c), s19(1), s21, s22(1e), s23 and s, 24(e) (Traffic in slaves—life imprisonment).
19. NAPTIP Act 2015 Section 13, 2(c).
20. NAPTIP Act 2015 s14.
21. NAPTIP 2015 s64.
22. NAPTIP Act 2015 Part XI s69–74.
23. ILO—NAPTIP, Nigeria [online] available at: http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=40 [Accessed 21 April 2012].
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26. Ibid.
27. Ibid.
28. United States Department, Trafficking in Persons (TIP) Report—Nigeria (2009).
29. International Law Commission's draft articles on responsibility of States for internationally wrongful acts with commentaries, Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 (A/56/10) Art. 14 (3).
30. Trafficking Protocol 2000, Art. 9(4).
31. Anne Gallagher, International Law of human Trafficking (Cambridge University Press 2010) 415.
32. NAPTIP, The Dynamics and Contexts of Trafficking in Persons: A National Perspective (Nigeria: NAPTIP, undated).
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42. Ibid.
43. Ibid.
44. Ibid.
45. Ibid. 11.
46. Ibid. 11.
47. Ibid. 41.
48. Ibid. 41.
49. UNIBEN Observatory, Why Benin City? An Assessment of Edo State and Benin City Endemic Areas in Nigeria, (Benin—University of Benin Observatory 2011).
50. Ibid. 10.
51. Interview with NGO official in Lagos Nigeria [December 2011].
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CHAPTER 6

United Kingdom Anti-Trafficking Response: The Context of a Destination Country

Introduction

The UK has been at the forefront of formulating anti-trafficking policies and legislations, most of which emerged from the establishment of the United Kingdom Human Trafficking Centre (UKHTC) in 2006. Like Nigeria, the UK has signed and ratified different international and regional legal instruments that are relevant in addressing human trafficking. The European Union laws have been largely instrumental to the UK's legal response to human trafficking. After the ratification of the Trafficking Protocol, the UK introduced an ad hoc legislation covering not only sex trafficking, but also other forms of trafficking as defined by the 2002 Framework Decision.[1] The year 2015 marked a major breakthrough in the UK with the introduction of the Modern Slavery Act. The new law has removed the burden on the UK government of not having a law that specifically and independently addresses human trafficking. While this new law is a massive step in the right direction, it has been criticised by individuals and organisations who have tirelessly advocated for the enactment of the law and many of its provisions. The legal provisions for the protection of victims, especially those who are non-citizens of the EU, remain contested. As victims of trafficking from Nigeria continue to top the list of those trafficked into the UK, the complexity of their cases remains one that has captured the attention of the UK Anti-Slavery Commissioner.

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It is no news that the UK government endeavours to adopt a human rights approach to its anti-trafficking strategies. Yet, in practice, its operations suffer criticisms for disproportionate response, especially with cases from Nigeria. Aside from the pursuit of its national interest in the form of its anti-immigration and security agenda, the UK authorities are challenged by complexities of cases from Nigeria, especially with regard to the sociocultural nuances that engender more cases. So far, it has made it difficult for the UK authorities to properly identify victims and successfully prosecute traffickers. Given the timing of this book, it is too early to critically assess the extent of the Modern Slavery Act in practice. However, this chapter will shed light on the existing problem that it hopes the new law will deliver on, whilst keeping in mind the need to extend the claim of rights to safeguard victims of trafficking. This chapter forms part of the foundation for Chap. 6, which teases out the implication of the UK anti-trafficking approaches to interstate cooperation.

Anti-Trafficking Law and Policies in the UK

Until 2015, the UK did not have a specific law that solely addresses human trafficking, but it has criminalised the offence in its existing criminal, immigration and labour legislations. These include the 1989 and 2004 Children Act; The Nationality, Immigration and Asylum Acts introduced in 2002; The Sexual Offences Act 2003; the Asylum and Immigration Act 2004; The Gangmasters Licensing Act 2004; The Immigration Asylum, and Nationality Act 2006; The Proceeds of Crime Act 2002; The Coroners and Justice Act 2009; The Convention Relating to the Status of Refugees (1951) and the UK's Human Rights Act, 1998. Today, we have the Modern Slavery Act 2015, which marks a major milestone in the anti-slavery history in the UK, collating all the related legislations into one and more. Before the new Act became law, these legislations have led to a number of policy guidelines for practitioners to take appropriate action in addressing cases of human trafficking. However, the limitation of these legislations further affirms the importance of the new law.

The Sexual Offences Act 2003 (hereafter referred to as SOA 2003) is a major criminal law against human trafficking in the UK, primarily focused on sex trafficking. Prior to the SOA 2003, sex trafficking was criminalised under the Sexual Offences Act 1956.[2] However, it did not make any provisions towards recognising trafficking with the use of force, deception and coercion. The SOA 2003 addresses sex trafficking specifically within

Section 57 to 60. It criminalises human trafficking into, within and out of the UK for sexual exploitation and attracts a prison sentence of up to 14 years.[3] While the Children Acts 1989 and 2004 are some of the primary laws in the UK aimed at protecting children from significant harm, they are further strengthened by the SOA 2003 to protect children from sexual exploitation.

The SOA 2003 makes it an offence to intentionally arrange or facilitate the movement of a person either across international borders or within the UK for the purposes of committing an offence by paying for the sexual services of a child[4]; causing or inciting child prostitution or pornography[5]; controlling a child prostitute or a child involved in pornography[6]; arranging or facilitating child prostitution or pornography.[7] The SOA 2003 also strengthens the Nationality, Immigration and Asylum Act 2002 in criminalising the trafficking of people for the purpose of prostitution.[8] This piece of legislation is limited to sexual offences as the title suggests and in essence, does not deal with all aspects of trafficking.

On December 1, 2004, the UK government introduced the Asylum and Immigration (Treatment of Claimants, etc.) Act.[9] This Act goes further than the SOA 2003 to criminalise trafficking for all forms of labour exploitation including organ trafficking. It is the first UK law to make trafficking for forced labour an offence. Exploitation here is defined as slavery or forced labour, the use of threats or deception to obtain a service, or a request or inducement to get someone to undertake an activity that someone who was not young, disabled or a family member would be likely to refuse.[10] The guidance on the interpretation of this Act is still limited and unclear in terms of labour practices of traffickers and the industries in which they operate.[11] Provision (d) of Section 4 was amended in the Border, Citizenship and Immigration Act 2009, following concerns raised regarding the original wording, which implied that children could give their consent to be subjected to one of the forms of exploitation associated with human trafficking.[12] This Act is of particular concern, especially to victims who are non-EU nationals with respect to the nature of their migration into the UK.

In addition to enhancing the existing legislation against trafficking for forced labour, the UK Government introduced the Gangmasters (Licensing) Act 2004 after the death of some Chinese migrant workers who worked as cockle pickers in the UK.[13] According to a BBC report, the 'snakehead' gangs smuggled these Chinese migrants into the UK for a fee of $30,000 and placed them in unsafe and exploitative labour conditions.[14]

The Act led to the establishment of the Gangmasters Licensing Authority (GLA) in 2005, which came into force in 2006.

The agency is responsible for setting up and operating a licensing scheme for labour providers in agriculture, shellfish gathering and associated processing and packaging sectors. The Employment Agencies Act already made it illegal for agencies to charge workers for finding them employment,[15] while the Gangmasters Act makes it an offence for gangmasters to operate without a valid license.[16] The Act enables assets of perpetrators to be seized from perpetrators. Any attempt to avoid GLA regulation carries criminal sanctions not only for the gangmasters, but also for others who use the gangmasters' workers.[17]

Some experts have indicated that the GLA has transformed the sectors, which it regulates.[18] So far, the GLA has received over 3000 reports of related cases since it was established in 2006.[19] It launched Operation Ajax, a series of unannounced, intelligence raids, which took place between 2008 and 2010.[20] Despite efforts to suppress forced labour, the agency has been criticised for its limited focus on a few sectors that do not address the complete reality and prevalence of labour exploitation in the UK. For instance, the GLA does not cover other related sectors that also require similar scrutiny. Sectors such as social care, construction and hospitality remain without sufficient scrutiny within this context. Even where licenses of illegitimate operators have been revoked by the agency, some of these operators continue to operate in the aforementioned non-GLA regulated sectors.[21] There has also been evidence of unscrupulous operators who swing to sectors where there is less regulation so that they can continue to exploit migrant workers.[22]

The Act does not extend to the private sphere where exploitations such as domestic servitude are evident.[23] Apart from its limitations in scope, the Act does not make provision for exploited persons who may be undocumented and do not have the legal right to work in the UK. According to Anti-Slavery International, migrant workers are often the target for law enforcement, which often leads to deportation without questions about their work condition, leading to the culprit employer only getting away with a fine that does not restrict them from setting up again.[24]

In order to offer specific guidelines on how relevant practitioners along the lines of NGOs, solicitors and social workers amongst others can utilise these laws in practice, the identified UK anti-trafficking laws have been translated into policies. The UK government launched a consultation in 2006 on the UK's Action Plan on Tackling Human Trafficking. There

were 206 submissions made to the Home Office from various stakeholders including individuals.[25] The consultation highlighted some shortcomings including the insufficient emphasis on human rights and victim protection within the draft Action Plan.[26] The Action Plan, which was finally launched in 2007 after a year of consultations, was expected to put in place appropriate structures and systems that were missing in the existing anti-trafficking structures. The intent of the Action Plan was to address the issue of human trafficking in four main areas including the 3Ps and child trafficking. The Action Plan also indicated that a human rights approach would be applied stating, "a strong enforcement arm is not effective unless the corollary victim protection and assistance is in place".[27] The Action Plan also recognised that victims have been let down in areas of immigration where victims have been wrongly charged due to lack of awareness and identification.[28]

On a positive note, the Action Plan included trafficking on the list of indicators by which police performances are measured. The UK Metropolitan Police, Specialist Crime Directorate (SCD) 9 Unit was mandated to oversee the law enforcement aspect of anti-trafficking in the UK. This was followed by the establishment of the United Kingdom Human Trafficking Centre (UKHTC) in 2006 as a national coordinating agency for the UK anti-trafficking strategy, which operates under the Serious Organised Crime Agency (SOCA). Today, the UKHTC has been replaced with the Modern Slavery Human Trafficking Unit (MSHTU) within the National Crime Agency (NCA).

The Home Secretary's preface to the 2007 Action Plan indicated that the Action Plan was intended to be a 'living document', which would be updated regularly. Accordingly, the Action Plan was updated in 2008 and 2009. The 2008 Action Plan took the protection and identification of victims a little further by introducing a 45 days minimum reflection and recovery period for all identified trafficked persons following UK's adoption of the Council of Europe Convention against the trafficking of persons.[29] It also addressed the issue of victims' immigration status by implementing temporary residence permit for victims. The National Referral Mechanism was introduced at this time as a mechanism to better identify victims of trafficking. The 2009 Action Plan went further to introduce ten new measures. Prominent among these measures is the monitoring and evaluation of the NRM and preparing for the possible threats of trafficking in the staging of the 2012 Olympics Games.

This updated plan of action considered a number of issues arising in the UK relating to eradicating trafficking. Certain policy guidelines were initiated before, in between and after these plans of action. These policy guidelines includes the 'Secure Borders and Safe Haven', a White Paper published in 2002 which sets out the government's proposed strategy on tackling human trafficking. This was followed by several old and withdrawn United Kingdom Border Agency (UKBA) policies such as the Asylum Police Instruction: Victims of Trafficking—Guidance in 2005; Detained Fast Track Processes; Asylum Process Guidance: Human Trafficking Supplementary Guidance and the continually changing Crown Prosecution Service Guidance amongst others. It is almost becoming difficult to keep up with the constant changes in immigration-related policies in this regard.

While the UK is not short of new policies, NGOs within the UK have been instrumental in the achievements of the UK government in adopting international legal instruments and internalising them into its domestic system. Major UK anti-trafficking NGOs have been consistent with their various campaigns and interactions with the UK government. Different networks and forums were formed in the UK as a platform to discuss the case for improved anti-trafficking measures of which the human rights of victims has been a priority. For instance, the UK did not opt into the 2010 EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting Victims (hereafter, The Directive) that makes further provision for victims' protection and cooperation amongst Member States until NGOs intervened. A public campaign led by Anti-Slavery International alongside other NGOs such as 38 Degrees, ECPAT UK led to the UK government adopting the Directive on May 9, 2011.[30]

The Directive broadened the definitions of trafficking to include people forced into illicit activities and ensures comparable standards across the EU for the prosecution of traffickers and the protection of victims within criminal proceedings.[31] At this time, the UK anti-trafficking legislation as aforementioned did not specify the protection of victims as it did with the criminalisation of the offence committed by the trafficker. However, opting into the Directive, makes provision for this omission. For instance, Article 10 of the Directive makes provision for the assistance and support for trafficking victims before, during and after criminal proceedings (i.e. witness protection). Although, the UK was relatively compliant in practice, it was not in legislation.

The coalition of Civil Society Organisations (CSOs) in the UK were not only instrumental in the adoption of the Council of Europe Convention against trafficking by the UK government in 2008 but also acted as an independent monitoring network to ensure its enforcement and implementation. The Anti-Trafficking Monitoring Group (ATMG) was established in 2009 for this purpose to advocate the UK anti-trafficking movement. The group comprises 12 leading UK-based anti-trafficking CSOs or NGOs and operates based on a human rights–based approach to protect the well-being and best interest of trafficked persons. As an independent monitoring mechanism of the UK's efforts against human trafficking, the group has relentlessly produced several reports, which strategically analyse and criticise the work of the UK government against traffickers. It also serves as an advocacy tool for actors within the anti-trafficking movement in the UK.

On July 19, 2011, the Coalition Government (Conservative/Liberal Democrat) published a strategy to deal with human trafficking. A political change of power within the UK government often goes hand in hand with new agendas on different issues, and anti-trafficking is no exception. The aim of the strategy as stipulated by the UK government was to ensure "better coordinated border and law enforcement efforts to prevent traffickers from entering the UK".[32] A key aspect of this government's approach was the establishment of the National Crime Agency (NCA), which plays a pivotal role in spearheading the fight against organised crimes, including human trafficking. This Agency commenced in 2013 and adopts strategies that include working with the private sector to strengthen the overall approach to anti-trafficking, working to implement the EU Directive on Human Trafficking as well as raising the quality of NRM and international cooperation.

NGOs have complained that the strategy focuses more on border control and less on victim's protection.[33] These organisations further assert that the new strategy does not contain the necessary details to offer effective protection for trafficked people even though a positive step was taken by the government to agree to opt into the EU Directive. Activists contend that the proposed strategy does not consider the complexity of trafficking in the UK. Thus, "the strategy is no more than a Ministerial statement".[34] Other commentators added, "While well intentioned, this strategy is too narrowly focused".[35] Some others see the strategy as a 'missed opportunity', following the government's inconsistent policies and guidelines often motivated by a change in power.[36] The introduction

of these policies/strategies cost money and time, and such 'political statements' by governments do not help matters, unless positive actions are taken to make a realistic change in the way human trafficking is perceived and tackled in the UK. It is the hope that the new Modern Slavery Act 2015 will learn from all the limitations of all the anti-trafficking laws and policies that has been introduced in the UK over time.

The UK Modern Slavery Act 2015

The introduction of the Modern Slavery Act (MSA) 2015 is indicative of the limitations of UK anti-slavery laws and policies and remains one of the big wins for the UK anti-trafficking movement at least on paper. When the Bill was first introduced in December 2013 with a report published by Frank Field MP and the report of the Joint Committee on the Draft Modern Slavery Bill in April 2014, social actors within the anti-trafficking movement saw a real opportunity to get it right. Several consultations were held by different groups to discuss and deliberate on the different elements of the Bill. The Commissioner was announced but was not confirmed until the Bill received royal assent. The Bill became law in 2015 after several adjustments were highlighted by key third-sector groups on how to make sure that the law covers all grounds. Whilst the adjustments were acknowledged, not all were admitted into the Bill. For instance, the ATMG published an alternative draft Bill entitled 'Modern Slavery, Human Trafficking and Human Exploitation Bill' with the aim to assist in the scrutiny and strengthening of the Modern Slavery Act 2015 to cover all grounds, especially towards victim protection.[37] An area, which the ATMG were keen on, was always related to how the law reflects on the lives of the victims, especially with overseas domestic workers, as seen in Clause 19.[38]

Notwithstanding, the new law breaks new grounds which includes the appointment of an Anti-Slavery Commissioner and the 'transparency in the supply chains' provisions.[39] Within the new Act, human trafficking is committed when a person arranges or facilitates the travels of another person for the purpose of exploitation. The latter includes those who facilitate travel of a person knowing and ought to know that another person is likely to exploit that person during or after travel.[40] This element certainly makes it easier to prosecute offenders unlike the previous legislation by reducing the blurriness of the intent to exploit in this instance. The new law broadens the scope of previous legislations on this offence. Whilst the

new law consolidates and replaces all related law, it touches on areas that are lacking within these laws including increasing the sentences for the offences.[41] Under section 5 of the Modern Slavery Act 2015, "a person guilty of an offence of human trafficking is liable on conviction on indictment, to imprisonment for life."[42]

Where there was an intent to commit human trafficking as seen in section 4 of the Act, the offender is liable to at least 10 years imprisonment unless in such a case where the intent included kidnapping or false imprisonment, then the offender in liable to imprisonment for life.[43] The UK adopted tougher measures towards prosecuting and preventing the crime by introducing the Slavery and Trafficking Prevention Orders (STPOs) and the Slavery and Trafficking Risk Orders (STROs). The STPO can be imposed by the court upon conviction to prevent a person from doing anything "which the court is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence".[44] The STRO comes into play where a case has not yet resulted in a conviction.[45] Additionally, interim orders of both STROs and STPOs can be made while the main application is being determined.[46] However, there are limits in exercising the extraterritoriality of slavery offence where a British citizen commits human trafficking abroad but not held to account in the UK.

Even though the current law may allow for easier prosecution of offenders, given the period at which this book is written, it is too early to categorically evaluate the effectiveness of the current law in criminalising offences of human trafficking in terms of increased prosecution and convictions rates. This can also be difficult to determine due to the reporting process of the UK Crime Prosecution Service (CPS), where the CPS only publishes the number of charges of trafficking rather than the number of defendants charged. This affects the level of insight into the extent to which the law has been useful in bringing perpetrators to justice. There is also limited aggregated reporting on victims of human trafficking especially concerning children. Although, the NRM collects data on victims, the data on perpetrators is limited with a lack of a UK centralised data collection, which is not included in the role of the Anti-Slavery Commissioner. It is therefore paramount that data collection is included in the tasks of the Anti-Slavery Commissioner in order to monitor and quantify the true progress of today's modern slavery laws and policies in the UK.

In terms of protection of victims, the new law addresses the issue of defence for victims who were compelled to commit crimes because of their exploitation.[47] In advancing the child trafficking provision, it introduced the 'Independent child trafficking advocates' to assist the child in obtaining all help and representation that they require.[48] Under this law, the Secretary of State for the Home Department is obligated to introduce guidance for the identification and support of victims of trafficking. This means that the limitations within the NRM ought to be reviewed from time to time to ensure that victims are better identified and supported alongside the presumption about age and the duty of public authorities to notify.[49] Despite these new provisions, the protection of victims is not entirely covered, especially concerning overseas domestic workers who still need to depend on the NRM to confirm that they are trafficked before allowing them to change their employers. Despite the fact that the latter may deter overseas domestic workers from coming forward, the very fact that they are acknowledged in the new law presents an opportunity for anti-trafficking crusaders to fight for better protection in the future. These opportunities generated by the new law also extend to large UK businesses whose impact on the economic side of human trafficking has been overlooked.

Today, businesses are talking about human trafficking because commercial organisations that entirely or partly operate in the UK with a minimum annual turnover of 36 million pounds are obligated to publish a Slavery and Human Trafficking Statement each financial year.[50] Businesses have to ensure that they mainstream the Modern Slavery Act in their mode of operation to ensure that no human being is exploited in the process of their business and must demonstrate how they intend to do so. This is a breakthrough in the supply chain industry, at the very least, ensuring the necessary checks and balances towards reducing labour exploitation as it relates to human trafficking even though it is limited to operations in the UK. The limitation is because many UK businesses often source cheap labour abroad where labour exploitation is prevalent and the legality of business jurisdiction is debatable. Besides, the inclusion of supply chain businesses can only advance attempts to end labour exploitation and unravel gaps that have not been apparent due to the limited exploration of this area of trafficking.

An independent Anti-Slavery Commissioner was appointed as part of the new law to coordinate the implementation of this law by encouraging good practice in tackling slavery and human trafficking in the UK. The

Commissioner is obligated to develop and implement strategic plans and produce reports on the extent of anti-slavery in the UK by cooperating with all stakeholders both in the UK and abroad. Apart from consulting the Scottish Ministers and the Department of Justice in Northern Ireland, the criteria for recruitment of the Commissioner was not as fairly transparent in terms of including crucial anti-trafficking stakeholders in the selection process to ensure the independence of the Commissioner. The reporting authority attached to the role also calls to question the independence of the Commissioner as highlighted by the independent anti-slavery groups who have been advocating for such a role. The appointment of the current Anti-Slavery Commissioner, Kevin Hyland, who has spent many years working in the areas of human trafficking and other crimes, is very apt. However, his law enforcement background again feeds into the critic in UK's approach to anti-trafficking, which is mostly crime-focused. It would certainly be interesting to see how this role plays out in the future to ensure that stakeholders from other sectors are also included in leading through this new office.

New UK Anti-Trafficking Policies and Strategies

Before the Act became law, the Modern Slavery Strategy was published in 2014 as the UK government policy on modern slavery. It was set up against the backdrop of four main premises—the intent to 'Pursue', 'Prevent', 'Protect' and 'Prepare' against modern slavery in the UK. The overall aim of the strategy is to significantly reduce the prevalence of modern slavery by reducing threat and vulnerability through the 4Ps. Specifically, 'Pursue' aims at persecuting and disrupting individuals and groups responsible for modern slavery.[51] 'Prevent' aims at deterring people from engaging in modern slavery. 'Protect' includes strengthening safeguards against modern slavery by protecting vulnerable people from exploitation and increasing awareness of and resilience against the crime.[52,53] 'Prepare' includes reducing the aim caused by modern slavery through improved victim identification and enhanced support.[54] The strategy emphasised the importance of international cooperation at all levels, including engaging international and regional institutions, embassies, British High Commissions, the Commonwealth Office. It highlights the need to annually identify priority countries, and this time, work closely with internationally and local-based partners, including faith organisations and civil societies in these priority countries.

The strategy was certainly well intentioned to tackle modern slavery in all its ramifications. However, modern slavery being a complex issue often raises gaps even in the most assenting policies. In its report "Time to Deliver…", the ATMG criticised the 4Ps strategy highlighted in the strategy as not reflecting the international anti-trafficking framework but rather resembling the UK's strategy for serious and organised crime. The success experienced using the latter strategy spurred the similarity. However, it is pertinent that the UK government considers the uniqueness of human trafficking, which can often be undermined by a law enforcement or criminal justice approach.

After the MSA was passed into law, the Office of the Anti-Slavery Commissioner published a strategic plan for 2015–2017 focused on key priorities to tackle human trafficking in the UK. This focused on a different '4P Paradigm' that serves the fundamental international anti-trafficking framework of Prevention, Protection, Prosecution and Partnerships whilst aligning itself with the 4Ps outlined in the 2014 Modern Slavery Strategy. The Commissioner's priorities include improving victim identification and care, law enforcement evaluation, promoting partnerships with key stakeholders, private sector engagement and international collaboration.[55] Within this report, the Commissioner did not only discuss his plans but also embarked on a fact-finding mission on how to engage with source countries such as Nigeria where a significant level of trafficking occurs. The Commissioner completed two visits to Edo State where trafficking is most prevalent in Nigeria. Subsequently, the Commissioner proposed a preventative approach to addressing trafficking in this area working in partnership with African-focused NGOs in the UK.

Although these latest law and policies seemed great on paper with the recommended adjustments that could make it better, the extent to which they will change the game for anti-trafficking in the UK remains the focus of all stakeholders. Without a shadow of doubt, there has been some improvement on anti-trafficking in the UK, especially with regard to the increase in the level of social factors that are involved in the movement and their various responsibilities. Nonetheless, assessing how laws and policies in pre-Modern Slavery Act translates in practice can actually help elucidate current changes or potential changes one should expect from the new legal framework. This is especially important with regard to how anti-trafficking approaches have affected non-citizens in the UK—in this case, Nigerian victims. Empirical data collected during fieldwork in the UK shed light on the experiences of victims before the Modern Slavery Bill

became law. Human Trafficking from Nigeria has always been a problem for the UK and remains a key focus today as one of the top five source countries for human trafficking into the UK. The critical factors highlighted in the next section can only highlight key problematic areas that the new Commissioner cannot overlook in implementing its 2017 strategic plan. This section considers a human-centred prescription in assessing the anti-trafficking approaches adopted by the UK government in dealing with Nigeria-related cases.

UK Anti-Trafficking Response: Pre-modern Slavery Act 2015

Although the UK has made remarkable efforts to address the problem of trafficking, it has continued to experience considerable difficulties in addressing trafficking in persons from Nigeria, especially from the protection front. This aspect includes identifying, supporting and ensuring the protection of victims from harm or re-trafficking. This has hindered measures to investigate and prosecute traffickers accordingly. Following the MO of trafficking from Nigeria, the UK's jurisdiction in respect of anti-trafficking commences as soon as the potential victim arrives at the UK border or on board a UK-registered mode of transport. The Council of Europe Convention on Trafficking in Human Beings states that State Parties shall establish jurisdiction of the offence of trafficking when it is committed; "On board a ship flying the flag of that Party … on board an aircraft registered under the laws of that Party; … by one of its nationals or by a stateless person who has his or her habitual residence in its territory … against one of its nationals".[56]

Since the exploitation within the context of this chapter takes place within the UK, the state must exercise due diligence in ensuring that the human rights of trafficked victims are not undermined in the process. A number of factors continue to stand in the way of the latter as well as undermine cooperation with the source country. This section explores the overlapping factors including the disproportionate focus on immigration as an anti-trafficking strategy; the challenges of identification; the accessibility to victim support; the criminalisation of victims; the prosecution of traffickers; prevention and repatriation. All of these factors play massive roles in addressing trafficking in the UK but migration within the context stands out as an overarching factor in the extent to which the problem is tackled.

Disproportionate Migration Focus: A 3D Approach

The failure in the approach to deal with the human trafficking of non-citizens, such as Nigerians in the UK, mostly begins with the conflict of anti-trafficking with anti-immigration, as demonstrated in this chapter. For the UK, the quest to reduce the inflow of non-EU nationals into its borders has dominated ongoing debates, especially in this current coalition government. This agenda reflects in the way the UK deals with Nigerian cases of trafficking in practice where it utilises what Rankin and Kinsella refers to as, the '3D approach'. According to Rankin and Kinsella, the UK's adoption of a 3D approach of detention, deportation and disempowerment makes clear its priority in this category. The use of this approach in detaining and deporting trafficked victims emerges from its immigration policies that are yet to appreciate the contemporary nature of human trafficking.[57] In line with such response, "governments may act out of self-interest in ridding themselves of potential burdens … or claim is the 'best interest' of the foreign victims".[58] Detention models cannot only critically disempower a victim's sense of freedom but undercut any chance of rapport service providers and law enforcement authorities may build with victims in order to prosecute human traffickers. According to a victim,

> I'm not a thief or a terrorist; I didn't do anything wrong. I was trafficked here, given a fake passport, beaten and forced to be a prostitute. Then they sent me to a detention centre. In detention, they forget you are human. They lock you up. You can stay there forever if there's no one to help.[59]

An NGO in the UK found that around 25% of its current trafficking referrals were received from detention centres and prisons where trafficked women were unfairly detained.[60] Furthermore, 95% of these victims lost their freedom because their traffickers gave them a fake passport or where they have stolen food to survive.[61] According to this NGO,

> These individuals were lied to and harmed in the UK, but instead of protecting victims and focusing on prosecuting the traffickers, these exploited individuals are often unfairly put in prisons and detention centres for crimes they were forced to commit by their traffickers.[62]

As a result, NGOs in the UK continue to campaign against detaining victims in detention centres and prisons, urging that it is an unfair treatment

to those who have already suffered exploitation at the hands of their traffickers.[63] In addition to detaining victims, an approach based on deportation will not only prevent law enforcement from arriving at critical facts but will also leave room for potential re-trafficking. This also deters some NGOs from bringing their clients to the attention of the authorities. Simply put, the immigration status of Nigerian victims of trafficking has been instrumental to the treatment they receive from their identification to their repatriation.

As most scholars have observed, an immigration approach to anti-trafficking has not made any significant impact in suppressing human trafficking, but instead, it has become a boomerang, especially on victims.[64] Blinded by its immigration focus, the UK's action has fallen short of expectation in a number of critical areas. First, UK authorities still find it difficult to identify Nigerian victims of trafficking, especially given the nature of their recruitment, as demonstrated in previous chapters. Second, without proper identification, victims may be criminalised for crimes committed in the process of trafficking and therefore may not be given the expected support that they would normally require. Consequently, this often means that their traffickers may not be prosecuted while the trafficked person is doubly victimised.

Although an anti-immigration approach is not favourable to anti-trafficking, as indicated in this book, it is crucial to affirm that the UK's fear on immigration related to trafficking is not far-fetched. This is mainly because some people have claimed (are still claiming and could still claim) to be trafficked as a way to abuse the UK immigration system. This is problematic for anti-trafficking as it makes it difficult to demarcate actual victims from those who make their way through the system. These bogus victims may say the right things to the authorities to fulfil the UK authorities' knowledge of trafficking. With the increasing awareness of juju in trafficking, many of these bogus victims may use it as a default statement to avoid further interrogations of their victimhood in some occasion. Most times, genuine victims will not say the right things and are often overwhelmed by fear when confronted by authorities, and therefore may not be ascribed victimhood they require. Well-intentioned practitioners with the aim to identify and help victims are continually challenged with making this demarcation. As a result, the proper identification of genuine victims from Nigeria remains problematic but crucial.

In order to address the problem of identification as well as estimate the scale of human trafficking in the UK, the NRM was introduced in 2009.

The mechanism was intended to introduce a standardised procedure for the identification of victims of human trafficking as well as act as a key tool for data collection concerning the scale of trafficking.[65] The process of the NRM referral starts with 'first responders' such as the police, immigration officials and a number of chosen NGOs in the UK. These first respondents are obliged to refer suspected trafficked persons to the appropriate competent authority—in this case, the Modern Slavery Human Trafficking unit (MSHTU) and The Home Office Visas and Immigration (UKVI). These competent authorities make the preliminary decision on whether there are 'reasonable grounds'[66] to believe that a person has been trafficked or not. In some cases, this may be followed by a positive decision at which stage, the victim is granted a 45-day extendable 'recovery and reflection' period, at which time, they can access support and no action can be taken to remove them from the UK.

This slightly differs for children, where safeguarding measures are put in place first before the child is referred to the NRM.[67] During the 45 days recovery period, a more rigorous assessment of whether the person is 'on the balance of probabilities' believed to be trafficked is also conducted. A positive conclusive result[68] at this stage enables the person to apply for a one-year UK residency permit either to assist with a criminal investigation or on humanitarian grounds. The NRM gives victims only one shot for identification, as there is no right of appeal at any stage in the event of a negative decision. A negative NRM decision can have a serious effect on the outcome of a trafficked person's asylum application. According to Rachel Witkin, "if this parallel system is not revised, it will negate rather than strengthen protection…".[69] Whilst the NRM is not mandatory, it is the only way that victims can be formally identified and supported.

As explained in chapters of this book, the identification of victims of trafficking from Nigeria is beyond the scope of human rights of victims. Human rights are vital for anti-trafficking in the UK but the challenge in this context stems from actualising these rights. A human-centred approach allows the latter to be clearly articulated so that authorities can set viable grounds in pursuit of other aspects of the 3Ps. In taking the important steps to identify victims of trafficking with its current NRM, UK authorities are hindered by their limited knowledge of the sociocultural underpinnings of human trafficking from Nigeria and the mindset of victims they attempt to assess. Additionally, they are also limited by the priority of their mandate that could potentially blindfold authorities to look beyond law enforcement in order to identify victims of trafficking. In order to look

beyond law enforcement, it might be useful to reconsider the existing UK competent authorities conducting victims' identification processes.

As it stands, the UK Border Agency as one of the 'competent authorities' for the NRM mainly identifies victims of human trafficking from non-European Economic Area (non-EEA) nationals and naturally would handle the identification of victims from Nigeria. The first mandate of UKBA is border control, therefore assigning the agency responsibility as a competent authority not only conflicts with a human-centred approach to anti-trafficking but also places an element of fear on the victim from the onset of identification. Todres explains this conflict using a multi-goals theory, contending that law enforcement authorities would likely prioritise arrests, prosecutions and convictions over human-centred concerns, given their specific departmental expertise and the incentives and pressures they face to deliver their assigned mandates,[70] thus demonstrating that it is simply insufficient to ask law enforcement authorities such as the UKVI to adopt a human-centred approach when their departmental agenda has not changed from strengthening immigration measures.

In line with their border control mandate, UKVI officers may inevitably create a hostile environment that breeds mistrust between themselves and the victims. Coupled with the fear of deportation, Nigerian victims often find it difficult to relate to law enforcement authorities, especially because of their negative experiences with similar authorities in their home country. The lack of trust stems from the belief that they will be unfairly assessed due to their immigration status. In some cases, victims claim that they are threatened with deportation if they do not cooperate with law enforcement authorities. A Nigerian female survivor (aged 23) explained that:

> The police continued to ask me questions; they shouted at me saying I would be deported or arrested if I didn't tell the officers R's address, or any address they could take me to. I didn't know any address to be taken to and could not recognise R's house. The police officers then brought me to [the] police station where I was questioned again and arrested.[71]

In addition to this fear, these victims often find it difficult to give concrete evidence that would help their identification as victims because of the fear of the oath they have taken during the recruitment phase, as demonstrated in Chap. 4. Due to the limited understanding of this African traditional belief by UK law enforcement authorities, these victims may be perceived to be lying. As a result, some of them did not receive positive

conclusive decisions as trafficked victims through the NRM assessment. While the evidence from UK authorities (including first responders) may point to the fact that Nigeria is the number one source country for trafficking following the number of referrals, the estimated statistics of formally identified victims through the NRM refutes this claim as seen in latest NRM reports. Following the interviews with UK anti-trafficking stakeholders, while the NRM final statistics may seem inconsistent in terms of its conclusive result, they seem to believe that there is a case to be made for trafficking from Nigeria. They added that the inconsistency in the NRM results stems from a lack of knowledge in dealing with these cases effectively, starting with proper identification that underscores the diversity of victims and their countries of origin. This shortcoming does not just affect victims' identification but skews the estimation of trafficking and the 3Ps.

An annual collation of the NRM for 2012 which was published in 2013 shows that although 206 victims from Nigeria have been referred to the NRM by first responders, only 21 received a positive conclusive decision.[72] According to a report by the ATMG, there is a disproportionate representation of victims who received a positive conclusive result in the NRM from developing countries, especially from West Africa. The report found that out of 527 potential victims referred to the NRM between April and December 2009, only 55% were met with a positive 'reasonable grounds' decision.[73] Within this 55%, 29% had received a positive conclusive decision, which is just 16% of the total referral.[74] The report highlighted the patterns in decisions correlating to the place of origin of presumed victims. It found a significant contrast between the 'positive identification' rate of UK citizens (76%), EU nationals (29.2%) and other country nationals (19%).[75] Although the data was not interpreted as discriminatory by the ATMG, they insisted that there is still cause for concern and thus warrants further investigation. A more recent data in 2016 showed that out of 3805 potential victims that were identified, 243 potential victims were from Nigeria.[76] However, the results of the referrals were not categorised on a country-to-country basis, making it difficult to ascertain how many Nigerians received a positive conclusive decision.

The UK NRM symbolises the government's commitment to addressing the problem of human trafficking. However, some commentators insist that it is 'not fit for the purpose', especially for identifying third-country nationals.[77] Apart from its difficulty in identifying victims, the statistics gathered through the NRM is not a true reflection of the extent

of human trafficking in the UK. As aforementioned, the NRM is not mandatory and many victims choose not to be referred to the system.[78] Without the proper identification of victims, other anti-trafficking measures essentially suffer. According to a Met Police officer, the cultural factor attached to cases from Nigeria makes investigations difficult.[79] It becomes important to adopt an approach that is not discriminatory of victim's nationality but incorporates elements tailored to understanding the nature and circumstances of their experiences. The human-centred approach is necessary towards enhancing such rapport that could lead to a more manageable identification and subsequently the victim's cooperation for better investigation. This applies to whom, how and what ways victims are interrogated which inevitably influences how they cooperate with authorities or practitioners. Nevertheless, even when some of these victims are conclusively identified as trafficked, they face the challenges of meeting the criteria to access support within the UK system.

Access to Victim Support: A High Criteria Threshold

The UK is a 'welfare state' and is naturally equipped for basic support which victims of trafficking can take advantage of during their recovery period. In the same light, the UK also makes provisions for victim support as stipulated by the Trafficking Protocol. Despite the existence of this support, Nigerian victims tend to experience limited accessibility to support services. Until mid-2011, the Poppy Project was sub-contracted by the UK government to support victims of trafficking. The Poppy Project is a project run by Eaves Housing for women (hereafter, Eaves).[80] The project was funded by the British Home Office to provide shelter for trafficked women who are not minors.[81] The Poppy Project received up to 2 million pounds (GBP) a year from the UK government to implement the UK's anti-trafficking protection framework.[82] The Poppy Project commenced care by providing trafficked victims with short-term accommodation, health assessment, access to legal services, information and support in liaising with the police and immigration officials.

In the second stage, victims are required to cooperate with law enforcement authorities, on which basis they could obtain further support.[83] The 2011 annual report from Eaves showed that the Poppy Project received up to 344 referrals of Nigerian victims of trafficking, which forms a signifi-

cant proportion of the referrals from other countries.[84] While the positive work of the Poppy Project in supporting women that have been trafficked cannot be overlooked, NGOs are often obligated to meet the requirements of their funders. This sometimes could come in the form of restrictions as to how grants are utilised as well as the scope of the services. Consequently, these restrictions have led to the inability of the project to meet the needs of victims referred to the service.[85] This inadequacy is based on the limited scope, resources and access to the support within the project.

First, the scope of the project is very limited, as it focuses mainly on women and sexual exploitation. Although statistics shows that fewer males are trafficked for sexual exploitation, many of them are trafficked for forced labour.[86] Poppy Project by its nature focuses on women, but as a major victim support contractor for the government, it is not gender inclusive. The complete focus on women means that men are totally missing, and limited efforts are made by the project to identify male trafficked victims or mainstream their needs in the support system. The scope of the project only supports women who have been sexually exploited, which once again re-emphasises the uneven focus on sexual exploitation in partial exclusion of other forms of trafficking.[87] Second, within the focus on sex, victims still have to meet certain criteria that are often hard to substantiate. These includes convincing authorities on their trafficking route to the UK; prove that they have worked as prostitutes in the last 30 days in the UK before being identified; evidence of being forcibly exploited; having come forward to the authorities; and their willingness to cooperate with authorities.[88]

The difficulty associated with coming forward to the authorities, especially for Nigerian trafficked women, often means that it may take some time before these women make up their minds to report. Some trafficked women who managed to escape from their traffickers may need more than 30 days to gain access to the project. The latter is also dependent on their awareness or their prior knowledge of the services available to them as well as overcoming their fear of dealing with law enforcement authorities. Between 2003 and 2006, 15 out of 99 women were not accepted for the project because they did not meet these criteria.[89] Third, in cases where they meet these criteria, there were limited spaces to accommodate these women. The Poppy Project has the capacity to accommodate up to 25

women victims of trafficking at a time, barely enough to meet the demand for victim support in reality.[90] Fourth, the conditions for victims to access the second stage of support, as highlighted earlier, does not fit into the requirements of Framework Decision 2002/629/JHA. The framework specifies that the protection of victims "shall not be dependent on the report or accusation made by a person."[91] With the new law that seeks to ensure that victims of trafficking are protected, it is the hope that the UK government will adopt the best practices, detailed in the Victim Survivor Care Standards after its official endorsement by the Anti-Slavery Commissioner.[92] The Human Trafficking Foundation developed the Victim Survivor Care Standards in June 2015.

Presently, the government protection mechanism was redirected to the Salvation Army (a UK Christian NGO) in 2011 and renewed again in April 2016.[93] Between 2011 and 2016, the Salvation Army had supported nearly 4500 victims of trafficking, of which Nigeria was a top source country after Albanian.[94] With only 318 beds available across England and Wales (which is an improvement from past years), there is clearly a need to increase existing capacity to meet the growing need. Although the Salvation Army tackles all forms of trafficking as well as includes men, it is still questionable as to how they will deal with religious conflicting issues that may arise from human trafficking. For instance, it is unclear as to how they would handle situations where victims who are pregnant from being sexually exploited wish to abort the baby; where the victims are homosexuals; or in the case of Nigeria, where victims believe in the power of supernatural forces. As the Salvation Army was not part of the interviewee for this book, it is unclear as to how they intend to address the issues that may potentially affect the options of care made available to trafficked victims. Nevertheless, as a delivery agent for the UK government on protection of victims, they have limited power as to the extent of protection they can provide to their beneficiaries beyond providing shelter and counselling. Beyond the few weeks that the victims spend in the Salvation Army shelters, some victims may lack protection due to a negative conclusion of the NRM on their cases and subsequent criminalisation following crimes committed during exploitation. This issue of criminalisation has been a pressing issue for anti-trafficking in the UK and one that has complicated trafficking cases from Nigeria to the UK.

Non-criminalisation of Trafficked Victims

The section on migration highlighted this element of criminality that prompts the detention of trafficked victims. As seen in many cases of cross-border trafficking, victims of trafficking often commit offences against the state during the process of trafficking (mostly under duress), and as a repercussion of such offences, these victims may be convicted of those crimes. The UN Working Group on Trafficking in Persons (the Conference of Parties) in 2010 insists that:

> Member States might consider the following points in providing for the non-punishment of trafficking victims…
>
> Establishing the principle of non-liability of the illegal acts committed by victims of trafficking:
>
> - Through a "duress"-based provision, whereby a trafficked person is compelled to commit the offence; or
> - Through a "causation"-based provision, whereby the offence committed by the trafficked person is directly connected or related to the trafficking.[95]

Although the above presents, yet again, another loose form of language as seen in the protection of victims in the Trafficking Protocol, the EU laws on anti-trafficking makes provisions for such non-punishment principle.[96] According to the OSCE, punishing victims of trafficking for crimes, which are "directly related to their trafficking [,] is a violation of their fundamental dignity [and] constitutes a serious denial of reality and of justice".[97] Although the UK has signed these legal frameworks, victims lacked adequate legal support and were still criminalised till the Modern Slavery Act 2015 came into law.[98] The UK may violate the principle of non-punishment due to wrongful identification of victims, as highlighted earlier, which as a result does not give a complete picture of the circumstances under which the offence was committed. The principle could also be violated directly where the UK authorities "ought to be aware of the status of the defendant as a victim of trafficking but fail to attach appropriate significance to this fact".[99] The criminalisation of trafficked victims is not consistent with international law, but in practice, it is difficult to apply. The non-criminalisation of trafficked victims was acknowledged within the Crown Prosecution legal Guidance on the Prosecution of trafficked victims, but hardly followed through in the Court of Justice.[100] In the case of *R v O* [2008] EWCA Crime 2835, the Court failed to recognise that O was a minor.[101]

Nigerian victims of trafficking are usually in breach of UK immigration rules, and therefore, the first response is usually to arrest them. A female victim from Nigeria was convicted on her plea of guilty of an offence for possessing a false identity document with intent contrary to section 25 Identity Cards Act 2006. She had been arrested at Waterloo station en route to France, presenting a French identity card belonging to someone else at the Eurostar exit barrier. She claimed that she was running away from her trafficker.[102] Even though the Poppy Project and the Home Office confirmed she was trafficked, the Court still refused her leave to appeal both conviction and sentence. This was on the basis that the court felt that both Poppy Project and the Home Office dealt with the matter 'on her unchallenged assertion' and that her accounts were not consistent or credible to conclude that she was trafficked.[103] Based on this case, the crime against the state took precedence over the victim.

As highlighted in previous chapters, victims usually are not able to give evidence due to fear of their oath-taking ritual, and most times, the courts find it difficult to grasp the circumstance of such traditional transactions. On equal, or if not greater concern, is the failure of the police investigators to carry out their duty to investigate allegations made by these victims which could help their cases. The latter is consistent with the case of *OOO and others v Commissioner of Police for the Metropolis.*[104] So far, there has been no special modification of the general law for these defences.[105] A criminal lawyer in the UK who specialises in trafficking cases indicated that a significant number of people held in prison whom he visited in the course of his work have been prosecuted without being recognised as being trafficked.[106] Applications could be made to discontinue prosecution on their behalf but victims are hardly informed or proactive about their rights, so it is simply not done.[107]

Nevertheless, most convictions result in automatic deportation at the end of sentence and victims of trafficking are hardly safeguarded in these instances.[108] There is also a possible conflict of interest for authorities when a person serving a criminal sentence applies for recognition as being trafficked and in need of protection.[109] The UK government's 'opt-in' to the EU Directive for the protection of trafficked victims brought a change to this legal problem for victims following Article 14(1)[110] of the directive.[111] For many years, legal practitioners and relevant advocates re-emphasised the importance of addressing the issue regarding the non-criminalisation of victims and its implications for anti-trafficking.[112] The criminalisation of victims often results to victims being repatriated as criminals. This does

not only re-victimises trafficked persons but also leads to re-trafficking. In this case, the trafficked persons relive their exploitative experiences through re-trafficking, which also strains the UK anti-trafficking efforts, as they may have to deal with one case several times.

Today, the non-criminalisation of victims of human trafficking is a crucial element in the Modern Slavery Act 2015. The new law makes provision in section 45 for the 'defence for slavery or trafficking victims who commit an offence'. The law exempts a victim of trafficking from guilt of an offence committed under the circumstances of being enslaved. Whilst this is significant breakthrough in law, it does not seem to be a complete defence against crime, as seen with the reservations on offences for which the defence of slavery will not work. At the very end of section 45 of the Act, sub-section 7 stipulates that non-criminalisation of victims does not apply to an offence listed in Schedule 4. Thirty of these offences outlined include common law offences, immigration Act 1971 (c.77), Theft Act 1968 (c.60), Explosive Substances Act 1883 (c.3), Public Order Act 1988 (c.64) and even the Modern Slavery Act 2015 (c.30). The limitations of this law means that in one way or the other, former slaves who have been groomed into assisting traffickers (which is often the case as seen with former slaves who become traffickers themselves) will be prosecuted too. This is quite tricky as it became difficult on where to draw the line of victimhood. Whilst one may argue that this law is too narrow in terms of the protection it accords to actual victims, there is also a danger in giving complete cover to a criminal who may be able to default the law and seek cover as a victim. If the law is to be extended to give absolute defence to criminal activities committed by victims, then victims' identification becomes even more important than ever. The infancy of the MSA means that we are yet to empirically understand how this aspect of the law translates in practice when invoked.

Victim Repatriation: Voluntary or Mandatory?

The repatriation of trafficked victims is one of the most visible and tangible trafficking interventions because it allows the introduction of a human face to the process.[113] It is common knowledge that repatriation occurs at the end of the trafficking chain at least from the part of the destination country, after which, rehabilitation and reintegration of the victims is taken over by the state of origin of the victims. This process is expected to be voluntary, rather than forceful. It has to be done in a manner that pro-

motes the safety of the survivor, especially avoiding the incidence of re-trafficking. According to the Council of Europe Convention Against the Trafficking of Human Beings, Article 16 states that a victim has the right to return to his or her own country.[114] It further stipulates that destination states should not forcibly repatriate victims of trafficking. In practice, although the UK government has initiated voluntary returns schemes for the repatriation of survivors of trafficking, it is geared towards deportation rather than the safety of the victim. As a result, the legal appeals to remain in the UK made by those who have been victimised by trafficking are often rejected. For the most part, Nigerian trafficked victims usually opt to remain in the UK under the grounds of the risk of re- trafficking or torture by their traffickers, but are often refused UK residency.[115] According to Kinsella, the nature of repatriation in the UK exposes the victim to possible trauma and the risk of re-trafficking.[116]

A number of assisted voluntary return schemes have been funded by the UK government and carried out by the IOM and other NGOs such as the Refugee Action.[117] These include programmes such as the Voluntary Assisted Return and Reintegration Programme (VARRP) or the Assisted Voluntary Return of Irregular Migrants (AVRIM).[118] Under these programmes, the IOM with its UK partners assist eligible non-EEA (EEA—European Economic Area) migrants who may prefer to return permanently to their home country.[119] This programme provides financial help with resettlement in the home country to current and former asylum seekers, up to a total of £1500 per person.[120] The package is supposed to help them set up a business, a job placement, education or training in their home country. Applicants who have made a claim for asylum that is either pending or has been rejected are expected to leave the UK within three months of their application being approved. By returning, they withdraw their asylum application in the UK and may be subject to a re-entry ban to the UK for up to five years. They have to sign an indemnity declaring that IOM is not liable for personal injury or death during and/or after their participation in the IOM programme.[121]

Despite these programmes (some of which have ceased to exist), there is no accurate number made available on the number of victims that have been successfully repatriated.[122] There is scarce independent assessment of these repatriations or its long-term sustainability.[123] The politics associated with these schemes have been deemed unsuitable, insecure, less than voluntary and lacking in available knowledge on current conditions in the countries of origin to help applicants make an informed choice. The

scheme was unsustainable because assistance provided was, by its very nature, short-termed and in piecemeal. According to Jobe, IOM's database reveals that trafficked persons, on return to their countries of origin, are often faced with economic and social situations that rendered them vulnerable to trafficking in the first place.[124]

Rightly, so, safe repatriation is all part of the rights-based approach to ensuring that victims are safely reunited with their families and this should be a welcomed process of the anti-trafficking chain. However, victims in this case study rarely want to return home due to reasons that can be based on their human rights and some of which have no basis on rights. It is the latter which is often prominent in cases of trafficking from Nigeria that warrants a human-centred approach and therefore more attention. Based on a lack of human rights protection, victims may fear the reprisal of traffickers because they do not trust the failing protection system in Nigeria, which is overwhelmed by corruption. As a result, trafficked persons may encounter continuous threat from their trafficker(s) upon return. The power of the trafficker(s) when trafficked victims return to their countries of origin is a significant factor in a re-trafficking situation. This is often prevalent where there is a complete lack of police protection for victims and their families; more so, when financial 'debts' are still 'owed' to trafficker(s) by the victim. Due to the lack of protection from Nigerian authorities in this regard, as also indicated in Chap. 5, Nigerian victims deter repatriation and often choose to seek refuge in the UK.

Beyond a human right basis, Nigerian victims of trafficking detest repatriation due to sociocultural factors that most of them often do not speak about, at least, not to the UK authorities. This is especially because this often does not support their legal standings. Upon return to Nigeria, victims may encounter family or community rejection due to the stigmatisation attached to trafficking for sexual exploitation, as illustrated in Chaps. 2 and 4. They are also often perceived as a failure in their community when they return 'empty-handed', that is, without any material/financial gains from Europe when likened with other Diaspora persons who are deemed relatively successful. This is prominent in cases where the victim's family have invested financially in the victim's migration to the UK only to fall into the hands of a trafficking ring. Victims interviewed in Nigeria indicated that they came back to similar situation that led them to being trafficked and often see themselves as a failure to their families/community.[125] One of them indicated that she dropped out of school and agreed to follow her trafficker because she wanted to take care of her siblings, but

since being repatriated from Mali, she has been worse off.[126] Although these victims were not repatriated from the UK, they provide evidence as to why some Nigerian victims trafficking may not see repatriation as an option. Taking a human-centred approach in this point is not to be geared towards enriching victims upon return but recognising the sociocultural pressures that stem from their communities, which hinders their process of recovery. As such, engaging communities in this regard as a way to ensure an enabling environment seems crucial rather than the hastiness to return victims; in this case, potentially back to their traffickers. Considering the needs of the victims as illustrated in the sub-sections above is not only important for the prevention of trafficking and protection of victims, but also presents an advantage to the prosecution of traffickers.

Prosecuting Traffickers

According to Ann Gallagher, "no country can lay claim to genuine, extensive experience in dealing with trafficking as a criminal phenomenon."[127] Most states are either developing or adapting responses 'on the run' often under strong political pressures, and mainly through 'trial and error'.[128] On a positive note, there have been a number of successful prosecutions of Nigerian cases of trafficking in the UK in the last couple of years. However, there is still relatively low prosecution rate.[129] Investigation is one of the important aspects of combating human trafficking as it leads to the conviction of traffickers and destruction of their criminal network as part of prevention. It grants justice to victims who have been exploited by these traffickers. The UK law enforcement authorities have been criticised for a number of reasons within the realm of trafficking and prosecution. These criticisms include inadequate prosecution of Nigerian traffickers; the lack of a rights-based approach in working with victims; the inadequacy of the law for criminal justice; as well as the lack of cooperation with law enforcement agencies in addressing human trafficking in Nigeria.

As highlighted earlier in this chapter, the new MSA presents real opportunities for the prosecution of traffickers through the expansion of the offence within the new law, including those who intend to commit the crime of human trafficking. Following the latest review of the MSA published in July 2016, the utilisation of the new law to prosecute is still in its early stage, and therefore a work in progress in translating the Act in reality. There has been increased number of prosecutions and convictions under the old offences while prosecutors are enhancing their understand-

ing of the law. There is no doubt that investigating and bringing perpetrators to justice is a hard task even with the new law. However, victims are crucial to ensuring that the right evidences are gathered for convictions. According to Bales, initial actions taken in investigation are crucial to the ultimate success of prosecutions.[130] These actions include protecting victims to enable investigations that are more fruitful. Nigerian victims of trafficking are crucial to investigations of trafficking cases. However, an approach that does not consider their needs and circumstances, as highlighted in previous sub-sections, is likely to be unproductive. According to the UNODC tool-kit on investigation, "The most successful results involve agents with experience in human trafficking cases, who show more sensitivity to victims and their needs, and are aware of other sources of information to corroborate evidence."[131]

For law enforcement authorities to carry out a proper investigation of Nigerian cases, including rescues, they need to bear in mind the profile of these types of victims, and not generalise on the nature of their victimhood through a one-size-fits-all approach. There is need to understand the MO of trafficking from Nigeria to ensure that victims are properly identified and protected to enhance confidence that will ensure a meaningful and purposeful investigation. In 2012, London Met Police officers were criticised for their 'heavy-handed' approach to brothel raids and for failing to find victims of trafficking.[132] According to the report, 'Silence on Violence', the success rate of police performance in finding trafficked victims during brothel raids was less than 1%.[133] A specialist police team within the Met—SCD9 team—was criticised for looking in the wrong places for victims. According to Boff, raids were carried out with little or no evidence.[134] Given that some trafficked victims are rarely found in brothels, it is not just a question of where the police are looking, but also who they were looking for. As highlighted by Nigerian victims in the previous chapter, they are usually taken from house to house, making the sphere of their trafficking more private than public. The current misguided nature of investigations carried out by law enforcement authorities continues to generate some concerns.

Aside from misguided investigations of Nigerian cases, there are glaring inconsistencies in statistics from the UK on the extent to which traffickers are prosecuted. This may be attributable to the inadequacies in utilising previous UK laws to prosecute traffickers in the UK due to lack of sufficient evidence. According to the Silence for Violence report, Operation Pentameter 2 claimed to have carried out 822 raids on broth-

els; identified 167 possible 'victims' and arrested 528.[135] After a gruelling legal battle, *The Guardian* managed to obtain an analysis (marked restricted) by the UKHTC.[136] The document revealed that after 822 raids, no sex trafficker, by international definition, had been found.[137] In defence of this misinformation, the head of the investigation asserted that one should take into account the effect of 'attrition' in the criminal justice process.[138] This is a situation whereby an individual was charged for one offence but may be charged for a lesser offence because of plea by the defence before the trial. Therefore, there seems to be a possibility that a number of traffickers may have been prosecuted not for trafficking but rather for a lesser offence.

Given the inadequacy of the previous national legal frameworks to prosecute traffickers, the police and the CPS were determined to use every legitimate means at their disposal to disrupt this trade and make it difficult and unprofitable for traffickers. Law enforcement authorities have in many cases applied what is termed the 'Al Capone Approach'. This approach is used to 'trap traffickers' using other legislations when there is insufficient evidence to convict them of the crime of human trafficking.[139] A senior advocate, Alison Di Rollo, (Deputy Head of the Crown Office's National Sexual Crimes Unit) asserts, "get them for something if we can't get them on the human trafficking charge."[140] The dilemma of insufficient evidence has also been associated with lack of strong laws to 'reel in the gangsters'.[141] While the Al Capone approach could be seen as an additional part of the work to deter and prosecute traffickers, the approach has practical disadvantage.[142] This is mainly because it undermines the accuracy of statistics and lessens the conviction of the trafficker, which can be detrimental for the victim. For instance, some traffickers receive short sentences and are released from prison before their victims have had time to safely re-establish her/himself into the society.[143] It is the hope that the new anti-trafficking law in the UK instils greater confidence in victims to engage with the criminal justice system. It is also pertinent that law enforcement agencies are equipped with the right tools, training and processes that allows for a consistent and coordinated response. Such approach is also advantageous for preventing trafficking and addressing the demand for slaves in the UK system.

Measures for Prevention and Tackling Demand

The aspect of prevention, as previously highlighted, is a shared responsibility of states following their different obligations. As a destination country, the UK is obliged to not only address the demands of trafficking from Nigeria but also work with Nigeria to tackle the source. The need for awareness programmes has been necessary in the UK so that people can report and victims can identify services that can support them. An NGO in the UK indicated that during periods of public awareness, they have received increased number of referrals because people become aware of indicators.[144] Prevention programmes such as the 'Blue Blindfold' Campaign, sponsored by the UK government and facilitated by NGOs such as Anti-Slavery International, were initiated in 2008.[145] Campaigns like these have been supplemented by the work of other NGOs such as Stop the Traffic's 'Active Community against Trafficking' project, which involved taking innovative steps to engage key communities in the fight against human trafficking.[146] This also follows trainings, workshops, research and education that have been facilitated by other NGOs and think tanks. Specific to Nigeria, IPPR has carried out a research aimed at understanding trafficking between Nigeria and the UK, similar to the objective of this book.[147]

A 2012 report by the AMTG concluded that preventing the trafficking of persons into the UK has been the weakest of all the 3Ps on a general note.[148] Several UK government strategies on human trafficking reaffirmed the political will of the state to tackle 'prevention' by committing to "tackle trafficking from end to end: from recruitment to exploitation".[149] According to the ATMG, the problem in tackling the prevention of trafficking from the UK angle is down to a lack of a coordinated approach and a prevention strategy that focuses on law enforcement and immigration action.[150] While the UK government approach is to tackle trafficking at the source, it has been interpreted in the narrow prism of dissuading vulnerable people in the source country from (illegal) migration before the MSA was introduced. It does little or nothing to address the underlying socioeconomic situations that make people vulnerable to trafficking in the first place, as seen in Nigeria. Existing international programmes targeted at preventing human trafficking by the UK government has focused mainly on the Greater Mekong Sub-region funded by the Department for International Development (DfID).[151]

European laws on human trafficking make provisions for a mixture of short, medium and long-term preventive measures as well as a framework for a holistic approach to preventing trafficking. Article 5(2) of the Convention requires State Parties to "establish and/or strengthen effective policies and programmes to prevent trafficking in human beings". Such measures include: research, information, awareness-raising and education campaigns, social and economic initiatives and training programmes.[152] State Parties are also required to 'promote a human rights-based approach' and 'use gender mainstreaming and a child-sensitive approach' in enforcing prevention measures.[153]

Before the Anti-Slavery Commissioner's strategic plan, the UK government's strategy includes tackling the demand side of trafficking, which includes the demand for sex, cheap labour, services and goods.[154] The relationship between demand and human trafficking is direct or indirect as not all demands are illegal. However, demands concerning areas such as forced marriage and child pornography require complete eradication. From a labour standpoint, this has been done through the GLA, which has limited protection for undocumented/illegal Nigerian victims of forced labour, as highlighted in the legal analysis. However, MSA has extended the stakeholders responsible to tackle labour exploitation, including big businesses that often drive the demand for cheap labour. From the standpoint of the demand for sex work, the UK government continues to deliberate on attempts to regulate the sex industry in a way that indirectly criminalises the industry. For instance, the UK government proposed a legislation to make engaging in sexual intercourse with sex workers a strict liability offence—by including trafficked persons—the same strict liability offence for when sexual intercourse is performed with an underage person.[155] Since most people who patronise sex workers may not be able to make the demarcation between victims of trafficking and sex workers, they face the possibility of committing an offence unknowingly. Additionally, there is also an ongoing attempt by the UK government to make the sale of sex illegal as a prevention strategy for sex trafficking.[156] On the contrary, some feminist organisations including the police have rejected such a proposal arguing that it would further drive prostitution underground, does not consider the protection of trafficked victims, and further, puts sex workers at risk.[157]

The Anti-Slavery Commissioner recognises the importance of anti-trafficking prevention programmes in Nigeria, which was central to his priorities during his visit to Edo State in Nigeria. The Commissioner reck-

ons that communities need to be better engaged and aware of the dangers of human trafficking; economic empowerment through agro-businesses needs to be initiated to generate employment for young people in order to reduce their vulnerability to human trafficking; the law enforcement and judicial capacity in Nigeria need to be enhanced.[158] These strategic plan specific to Nigeria is quite important as it might very well be the first time the UK government is investing in a way that suggests a long-term investment in tackling human trafficking at the source. However, it is as important to really conduct a detailed study on how it will be different this time. This will not be the first time a destination country such as the UK has attempted such a preventative approach to tackling human trafficking at the source. However, the Commissioner ought to understand why others have not made any significant impact in reducing human trafficking from Nigeria in order to ensure his plan is more enduring.

The UK has no choice but to depend on local knowledge and local solutions in order to collaborate with key stakeholders to enable prevention programmes to flourish in Nigeria. However, it is equally crucial for the Commissioner to be conscious of its objectiveness in dealing with local partners, especially concerning their scope and ideology in tackling the crimes. For instance, while working with the Catholic Church in Nigeria can be advantageous in driving awareness programmes within that denomination, it is pertinent to understand the alienation it may generate for those outside the denomination. The Commissioner may also want to consider the ideology of the churches in Nigeria and what it may represent for victims' support. This is most crucial for victims who have experienced sexual exploitation because they agreed to migrate for prostitution. This also includes those in unwanted pregnancy situations and those who are involved with 'fetish' oath-taking rituals associated to their trafficking process. The Commissioner's strategy for Nigeria also raises questions surrounding the growing 'greed' of today's Nigerian youths and how their lack of interest in agro-business will prevent young people from becoming vulnerable. The work to prevent human trafficking from Nigeria cannot be short-sighted nor lose sight of the personalities of potential victims in Nigeria concerning what truly makes them vulnerable. The Commissioner will have to rise above the 'Western saviour mentality or assumptions' that completely undermines the status and thinking of its beneficiaries. This can be done by ensuring that stakeholders in Nigeria including survivors and potential victims have ownership in actualising a preventative framework for human trafficking in Nigeria that is truly human-centred, and

specific to their needs in order to be impactful. This calls for collaboration and coordination at all levels that are not just localised, but also internationally connected.

National Coordination Mechanisms

Human trafficking is a complex and multifaceted issue that has continued to generate new stakeholders in the UK over the years. With the new MSA, the private sectors' involvement in anti-trafficking has become compulsory, requiring a more comprehensive multidisciplinary response from all stakeholders involved. As a key priority for the Anti-slavery Commission, there is need for coordinated partnerships between these key stakeholders, which is vital to ensuring an effective and sustained response to anti-trafficking in the UK.[159] According to the UNODC, "inter-agency collaboration is a prerequisite for the success of any national or local strategy to prevent and combat trafficking in persons."[160] This requires key agencies, from the police, CPS, NCA, policymakers to NGOs, to work in a more coordinated fashion towards the common goal of ending human trafficking. A successful cooperation mechanism, as the UNODC puts it, is based on a clear delineation of the respective roles of the various agencies involved.[161] The ATMG affirms this by stating,

> Good coordination of all relevant actors avoids duplication and allows for efficient information and best practice sharing, early identification of emerging trends and patterns and evaluation of activities.[162]

Anti-trafficking in the UK can benefit from the experiences and expertise of a wide range of agencies relevant to anti-trafficking in order to facilitate innovative and creative response to the problem. In the UK, this has been demonstrated through the establishment of statutory groups such as the Inter-Departmental Ministerial Group on Human Trafficking (IDMG), tasked with overseeing the implementation of the government's strategy by coordinating and monitoring the UK policy on human trafficking. The group brings together ministers from various government departments including the Home Office, DfID and the FCO. However, the group has been criticised for its inactivity.[163] Other statutory groups include the three multi-agency sub-groups coordinated by the UKHTC around the 3Ps with the representation of key NGOs working around trafficking. Today, the Anti-slavery Commission undertakes that coordinating role to ensure

that partnerships are maintained through shared information, intelligence, experiences and resources towards achieving clear overacting outcomes in this regard.

Empirical studies have shown inconsistencies in coordination demonstrated through the lack of communication between UK stakeholders necessary for national coordination, clarity of responsibility and international coordination. There are so many agencies in the UK carrying out duplicated projects, which can be quite confusing. According to law enforcement officials from the Met Police and UKHTC, there is hardly information exchange on cases that they both handled independently even though these cases are Nigerian cases. One official mentioned, "We do not talk to each other, sometimes within the same department."[164] This often results to fragmentation and overlapping efforts that becomes confusing for international coordination.[165] The ATMG demonstrates an example of coordination between NGOs in the UK, especially concerning its independent evaluation of anti-trafficking efforts in the UK, which has been useful for persuading the UK government towards fulfilling its human rights obligations.

Furthermore, organisations outside London have complained that the fight against transnational human trafficking in the UK has been rather 'London-centric'.[166] Even though London is a major route for trafficking, people are being trafficked into cities such as Manchester.[167] The focus on London has led to unequal resources and attention to other emerging trafficking routes within the UK. Due to the lack of specialised police officers within these regions, for instance, trafficking cases are often addressed without taking into consideration the special needs of the crime. As a result of this shortcoming, the protection of victims within these areas is often overlooked or misread, thereby limiting the success of anti-trafficking operations in the UK.[168] It is the aim of the Anti-slavery Commissioner to improve the national coordination mechanism through perfecting partnership models, encouraging key stakeholders such as the NCA, to improve data capturing/sharing system amongst key agencies in the UK and abroad. Additionally, the Commission seeks to continue to raise awareness working with partners including working with the epistemic communities to generate high-quality research into modern slavery issues. It is equally crucial that the national coordination of social actors extends beyond the UK in a cross-border situation such as that explored in this book, in order to advance the anti-trafficking movement.

Conclusion

The UK has adopted different measures to address human trafficking by enacting laws and initiating policies to address the 3Ps. While these demonstrate its political will to address the problem, its approach to tackling trafficking from Nigeria has been geared towards anti-trafficking strategies that has failed victims from Nigeria. Coupled with the limited understanding of the profile of trafficked victims from Nigeria, interventions have been unsatisfactory and complicated. In cases where there are clear provisions to support victims and prosecute traffickers, the criteria associated with accessing these provisions do not incorporate the contextual circumstances of Nigerian victims. This conflicts with the agenda of the current UK government to reduce the flow of immigrants within its borders. It is on the basis of the latter that the UK border and crimes agencies remain the competent authorities to conclusively identify victims from non-EU states. It has given fillip to the discrimination, inaccessibility and the criminalisation of victims from Nigeria, which forms part of the major factors that sustain the continuous exploitation of victims.

Over the years, anti-trafficking measures have hindered the investigation of human trafficking and unsafe repatriation of victims back to Nigeria without proper identification; victims remain at risk of being re-trafficked. In consequence, this may lead to the UK government investing huge resources to address the menace. Prevention has not only lacked the required intervention, but equally requires the shared responsibility of the source country (Nigeria) to succeed. There are a number of areas that urgently require active collaboration between the UK and Nigeria. Although there are abundant and well-funded CSOs who legitimately advocate for better anti-trafficking measures, as well as a longstanding structured welfare system in the UK, the paucity of national coordination has been the obstacle militating against the success of anti-trafficking measures. The continuous changes in anti-trafficking institutions and UK migration laws/policies are often difficult to keep up with. This has created obstacles for international collaboration on anti-trafficking.

There is absolutely no doubt that the UK has made serious improvement in addressing human trafficking. The MSA 2015 has generated the needed momentum that anti-slavery crusaders have advocated for many years. The MSA touches on almost all areas that have been problematic in addressing human trafficking in the UK from prosecution to the protection of victims. With the UK's exit from the EU ('Brexit'), many anti-

trafficking advocates fear the implication of not being able to count on EU regulations to protect the rights of victims. However, it is hoped that the MSA will be reasonable enough to set the needed foundation for better anti-trafficking response. At present, it is premature to determine the extent to which the new UK anti-trafficking laws and policies will address existing shortcomings. Hence, all eyes are on the Anti-Slavery Commission and other related agencies to deliver. What this essentially means for the existing cooperative measures between Nigeria and the UK is examined in the next chapter.

Notes

1. See Art. 1(1) of the Council Framework Decision 2002/946/JHA on the Strengthening of the Penal Framework to Prevent the Facilitation of Unauthorized Entry, Transit and Residence.
2. Sexual Offences Act 1956, Sections 22, 24, 30–31.
3. Ibid.
4. Sexual Offences Act 2003, s.49.
5. Sexual Offences Act 2003, s.50.
6. Sexual Offences Act 2003, s.51.
7. Sexual Offences Act 2003, s.52.
8. Nationality, Immigration and Asylum Act 2002 see Part 7 (offence) Substance 145.
9. Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.
10. For the purposes of the offence, a person is exploited if (s)he is: the victim of behaviour contravening Article 4 of the European Convention on Human Rights (slavery or forced labour); encouraged, required or expected to do something which would mean an offence is committed concerning organ removal; subjected to force, threats or deception designed to induce him/her to provide services or benefits or enable another person to acquire benefits; or requested or induced to do something, having been chosen on the grounds that (s)he is ill, disabled, young or related to a person, in circumstances where a person without the illness, disability, youth or family relationship would be likely to refuse or resist.
11. Klara Skrivankova, United Kingdom in Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World (Global Alliance Against Traffic in Women (GAATW) 2007).
12. The sub-section use to be (d) he is requested or induced to undertake any activity, having been chosen as the subject of the request or inducement on the grounds that:

1. he is mentally or physically ill or disabled, he is young or he has a family relationship with a person, and
2. a person without the illness, disability, youth or family relationship would be likely to refuse the request or resist the inducement."

See [online] available at: http://www.legislation.gov.uk/ukpga/2009/11/section/54 (Accessed 16 April 2012).

13. See Morecambe Bay: One year on—5 February 2005, [online] available at: http://news.bbc.co.uk/1/hi/uk/4238209.stm (Accessed 30 April 2012).
14. Ibid.
15. Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003.
16. Gangmasters (Licensing) Act 2004, s. 6.
17. Gangmasters (Licensing) Act 2004, Section 12 and 13.
18. Almut Gadow, Protecting migrant workers in unprecedented times: Why little has changed for Gangmasters Licensing, Centre on Migration, Policy and Society, University of Oxford Annual Conference 2009 New Times? Economic Crisis, geo-political transformation and the emergent migration order, [online] available at: http://www.compas.ox.ac.uk/fileadmin/files/Events/Annual_conferences/conference_2009/D_Gadow_Gangmasters%20Licensing.pdf (Accessed 30 April 2012).
19. House of Commons Home Affairs Committee The Trade in Human Beings: Human Trafficking in the UK Sixth Report of Session 2008–09 Volume I, Report, together with formal minutes Ordered by the House of Commons, HC 23-I [Incorporating HC 318-i–vi, Session 2007–08] (Published on 14 May 2009) 23.
20. See BBC news—Thousands Abused by Gangmasters, [online] available at: http://news.bbc.co.uk/1/hi/uk/7432644.stm (Accessed 27 April 2012).
21. Evidence given by the GLA cited in House of Commons Home Affairs Committee … 24.
22. Scullion, L. and Morris, G., A study of migrant workers in Peterborough (University of Salford 2009).
23. Lorena Arocha, The Wrong Kind of Victim: One Year On—An Analysis of UK measures to Protect Trafficked Persons. The Anti Trafficking Monitoring Group (Anti-Slavery International 2010).
24. Evidence given by Anti-Slavery International cited in House of Commons Home Affairs Committee the Trade in Human Beings: Human Trafficking in the UK Sixth Report of Session 2008–09 Volume I, Report, together with formal minutes Ordered by the House of Commons, HC 23-I [Incorporating HC 318-i–vi, Session 2007–08] (Published on 14 May 2009).

25. Klara Skrivankova, United Kingdom in Collateral Damage…
26. Ibid.
27. Home Office, UK Action Plan on Tackling Human Trafficking (Home Office 2007) 8.
28. Ibid. 57.
29. Home Office, Update to the UK Action Plan…
30. See Anti-Slavery website [online] available at: http://www.antislavery.org/english/campaigns/eu_trafficking_directive.aspx [Accessed 2 August 2013].
31. EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting Victims—Article 9–16; Article 2: the legal definition of trafficking in the UK are in line with the Palermo Protocol but the Directive expands on the Palermo definition by including people forced into begging or illicit activities. The UK is therefore broadly compliant in terms of guidance but not legislation.
32. HC Deb 19 July 2011 [online] available at: http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110719/wmstext/110719m0001.htm#11071985000036 (Accessed 15 April 2012).
33. ECPAT UK—Focus of government's new trafficking strategy will not help victims http://www.ecpat.org.uk/media/focus-government's-new-trafficking-strategy-will-not-help-victims (Accessed 16 April 2012).
34. Ibid. comment by Christine Beddoe, ECPAT, UK.
35. Ibid. comment by Aidan McQuade, Anti Slavery International.
36. Ibid.
37. The Anti-Trafficking Monitoring Group (ATMG) 'this Modern Slavery, Human Trafficking and Human Exploitation Bill' [online] available at:http://www.antislavery.org/wp-content/uploads/2017/01/atmg_alternative_modern_slavery_bill.pdf (Accessed 28 May 2017).
38. Ibid. Section 19.
39. See Part 6 of the Modern Slavery Act 2015.
40. Modern Slavery Act 2015 Section 2.
41. Modern Slavery Act 2015 Section 5 and 6.
42. Modern Slavery Act, Section 5a (Penalties).
43. Modern Slavery Act, Section 4, Section 5 (2–3).
44. Modern Slavery Act Section 17.
45. Modern Slavery Act Section 23–24.
46. Modern Slavery Act Section 21 and 28.
47. Modern Slavery Act 2015 Section 45.
48. Modern Slavery Act 2015 Section 48.
49. Modern Slavery Act 2015 Section 49–52.
50. Modern Slavery Act 2015 Section 54.

51. Modern Slavery Strategy 2014, p. 10.
52. Ibid.
53. Ibid.
54. Ibid.
55. Independent Anti-Slavery Commissioner Strategic Plan 2015–17. Presented to Parliament pursuant to Sec on 42 (10)(a) of the Modern Slavery Act 2015 October 2015.
56. Council of Europe Convention on Trafficking in Human Beings, Art 31 (1).
57. Glynn Rankin, Nick Kinsella, Human Trafficking in The Importance of Knowledge Information Exchange, Intelligence Management Advanced Information and Knowledge Processing (2011).
58. Ibid. 171.
59. Mimi, 21 years old, Poppy Project service user; See Eaves 2011 Annual Report, p. 7.
60. See Eaves 2011 Annual Report.
61. Ibid.
62. Ibid.
63. Ibid.
64. Jyoti Sanghera, "Unpacking the Trafficking Discourse" in Kamala kempadoo, jyoti sanghera and Babara pattanaik (eds.) Trafficking and Prostitution Reconsidered: New Perspectives on Migration Sex Work, and Human Rights (2nd edition paradigm publishers 2012).
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    > When a presumed trafficked person is referred to a Competent Authority, the first step in the official process is the 'reasonable grounds' decision assessment. If the Competent Authority decides there are 'reasonable grounds' to suspect that the person concerned has been trafficked, they may issue a letter of positive 'reasonable grounds' decision and the person concerned is granted a period of 45 days to recover and reflect (which can be, and sometimes is, extended), during which they should be entitled to various forms of assistance. If the initial decision is negative, the person concerned is not entitled to the protection or assistance available to trafficked persons.

66. This is a total of trafficked victims to the UK as it excludes potential victims who refused to be referred.

67. The first responder makes a referral to the local authority children services so they are aware of the child and can put in place any necessary safeguarding measures. See NSPCC (first responder) factsheet on the NRM (October 2011) https://www.nspcc.org.uk/Inform/resourcesforprofessionals/childtrafficking/national_referral_mechanism_wda84858.html [Accessed 2 August 2013].
68. Positive Conclusive result indicates that a referred person is identified definitively as 'trafficked'. The reverse is a negative conclusive decision.
69. Rachel Witkin, "Human Rights Protection in the Return of Trafficked Persons to Countries of Origin" Human Dimension Implementation Meeting 1 October 2009, Warsaw. ODIHR Anti-Trafficking Programme p. 3.
70. Jonathan Todres, 'Widening Our Lens: Incorporating Essential Perspectives In The Fight Against Human Trafficking' (2011) 33 Mich. J. Int'l L. 64.
71. Myriam Cherti, Jenny Pennington and Peter Grant, Beyond Borders, Human Trafficking from Nigeria to the United Kingdom (Institute for Public Policy Research (IPPR) 2013) 60.
72. ATMG, All Change: Preventing Trafficking in the UK (Anti-Slavery International 2012).
73. This is a total of trafficked victims to the UK as it excludes potential victims who refused to be referred.
74. Lorena Arocha, The Wrong Kind of Victim: One Year On—An Analysis of UK measures to Protect Trafficked Persons (The Anti Trafficking Monitoring Group and Anti-Slavery International 2010) 23–25.
75. Ibid. 26.
76. National Referral Mechanism Statistics—End of Year Summary 2016, p. 5.
77. Lorena Arocha, The Wrong Kind of Victim: One Year … pp. 23–25.
78. Ibid.
79. Interview with now retired Met Police Officer (Andy Desmond) in Nottingham, UK (3 August 2012).
80. See Eaves Housing website [online] available at: http://www.eaves4women.co.uk/POPPY_Project/POPPY_Project.php (Accessed 20 February 2012).
81. Matilde Ventrella, The Control of People Smuggling and Trafficking in the EU: Experience from UK and Italy (Ashgate 2010) 190.
82. See 'Concerns about handover of care for sex-trafficking victims' Women's Views on News Posted on 13 April 2011 [online] available at: http://www.womensviewsonnews.org/2011/04/concerns-about-handover-of-care-for-sex- trafficking-victims/ (Accessed 26 March 2012).
83. Matilde Ventrella, The Control of People Smuggling and Trafficking in the EU… p. 191.

84. Eaves 2011 Annual Report, p. 4.
85. Matilde Ventrella, The Control of People Smuggling and Trafficking in the EU… pp. 190–193.
86. Men are often missing in the statistics of human trafficking See David A. Feingold, 'Human Trafficking' (2005) Foreign Policy, No. 150, 32.
87. Robert Uy+, Symposium: 'Blinded by Red Lights: Why Trafficking Discourse Should Shift Away from Sex and the "Perfect victim" Paradigm' (2011) Berkley Journal of Gender, Law and Justice No. 26, 204.
88. Matilde Ventrella, The Control of People Smuggling and Trafficking in the EU… p. 191.
89. Ibid.
90. Matilde Ventrella, The Control of People Smuggling and Trafficking in the EU… 190–193.
91. See Council Framework Decision 2002 /629/JHA, Article 7(1).
92. See Independent Anti-Slavery Commissioner Strategic Plan 2015–17 Presented to Parliament pursuant to Sec on 42 (10)(a) of the Modern Slavery Act 2015 October 2015 p. 12.
93. 'Poppy Project funding redirected to Salvation Army', Amelia Hill guardian.co.uk, Monday 9 May 2011 05.30 BST, [online] available at: http://www.guardian.co.uk/law/2011/may/09/poppy-project-funding-salvation-army (Accessed 26 March 2012).
94. See Supporting Adult Victims of Modern Slavery Update on the Fifth Year of the Salvation Army's Victim Care & Coordination Contract—October 2016.
95. Working Group on Trafficking in Persons Vienna, 27–29 January 2010—Non-punishment and non-prosecution of victims of trafficking in persons: administrative and judicial approaches to offences committed in the process of such trafficking—CTOC/COP/WG.4/2010/4; See also the Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, UN General Assembly, A/HRC/20/18.
96. Council of Europe, Convention on Action against Trafficking in Human Beings, CETS No. 197 (Warsaw, 2005), Article 26; European Union, Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (5 April 2011), Article 8.
97. OSCE, Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking (OSCE 2013).
98. See Rachel Witkin in Side Event Report 'Human Rights Protection in the Return of Trafficked Persons to Countries of Origin' Human Dimension

Implementation Meeting 1 October 2009, Warsaw. ODIHR Anti-Trafficking Programme.

99. See European Court of Human Rights, Case of Rantsev v. Cyprus and Russia, wApplication no. 25965/04, para. 286: States' positive obligations towards trafficking victims begin when "the State authorities were aware, or ought to have been aware, of circumstances giving rise to a credible suspicion that an identified individual had been, or was at real and immediate risk of being, trafficked or exploited […]".
100. CPS Legal Guidance—Prosecution of Defendants (children and adults) charged with offences but also might have been trafficked, [online] available at: http://www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling/#a30 (Accessed 26 March 2012).
101. See case [online] available at: http://www.bailii.org/ew/cases/EWCA/Crim/2008/2835.html (Accessed 26 March 2012).
102. See LM, MB, DG, Betti Tabot and Yutunde Tijani v The Queen [2010] EWCA Crime 2327.
103. Ibid.
104. OOO and others v Commissioner of Police for the Metropolis Queen's Bench Division 20 May 2011 Judgments 20 MAY 2011 OOO and others v Commissioner of Police for the Metropolis.
105. See Rachel Witkin, "Human Rights Protection in the Return of Trafficked Persons to Countries of Origin" Human Dimension Implementation Meeting 1 October 2009, Warsaw. ODIHR Anti-Trafficking Programme.
106. Ibid.
107. Ibid.
108. Ibid.
109. Ibid.
110. Under Article 14(1) Member States have an obligation to 'ensure that in criminal investigations and proceedings, judicial authorities appoint a special representative for the child victim of trafficking...where, by national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the child victim, or where the child is unaccompanied or separated from the family.'
111. UK opts-in to EU Trafficking Directive in 22 March 2011 [online] available at: http://www.care.org.uk/public-affairs-news/uk-opts-in-to-eu-trafficking-directive (Accessed 26 March 2012).
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117. UK Border Agency response to Freedom of Information request, FOI 13808 cited by Matt Carr, 'The Politics of Voluntary Returns' The Institute of Race Relations, November 11, 2010, [online] available at: http://www.irr.org.uk/news/the-politics-of-voluntary-returns/ (Accessed 27 March 2012).
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120. Ibid.
121. See Application form for VAARP, [online] available at: http://www.iom-london.org/doc/varrp/VARRP%20Application%20Form.pdf (Accessed 27 March 2012).
122. Data analysis on trafficking from the UKHTC does not always include data on repatriation.
123. See Rachel Witkin, "Human Rights Protection in the Return of Trafficked Persons to Countries of Origin"…
124. Alison Jobe, 'The Causes and Consequences of Re-trafficking: Evidence from the IOM Human Trafficking Database' IOM Human Trafficking Database Thematic Research Series (Report prepared for the International Organization for Migration 2010).
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PART III

Cooperating for Anti-Trafficking: A Case Study

CHAPTER 7

Bilateral Cooperation Against Trafficking: Nigeria and the United Kingdom

Introduction

Anti-trafficking in a cross-border context often requires the cooperation of states involved in the process of trafficking. In a case study of Nigeria and the UK, such collaboration is not only necessary for international cooperation but also highly significant in determining the extent to which the national response makes a real difference in a cross-border context. Fortunately, in 2004, Nigeria and the UK deemed it necessary to sign a bilateral agreement to work together towards eliminating human trafficking across their borders. This chapter critically reviews the agreement and the extent to which it has informed how both countries have worked together against the backdrop of existing realities as stipulated in the mode of operation of trafficking between both countries and how they have independently addressed the problem with their jurisdiction.

General Overview of UK/Nigeria Relations

The UK reserves a place for the African region within its foreign policy and Nigeria is one of the major African countries it tends to deal with. According to Cumming, there have been three broad phases in UK/Africa policy: the colonial period, the post-colonial period (1957–1989) and the post-Cold War period (from 1990 onwards).[1] The end of the Cold War ushered in an era when Western states began to review their policies towards Africa. Subsequently, the British government under different

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administrations stressed the need for a 'new thinking'—under John Major and a 'new priority' under Tony Blair.[2]

Nigeria has historically been amongst Britain's top three commercial territories in Africa, with the others being South Africa and Kenya.[3] As a former colony of Britain, strong historical, social, cultural, political and economic ties bind the relationship between both countries. Britain's relations with Nigeria started with 'the scramble' for Africa in the late 1800–1900s when Europeans intensified their expeditionary and colonial activities in the so-called Dark Continent.[4] Britain established its colonial rule over Nigeria from about 1861 with the annexation of Lagos and amalgamated the southern and northern protectorates in 1914 to form what the singular entity now referred to as Nigeria. Through 'indirect rule', Britain defined the ongoing political power structures in Nigeria, which is still defined by the extent of power ascribed to the former colonies (Northern and Southern Nigeria). During the colonial era, Nigeria was primarily developed as a source of raw materials and market for British industries. Raw materials included agricultural produce and oil.[5]

As a result of the colonial experiences, Nigeria's foreign ties with Britain have been very strong. However, this has varied in recent times as this special relationship has oscillated in strength following the 1966 coup. There have been several attempts to weaken ties with Britain following its position on the Nigerian civil war and the stance taken by Nigeria on apartheid in South Africa. For Britain, the post-colonial era was marked by a determined reluctance to intervene in African affairs.[6] However, according to Chapin, "At times, more verbal and symbolic damage was done to Nigerian-British relations for Nigerian popular consumption than was true in reality."[7] Today, Nigeria remains one of UK's key international partners working closely together bilaterally and/or multilaterally on a range of domestic and international issues. This includes matters relating to trade, peacekeeping, climate change and the reform of international institutions.[8] For instance, the UK currently accounts for 20% of Nigeria's foreign direct investment.[9]

The relationship between Britain and Nigeria has been a complex one, especially one with dark periods such as slavery. According to a speech by a representative of the Foreign and Commonwealth Office in April 2017, "… when we look at history, that the experience of British in Nigeria is one that raises strong emotions and concerns about how our engagement here began".[10] In acknowledgement of the history of UK/Nigeria relations comes the continuous affirmation that the UK remains invested in

Nigeria, especially in terms of development and humanitarian assistance as well as trade. Their relationship also cuts across crucial issues that affect both countries including migration and human trafficking. Similarly, both countries have signed and ratified several important international treaties and conventions relevant to the issue area, which is of focus for this study. In addition to the several MOUs signed by both countries, they adopted one in 2004 to advance their commitments towards tackling human trafficking across their borders.

Nigeria/UK Anti-Trafficking Bilateral Agreement: A Political Stunt?

The bilateral or multilateral cooperation of state is significantly encouraged through the Organised Crime Convention.[11] Specifically, Article 9(5) of the Trafficking Protocol states, "States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through *bilateral and multilateral cooperation*, to discourage the demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking".[12] In accordance with this provision, Nigeria and the UK signed a MOU on Co-operation to Prevent, Suppress and Punish Trafficking in Persons on November 17, 2004. Harriet Harman (MP) signed this agreement on behalf of the UK and Chief Akinlolu Olujinmi (Attorney General of Nigeria and Minister for Justice) signed for Nigeria.[13]

This agreement could be seen as a bilateral treaty according to the Vienna Convention on the Laws of Treaties.[14] According to the ILO, bilateral agreements could be seen as the most effective collaboration between countries of origin and destination to ensure that the subject of the agreement takes place in accordance with agreed principles and procedures.[15] Bilateral agreements can be formal or informal, an MOU being a non-binding form of bilateral cooperation. The 2004 MOU is non-binding as it states, "this Memorandum is a statement of goodwill only and is not intended to impose any legal obligation whatsoever on either of the participants."[16] According to Vasuprasat, "it is a document describing the intentions of the concerned parties, expressing a desire to pursue a common line of action, rather than a legal commitment".[17]

Although bilateral agreements are mostly non-binding in terms of its legal footing (soft laws), it still has something to offer to the compliance

with international law.[18] According to Blum, "soft law instruments do give rise to legitimate expectations regarding the implementation of legal relations even if they themselves do not create such relations".[19] In a world where diversity is more natural than uniformity, bilateral agreements can provincially arrange for agreements that are more coherent and tailored to the specific needs and circumstances of the particular dyadic relationships they intend to regulate. In other words, bilateral agreements are better structured to potentially reduce the dilemma associated with fragmentation, competing values and cultural diversity.[20] It allows greater room for creativity, flexibility and political expediency that in turn awards its parties a sense of ownership over its provisions, thereby increasing their propensity to comply in an anti-trafficking regime.[21] Potentially, if the MOU signed by both Nigeria and the UK were to be well directed, it could address particular issues pertinent to trafficking between both countries.

The crux of the Nigeria/UK 2004 MOU is to promote cooperation and coordination across the 3Ps and take measures to build the capacity of both parties towards these objectives. According to the MOU,

In particular, the objectives of the memorandum are;

1. To facilitate international cooperation, develop common goals and prevent, suppress and punish trafficking in persons;
2. To protect victims of trafficking, and to provide them with assistance to enable reintegration into their original environment;
3. To provide mutual support, capacity building and strengthening of institutional capabilities to effectively prevent, suppress and punish the offences of trafficking in persons, and;
4. To promote cooperation between the participants with a view to attaining the above-mentioned objectives.[22]

Despite the opportunities, which the bilateral agreements offer, this MOU has experienced some shortcomings. First, there is limited awareness of its existence. Second, it lacks any contextual characteristics that integrate the social realities of trafficking operations across the borders of both parties. As a result, the MOU could pass as generic and so far has been an operational failure. Following its general implementation issues, the MOU as it stands cannot do very much in initiating meaningful collaboration. It seems to serve more as a political statement without substance following the extent of its operational framework.

Concerning limited awareness, most interviewees from key anti-trafficking institutions, mostly in the UK, highlighted the need for bilateral cooperation with Nigeria but were unaware of the MOU's existence. On the other hand, Nigerian officials who seemed to be more aware of this MOU had not been able to take drastic measures to rekindle its existence with their UK counterpart. In 2010, there were talks between NAPTIP and a number of UK NGOs to re-establish collaboration as stated in the MOU. This was discussed as part of a roundtable meeting facilitated by a UK NGO called AFRUCA.[23] However, this was not followed through. One could associate such lack of awareness and attention to the MOU to its period of enactment. The MOU came at a time when there was insufficient understanding and attention to the problem of trafficking. In 2004, NAPTIP was still at its early stages as an anti-trafficking agency in Nigeria. For the UK, the UKHTC had not been created at the time. As a result, there was limited substantive knowledge to inform this MOU. There has been plenty of time to revisit the document, but no steps have been taken towards this. The MOU made provision for its reappraisal stating,

> The participants will consult one another with the aim of making arrangements for the continuing and effective implementation of this Memorandum. They will, resolve any difficulties arising in connection with Memorandum through consultation and negotiation.[24]

Following the ambiguity of the MOU, it does not utilise current evidence on the ground regarding the scope of trafficking to assign responsibilities between both countries. Statistics indicates that Nigeria is a major source country for most European states including the UK and collaborations should incorporate this fact.[25] Furthermore, although not legally binding, the content of the MOU highlights crucial areas for collaboration in order to enhance cooperation. They include information exchange, capacity building, joint investigation, prevention and protection of victims.

Scholars and activists have described information exchange as one of the pillars of cooperation for anti-trafficking.[26] According to Rankin and Kinsella, knowledge is the key to developing an accurate understanding of the issue of trafficking and devising measures to tackle it.[27] Knowledge helps develop appropriate intelligence for investigation and the protection of victims. Article 10 of the Trafficking Protocol also encourages information exchange mainly from a law enforcement perspective and in accordance

with the domestic laws of State Parties. Information is required between countries and across agencies to develop an accurate understanding of the problem. This can be done formally or informally. Information exchange depends on the formal or informal nature of the cooperation. Formal cooperation involves the exchange of information through extradition and mutual legal assistance (MLA) while informal cooperation requires police-to-police and/or agency-to-agency-assistance.[28] It is usually faster, cheaper and easier to obtain information or intelligence on an informal basis than otherwise. UNODC specifies that MOU agreements may cover a wide range of investigative actions such as intelligence development, surveillance or communication interceptions and so on.[29] However, the MOU in scrutiny for this study does not specify on any of these latter actions. Instead, the MOU generally provides that:

> The participants will, in accordance with all relevant national laws and regulations exchange relevant information with a view to preventing, suppressing and punishing trafficking in persons.[30]

Although the MOU makes provisions for MLA, extradition and informal exchange/sharing of information, the agreement is practically only sufficient for an informal mode of exchange.[31] It states that:

> Participants will, subject to the laws governing the provision of mutual legal assistance within their respective jurisdictions provide such assistance, as they are able, to obtain any evidence that may be requested in a form admissible in the jurisdiction of the requesting Participant.[32]

Hitherto, there has been no practical attempt to utilise the formal channel, as UK law enforcement authorities do not consider security systems utilised in NAPTIP as sufficient to pass on confidential documents.[33] Even though the MOU provides that any information provided or exchanged between the participants in line with the MOU be handled in consideration of confidentiality 'and used in conformity with conditions that may be laid down by the providing participant', there are some structural concerns to fulfilling this paragraph.[34] These structural issues include the technical capacity/system of both states, which affects the level of trust between both parties. The element of mistrust between law enforcement agencies, especially stemming from the prevalence of corruption in Nigeria, remains challenging. UK authorities fear the potential risk the

leakage of information can pose to victims, relatives or other persons.[35] A British officer told the Institute for Public Policy Research (IPPR) in a study on the conduct on trafficking between the UK and Nigeria that:

> When you're dealing with people's lives, it is difficult to feel comfortable sharing information when you know corruption is there, you're not going to do it. You're not going to want to give certain details of (say) family members of victims of trafficking. I don't want to be responsible for people getting their heads cut off.[36]

Both countries require specific agreement to govern such formal information exchange. In addition, the Organized Crime Convention encourages states to ensure that such measure streamlines with the extradition process by expediting requests that simplify evidentiary procedures.[37] This is mainly because extradition is generally a very complicated and time-consuming process that is subject to several obstacles and restrictions.[38] The UK under its Immigration Act 1971 and the Nationality, Immigration and Asylum Act 2002 may allow the extradition in the area of trafficking where irregular migration has been committed. However, they may create obstacles to surrendering a criminal if they do not trust a state's legal system.

From the stance of informal cooperation, the MOU specifically makes provisions for the nomination of specific persons from both countries and by both parties to coordinate information exchange. It stated that:

> Each participant will nominate agencies responsible for arranging co-operation and exchanging contacts under this Memorandum. Within three calendar months of the date this Memorandum is signed, each participant will notify the other, in writing, of the name and address of a single point of contact within the designated agencies.[39]

In practice, there is still an enormous gap in information exchange as there is often no main point of contact.[40] This is most difficult with the UK where the designated point of contact is unclear, if at all there is any. According to a NAPTIP Officer,

> It is always confusing who to speak to, there is COEP, UKHTC, UKBA, Met Police and many others all contacting you. You do not know whom to deal with. It is very confusing … who is the main agency?[41]

Within Nigeria, NAPTIP oversees all areas of anti-trafficking, making it easier to identify a vocal point of contact. It is in terms of administering its services as a point of contact that it becomes problematic. A Met police officer, who directly investigates cases of trafficking from Nigeria, indicated that acquiring information is often difficult, frustrating and time-consuming. According to one detective, "I sent a request to Nigeria … After six months, I still haven't received a reply…"[42] Even with the presence of a SOCA Liaison Officer (SLO) in Nigeria, it has not made the process easier, at least in the context of human trafficking. Information through this SLO is often crime-related or border-control-related and not specifically on trafficking. According to the officer, the office does not deal directly with cases of human trafficking, nor gets involved with the investigation of cases or maintains good contacts with NAPTIP officials on a one-on-one basis as of the time of this study.[43]

As this position (SLO) was newly occupied at the time of the interview, it was difficult to make assumptions on its potential. While the officer confirmed that information exchange has improved, the improvement was most certainly not directed at human trafficking. NAPTIP's investigation team, on the other hand, confirmed that its correspondence with the UK authorities was often related to immigration matters such as smuggling. Even when it concerned trafficking, NAPTIP had not been fully involved in the cases from the UK. One NAPTIP official mentioned, "We are not the immigration but we keep receiving request for information on smuggling and this is not our duty but we do try to help".[44]

Information exchange is key to the identification of victims and crucial for the safe repatriation of victims from the UK to Nigeria. The MOU also lays more emphasis on the latter (repatriation). It provides that "the participants repatriating a victim of trafficking in persons will have regard to the safety, human rights and well-being of such a victim and will allow the victim, subject to provisions in legislation relating to proceeds of crime, to return with their property and possessions."[45] During fieldwork in Nigeria, it was impossible to interview any survivor of trafficking repatriated from the UK for the simple fact that they had not come to the attention of the Nigerian authorities in recent times. Officials from NAPTIP highlighted that they had not received repatriated victims from the UK in the last couple of years even though they are aware of the scale of Nigerian victims in the UK. They further complained that repatriation from the UK has often happened through deportation routes. According a NAPTIP Officer,

> The UK authorities just deport these victims alongside other criminals and do not inform us of any trafficked victim beforehand. We sometimes enquire with the Nigerian Immigration [services] regarding the list of deportees in order to identify victims but the list tells us nothing. Some of these victims are even brainwashed by other criminals in the process not to trust the authorities while some have not been properly identified by the UK authorities as victims of trafficking … it really makes our work difficult … they don't talk to us.[46]

The absence of Nigerian victims or survivors in the continuum of the anti-trafficking process specifically around repatriation remains problematic. It reduces the significance of trafficking from Nigeria to the UK, at the very least, from the Nigerian standpoint. The hesitance to repatriation by trafficked persons from Nigeria and the unsophisticated rehabilitation programme could also serve as an explanation. However, information on the status of these victims or survivors is crucial for better cooperation and for better protection mechanisms. Without the latter, the real scale of trafficking is altered and some survivors could be at danger of re-trafficking; hence, there is need to draw up repatriation mechanisms beyond the scope of the current MOU.

Additionally, as part of gathering information, countries may agree to partake in joint investigations. According to the UNODC, "in certain complex cases of human trafficking, successful investigations are usually the result of the work of joint investigation teams".[47] Article 19 of the Organized Crime Convention also encourages State Parties to create such teams as a tool to combat organised crime.[48] The MOU also highlights the need for joint investigation even though up until date, both countries have not exclusively engaged in any such cooperation. A joint investigation was carried out on a multilateral capacity called 'Operation Koolvis'. Operation Koolvis was initiated by the Netherlands authorities to jointly investigate cases of trafficking from Nigeria. The investigation was launched after a Dutch lawyer, Wilma Hompe, discovered a recurring pattern in the stories told by trafficked Nigerian girls in refugee centres in the Netherlands.[49] Operation Koolvis led to the arrest and prosecution of 11 suspected traffickers in the Netherlands. With the involvement of the Dutch, Nigerian, Italian, French, Belgian, British and US investigators, it has been commended as a ground breaking model for coordinating international investigations.[50]

Despite the 'success' of this investigation, it was criticised for its immense focus on the perpetrators rather than the victims. Victims were required to give evidence in exchange for a one-year visa permit.[51] This did not demonstrate good practice in the protection of victims according to the UNDP's 'best practice law enforcement manual for fighting against trafficking in human beings'. The manual states that:

> The investigator has a clear duty to be open and honest at all times with the victims so that they are made fully aware of the issues, responsibilities and potential consequences and risks attached to any decision that they may be called upon to make.[52]

In light of the aforementioned operational failures, it is crucial to establish the extent to which both countries have collaboratively built their capacity in fulfilment of Trafficking Protocol and the MOU. Capacity building is one of the core parts of the MOU even though it has only two paragraphs. This was set out to strengthen institutional capacities of both countries.[53] Capacity building can come in form of training, technical or financial support. The Trafficking Protocol insists that:

> The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with nongovernmental organizations, other relevant organizations and other elements of civil society.[54]

According to officials from NAPTIP, the UK does not support the agency like other European destination countries, but on occasions, they donate technical equipment for investigation. Major capacity building programmes have mainly originated from international organisations—mainly UN and EU agencies in Nigeria. The Organized Crime Convention mandated the Conference of Parties (CoP) which now operates through the UNODC to facilitate the capacity of states to cooperate through capacity building.[55] This includes enabling cooperation with relevant international organisations and NGOs.[56] Nevertheless, stakeholders in Nigeria have complained of the fact that the work on trafficking is overwhelmed with a high percentage of capacity building workshops. Due to a lack of coordi-

nation between international donors, these workshops are often repetitive, mostly with the same participants. Donors find that these capacity building "starts and dies with the same participants" as they are neither utilised nor transferrable in practice.[57]

Despite their above-mentioned shortcomings, international organisations have been crucial in coordination/cooperation between Nigeria and other European countries, including the UK. The UNODC has initiated a number of programmes to enhance cooperation between (but not exclusively) Nigeria and the UK. One of such programmes is entitled 'Enhancing Multi-stakeholder Cooperation in Nigeria', aimed at understanding the roles and cooperation of the law enforcement and victim support services between Nigeria and Europe—specifically across six countries, including the UK, the Netherlands, Germany, Switzerland, and excluding Italy (due to an ongoing strong focus on Nigeria/Italy trafficking).[58] Representatives of each of the countries were NGOs[59] except for Nigeria where the National Agency—NAPTIP—was a major participant.[60] The project was in three phases. The first involved a study visit to Nigeria, a follow-up study visit to Belgium and then an additional visit to Vienna. The final visit to Vienna would involve a final analysis of all the visits and a debate on how subsequent projects created from this programme would be implemented. 'Enhancing Multi-stakeholder Cooperation in Nigeria' project was instrumental to the 'Na Wa Film Festival' to raise awareness on human trafficking in Nigeria with the use of films.[61] This UNODC was declared to cost €770,000.

As an organisation with common membership from both countries of study, the FCO could be instrumental to anti-trafficking cooperation but does not operate on such capacity as stipulated in Chap. 6. The same goes for DFID, which invests a large amount of development aid in Nigeria. Furthermore, there is limited engagement of UK/Nigeria NGO coordination/collaboration. Although UK NGOs such as Hibiscus, AFRUCA and Stepping Stones have tried to establish close relations with other NGOs in Nigeria, the link is still limited and the nature of their work in Nigeria is still under-developed. The interactions of these NGOs are crucial for strengthening the existing cooperation between Nigeria and the UK. International organisations such as Action Aid continue to work on trafficking prevention programmes. With the absence of Diaspora groups and other formal NGOs that could be a source of strength, this area remains largely untapped. NGOs from both countries lack the resources to carry out necessary work on this level or enable the consistency of their

services. As such, there is no UK/Nigeria network of NGOs but instead, major NGOs engage mainly with NAPTIP.

As it stands, both countries have not been able to effectively work together in a way that would ensure the best outcome for those affected by trafficking. Without the necessary collaboration, victims are not properly identified and protected and the investigation that could lead to convicting traffickers remains challenging, thereby enabling the business to flourish while victims remain at risk. Despite the shortcomings identified in this existing bilateral cooperation to suppress trafficking, significant attempt has not been made to review the current MOU to reflect the reality of trafficking between Nigeria and the UK. In the light of what currently stands concerning Nigeria/UK bilateral relation in combating trafficking, there is no doubt that there is a need to reappraise this partnership at all levels. Part of this review would include addressing some challenges that may stand in the way of future collaborations, starting with a shared knowledge of the scale and nature of the problem, negotiation of migration and the rights of people they intend to safeguard as well as building the capacity to be able to deal with matters that arise. In order for Nigeria and the UK to adopt a comprehensive approach to cooperating against trafficking, both countries need to integrate the shortcomings illustrated in previous chapters into their future approach. This includes considering the human-centred approach in future deliberations as part of building knowledge and negotiating better bilateral agreements for anti-trafficking. The extent of such considerations is explored in the subsequent section of this chapter.

Shared Knowledge

In devising the best way for Nigeria and the UK to cooperate, one cannot isolate the need for 'shared causal beliefs, policy agenda and notions of validity' by both states.[62] Although the Trafficking Protocol provides for a consensus of what trafficking constitutes, the MO of trafficking between several countries possess diverse characteristics. Such unique characteristics should be acquired by cooperating states so that they may have shared knowledge and understanding of the problem trafficking presents across their territory. For Nigeria and the UK, the MO of trafficking across their territory needs to be understood by both countries in order to enable an intervention that best suits the issue being addressed and the expected goals for joint gains. According to Haas, "the definition of joint gains

must be based on the goals of the actors and on the…. 'Knowledge' that influence[s] the choice of goals."[63] There is a need for both states to arrive at a consensus on knowledge and to give consistency to the consensus on goals.[64] Following the profound difference in the understanding of trafficking between Nigeria and the UK, while the UK seeks to collaborate with Nigeria as a source country, Nigeria perceives itself more as a destination country from other African countries and a source to few members of European countries. At present, Nigeria considers trafficking from Nigeria to the UK as insignificant in comparison to other European countries such as Italy and the Netherlands. This explains the immense focus of collaboration with southern European countries as opposed to the UK. According to IPPR, "How trafficking to Europe is conceived, as well as how mechanisms for responding to trafficking to Europe are configured, is led by this understanding."[65]

Despite the acceptance of trafficking to other parts of Europe, there is still a sense of denial of trafficking from Nigeria to the UK, as expressed by both Nigerian and UK authorities. A small number of Nigerian authorities interviewed for this study felt that trafficking was just another problem coined by the West to tarnish their reputation and that many of these victims are not truly victims. Such perception is not scarce amongst community members in Nigeria as seen in the survey carried out by UNIBEN Observatory.[66] According to a British official who tried to establish talks with key Nigerian officials,

> I get the impression that trafficking is a problem that they [many Nigerian government officials] want to push under the carpet… because it makes mother Naija [Nigeria] look bad… they dismissed trafficking as a nonentity.[67]

Risse and Sikkink recognise such denial by Nigerian authorities as part of the socialisation process under its "spiral model" of human rights change.[68] Risse and Sikkink contend that "Governments which publicly deny the validity of international human rights norms as interference in internal affairs are at least implicitly aware that they face a problem in terms of their international reputation."[69]

Whereas knowledge sharing is important, what is most crucial is the volume of knowledge that has been shared and what makes up such knowledge? Nigeria and the UK need to arrive at same consensus as to the level of trafficking, what it constitutes and how it can be tackled together. The lack of information sharing concerning the statistics of trafficking

from Nigeria to the UK or collated by international monitoring organisations has not been helpful in making clear the real nature of trafficking between both countries. For instance, the latest TIP report on Nigeria does not present an accurate reflection of the scale of trafficking from Nigeria but instead bases its estimations on the amount of victims repatriated or rescued by NAPTIP.[70] The TIP does not also aggregate the prevalence of trafficking according to source and destination countries. Given that Nigeria utilises the TIP as a benchmark of its efforts, it limits the quest for cooperation with the UK.

Although NAPTIP works on all forms of exploitation associated with human trafficking, more emphasis is still placed on sexual exploitation. Such limitation is limited to not only NAPTIP but also stakeholders and the Nigerian public as noted in a research carried out by the University of Benin in Nigeria.[71] According to the research, people associate trafficking in Nigeria with prostitution in Italy.[72] Domestic servitude is one of the areas of trafficking that is prevalent from Nigeria to the UK.[73] However, many Nigerian stakeholders, including NGOs, felt that this was an area vastly misunderstood and overlooked.[74] For the UK, there is a cultural barrier to building an understanding of domestic servitude as an offence, even though it is stipulated in legislation.[75]

In Nigeria, it is perceived as a charitable act, rather than exploitative.[76] This is because it is viewed as a form of low-level wealth distribution where richer families offer opportunity for domestic work in exchange for support, by way of education or monetary support to families involved.[77] This construct of servitude by Nigerian communities has contributed to the pervasive nature of trafficking captured in previous chapters. Existing traditional beliefs in Nigeria act as a smokescreen to trafficking and skew the understanding of trafficking and the interventions employed. As such, cultures that allow servitude-cum-trafficking should be challenged and altered towards the prevention of trafficking by building knowledge towards appropriate behaviour. Altering such a perception is crucial for tackling trafficking between Nigeria and the UK through cross-cultural dialogue and internal discourse of these cultural factors. The latter will include building knowledge and learning in addressing key perceptions/misperceptions that may serve as obstacle to cooperation.

According to Haggard and Simmons, "Cooperation is affected by perception and misperception, the capacity to process information, and learning."[78] Truong also adds that "Interest has moved from the learning that is received from above, to a horizontal form of learning: accumulating

knowledge through experimenting and engaging with daily experiences *in situ*."[79] In recognition of the need to build new knowledge and learning to enable states to change the way they think of an issue area, some scholars have suggested Haas's notion of epistemic communities and Habermas's 'communicative action'. Haas proposes that the diffusion of new ideas through knowledge sharing can lead to new patterns of state behaviour for international policy coordination and epistemic communities' possess the power to ensure this.[80]

Within the context of anti-trafficking and the cooperation of states with diverse identity, epistemic communities can play a role in articulating the cause-and-effect relationships of complex problems, thereby helping states to identify their interest, framing the issues for collective debate, proposing specific policies and identifying salient points for negotiation.[81] These communities are necessary for the UK and Nigeria to bridge the gaps of knowledge in order to address prevention, protection and prosecution simultaneously.[82] Their involvement is significant for an evidence-based intervention.[83] As Haas puts it, "Knowledge becomes salient to regime construction only after it has seeped into the consciousness of policy makers and other influential groups and individuals."[84]

Habermas's theory of communication action is concerned with moving a discourse towards consensus and the role of non-state, multisector and multilateral actors is crucial for this process.[85] This has been noted in the way state governments have been made to realise the need to take action against trafficking, as seen in the way Nigeria and the UK have been persuaded by 'norm entrepreneurs' to domesticate anti-trafficking legal instruments. There is a need for the UK and Nigerian stakeholders to engage in interactive processes that would lead to mutual understanding towards arriving at a consensus on particular norms and discourses. This involves going beyond what the law provides towards building mechanisms that will tackle the reality of the problem rather than limited to what the law currently provides. This includes ensuring that both countries have a common understanding of the issue as well as surrounding sociocultural factors to inform the design of their partnership. Even though changes in consensual knowledge are needed for collaboration, it equally depends on the congruence of identity and interest in the issue area.[86] One of the major areas of conflation between Nigeria and the UK are the aspects of migration and human rights. As part of enabling cooperation, these areas of trafficking need to be addressed by both states to come to a

consensus that would be beneficial for anti-trafficking and those it intends to safeguard through their negotiations in this issue area.

Negotiating Rights or Negotiating Borders?

Eradicating human trafficking may seem as a common goal for both countries, but as highlighted in previous chapters, their interest in anti-trafficking differ. For the UK, border security, minimising the cost of anti-trafficking and criminality tends to overshadow the human rights of Nigerian victims. Wide-ranging protection mechanisms allot enormous and costly resources to destination states. This is even doubled where most survivors from Nigeria do not engage in voluntary repatriation due to the potential dangers that may await them in their country of origin. In addressing these issues through cooperation, one has to contend with the politics involved in the bargaining process to deal with this problem. The Trafficking Protocol already makes trafficking a border control issue and pushes states towards the negotiation of borders over the negotiation of rights. In negotiating borders, destination countries often direct their focus into getting countries such as Nigeria to dissuade its citizens from (irregular) migration rather than negotiating for safer migration for those who choose to move. This has been seen in ongoing prevention programmes where migration is demonised so that people are discouraged from immigrating into Britain.[87]

It has been estimated that Europe will need an annual number of 1.6 million migrants if they were to maintain their current economic level by the year 2050.[88] This does not, however, guarantee the UK's ability or willingness to meet the demands of migration from Nigeria, especially bearing in mind that Nigeria is a country with over 160 million people, most of who are in constant need to migrate for a better life. Whilst the UK, especially during the era of the Labour Party, acknowledges the economic benefits of selective labour migration, they were also keen to demonstrate that they are not 'soft' on immigration. At this time, Blair insisted,

> We will be neither Fortress Britain, nor will we be an open house … precisely because stopping migration altogether would be disastrous for our country and economy, it is all the more vital to ensure the system is not abused. There are real concerns; they are not figments of racist imagination; and they have to be tackled precisely in order to sustain a balanced and sensible argument about migration.[89]

However, the current government has a different agenda that is immensely anti-immigration and completely insensitive to the insecurity it breeds for those at risk of trafficking. According to Giddens, "a distinct repertoire of social and political contention associated with migration and the presence of immigrants in the UK plays a large part in structuring responses to ostensibly 'new' migration challenges such as people smuggling and human trafficking."[90] Although the UK is keen to reduce trafficking into its territory, its identity, in terms of its history since the 1960s, has been directed towards 'progressive shrinking of channels' for regular immigration.[91]

From the context of source countries such as Nigeria, negotiating borders have not been its strongest points, especially where negotiations have been with European states. In the course of this study, the Home Office refused the Freedom of Information (FoI) put in to access the document containing the migration agreement between Nigeria and the UK.[92] This would have been useful to understand the current mutual understanding between both countries concerning immigration across their borders and its implication for anti-trafficking. Adepoju et al., contends that,

> Up to now, Nigeria, in their negotiations about migration agreements, has not yet succeeded in getting guarantees from Italy and other countries for the protection of its nationals abroad and/or ensuring that readmissions comply fully with international standards for the protection of the rights of migrants and trafficked persons.[93]

The UK's migration approach reflects its general identity with its EU counterpart but does not often reflect the identity or interest of its Global South partners.[94] Woud highlights that the EU for instance applies 'pure power politics' to defend its interests.[95] This unequal power relation is not uncommon between EU countries and the Global South countries such as the France/Senegal 2006 agreement negotiations.[96] Although the positions of Europeans leaders often vary across different bilateral agreements, situations are often rather 'complex and contradictory'.[97]

It is clear from all indications as seen in the literatures reviewed for this book that migration controls do not necessarily produce the desired results but instead fuel the migration 'black market' that stabilises Nigerian trafficking operations. The problem with agreements and cooperation between the Global North and South is that the northern countries such as the UK are still dominant architects while the southern countries such

as Nigeria are often persuaded to 'fall in line'.[98] According to Haas, "issue specific negotiations tend to favour the coalition of states who have in a long run had an interest in the issue and who dominate the resources."[99] Southern countries such as Nigeria, on the other hand, reserve the responsibility to ensure that the specific interests and concerns of its citizens are highly considered in bilateral negotiations of this nature rather than being manipulated by conditions for receiving aid. Based on the empirical data gathered through this research, it is clear that benevolent actors are still acting in the best national/self-interest, and thus, there remains a long way to go in achieving 'fair bilateralism' and creating 'win-win' situations between Nigeria and the UK. Although, the ongoing growing discussion in this area offers a glimmer of hope in buttressing this relationship, the current limited resources in taking this forward is discouraging.

In order to cooperate against trafficking concerning migration, it is essential for Nigeria and the UK to negotiate the rights over migration. As long as Nigeria maintains an environment that pushes its citizens to seek survival elsewhere, people would continue to seek ways to move, whether legally or illegally. It is in the interest of Nigeria to secure the rights of its citizen in line with their related concerns. However, its appalling human rights record demonstrates otherwise, thereby shifting the burden onto Britain. Consequently, it is indirectly in the interest of the British government to negotiate the rights of Nigerian citizens with the Nigerian government to reduce push factors that lead to illegal migration-cum-trafficking. One of the ways to tackle this includes directing its international development agenda into addressing and assisting with the advocacy of human rights and people-centred concerns, which is beyond dissuading people from emigrating.

Furthermore, the very nature of trafficking in Nigeria presents an enormous challenge towards conceiving a comprehensive bilateral response in this context. The causes of trafficking from Nigeria are rather many and as a result, it requires wider developmental solutions that could be perceived as unrealistic or unachievable through smaller programmes.[100] As there is a limit as to how much the UK government can make a difference through international development in Nigeria, empowering non-state actors including CSOs and individuals could go a long way in expanding the promotion of human rights that addresses the concerns of those it intends to protect. Negotiating rights involves the need for UK stakeholders and the international community to put immense pressure on the Nigerian government to fulfil its obligation in ensuring the human rights of its citi-

zens beyond just directing intervention on human trafficking. As Obokata and Todres contend, human rights violations are both causes and consequences of human trafficking.[101] Thus, human trafficking cannot be tackled in ignorance of human rights.

According to Fukuda-Parr, "in the countries of origin, prevention should start with enhanced opportunities in employment, access to education, representation in power structures and, crucially, birth registration" amongst other means that promotes socioeconomic rights.[102] On the other hand, destination countries need to be realistic about their migration approach, as they are not "losing control of their borders because the migrants have become more dangerous or have perfected their methods."[103] According to Anthias,

> The best way to regain control is not to crack down but to liberalize- to expand quotas, with a guest-worker program or some other method, until they line up with labour needs. (…) It does not help to pretend that (migrants) are not arriving or to fantasize that tough enforcement can undo the laws of supply and demand.[104]

Tough enforcement laws on migration have been proved to only make matters worse for anti-trafficking. Therefore, all stakeholders in anti-trafficking have to be engaged in this discourse (including victims and their communities) in order to arrive at solutions that mainstream the reality of the issues in policies introduced by both countries. Building the capacities of these stakeholders and coordinating their collaborations is therefore also crucial in this regard.

Building Capacities

As part of enabling cooperation, there is a need to build capacities from both sides. In the UK, there is a lack of knowledge that emanates from the diverse sociocultural factors that underpins trafficking from Nigeria. In Nigeria, there is lack of technical capacity in dealing with investigation request from the UK as well as the resources to build the required advocacy to address root causes of trafficking and loopholes in existing domestic laws. Sociocultural factors challenge UK practitioners in dealing with cases of trafficking from Nigeria. As seen in the previous chapter, it hinders the proper identification of victims and complicates their ability to access support and justice. There is need for a better understanding of this

sociocultural factors in terms of coming up with indicators that can help UK stakeholders deal with victims identification (from Nigeria) effectively. Such education through the formal engagement of survivors could help practitioners see the issue through the victim's eyes and elicit the needed rapport to better understand cases in question.

This is by no chance an easy task, especially in dealing with belief systems that are ingrained in peoples' way of life. Dealing with this factor requires strong prevention programmes that demand the full cooperation of Nigeria especially because the existing sociocultural attitude stems from its territory. Families who are disempowered will continue to look for better alternatives to better their lives, and as seen in previous chapters, some communities have made elements of trafficking as far as socially acceptable. Despite the fact that cultural practices such as traditional fostering in Nigeria have experienced some merits in empowering families and their communities as highlighted in previous chapters, the loophole it provides for traffickers needs to be addressed. Similarly, like many other religious practices, African traditional religion is neither good nor bad. People have the right to choose/practice their religion, but not to the detriment of the rights of others. It is the exploitation that these factors breed that needs condemning and not the traditional religion itself, which many UK practitioners unknowingly conclude as brainwashing.

Advocating for a review in laws and policies at origin states such as Nigeria is constantly missing in prevention programmes. Nigeria does not have the culture of proactively initiating policies that addresses the welfare of its citizens. For instance, except for trafficking, there are limited tangible government institutions that deal with issues of social exclusions that may indirectly fuel trafficking. Instead, Nigeria takes a reactive role in only attending to those already affected by trafficking. As part of building capacities, support from the UK to Nigerian institutions towards initiating the right policies to deal with some of these issues can be beneficial. This includes developing a child protecting policy to safeguard children in general and those who engage in fostering arrangements. There is need for Nigeria to engage in internal discourse with community leaders and members to begin to address the loopholes in some of its traditions and engage in finding better ways to address the exploitation it breeds with the support of international organisations already working on this issue in Nigeria.

In addition, stakeholders for anti-trafficking cannot be relegated to just professionals. Community leaders and faith leaders have to be engaged in the dialogue for initiating better intervention programmes that truly meets

the needs of community members at risk. Another key voice that is often missing from anti-trafficking prevention programmes is that of the trafficked persons.[105] Their experiences present a benefit to the messages of prevention programmes not just in terms of their testimony but also in terms of their input towards effective prevention programmes that are more human-centred. According to the ATMG, the first-hand experience of the victims can be useful in developing effective responses not just for stakeholders in the UK, but could offer some benefit for interstate cooperation. Building the capacities of social actors who are stakeholders within the anti-trafficking movement is in itself an advantage for spur the cooperation of states through their transnational collaborations.

The Anti-Trafficking Movement Across Border

The growing social movement around anti-trafficking has extended the conversation of human trafficking globally through various social actors. The last decade has seen a serious rise in the mobilisation of individuals, corporations, NGOs, think tank, institutions, academics and the media driving the growing anti-trafficking movement. Yet, literature on the efforts of social actors in promoting the eradication of human trafficking is often lacking. However, evaluative studies have indicated that the effectiveness of anti-trafficking efforts have been limited by gaps in data collection and integration, poor communication and resistance to cooperation between agencies and lack of appropriate information-sharing networks. These studies as such calls for a more coordinated effort between all types of anti-trafficking actors at all levels from local to international.

Either way, social actors have made such difference through their various activities that have not only increased the awareness of human trafficking but have played a key role as to how trafficking has been constructed over time. They have driven the narrative of trafficking, especially from the viewpoint of those affected and at risk, as well as influenced polices through their activism. A research carried out in 2008 which aimed to shed more light on the actors and activities of the anti-trafficking movement found that 96% of actors engaged in awareness-raising, followed by equipping at 89%, prevention at 81% and enforcement being about 27%.[106] These activities were transregional to a significant degree, mostly across Europe, North America, South Asia and Southeast Asia.[107]

This book not only shows the global efforts of anti-trafficking movement but also the prevalence of its activities and influence, which varies

across countries, regions and communities. Hence, some actors are more active than others are which translate to the level of outcomes they generate in this discourse. The significance of social movements cannot be overemphasised if the laudable approaches mentioned in this chapter are to be actualised in a way the granting of real rights and privilege to victims and trafficking is prevented in the long-term. The anti-trafficking movement in the UK is a great example of how social actors have changed the narrative of anti-trafficking in the UK and have acted as a watchdog to ensure the government remains accountable. The Modern Slavery 2015, which was the first independent law against human trafficking, is much an achievement for the UK anti-trafficking movement as it is for the government. Their relentless activism, systematic coordination and the inclusion of the epistemic community must be applauded.

The only drawback here is that the limitation of efforts to the UK and Europe. Hence, it lacks the transnational coordination that includes non-European Union countries that are usually source countries that truly need support. This does not main that the anti-trafficking movement does not include Africa. In fact, Nigeria could boast of such a movement but not to the level that it makes significant impact like the UK. Apart from the lack of enabling environment to operate, the transnational advantage of social movements has not been fully extended to drive the anti-trafficking movement in Nigeria beyond the 'aid-receiving' and 'self-serving pet-project' mentality of many social actors in Nigeria. The reason why the anti-trafficking movement have been more successful in the UK than in Nigeria is for the very simple reason that there are overriding principles and structures that guide social movements in the West, often driven by specific outcomes of which most of the social actors key into. Nevertheless, there is more to be gained from the international cooperation and coordination of social actors within the anti-trafficking movement that will not only achieve better outcomes towards protecting people, but will also influence better cooperation between states in a cross-border case situated in this study.

Conclusion

Empirical data gathered in the course of this study shows that there is a clear evidence of need for Nigeria and the UK to cooperate to address the prevalence of trafficking across their borders. In line with assessing their existing efforts in overseeing the latter, this chapter analysed the imple-

mentation of the 2004 MOU signed by both countries in this regard. The assessment of anti-trafficking measures between both countries underscores that the MOU has not been operational and has remained a political statement rather than an instrument that is intended for concrete actions towards anti-trafficking. Bilateral agreements provide an opportunity to capture context-specific situations that international instruments may not apprehend. However, although the 2004 MOU included all elements of the 3Ps, it is very generic and ambiguous. It did not attempt to take advantage of the possibility to tailor its contents alongside the reality of trafficking across both countries. Taking into consideration the timing of the MOU, this chapter does not overlook the fact that limited knowledge on trafficking could also explain the limitation of the MOU. However, even though the document created space for reappraisal to accommodate future changes and developments, it is yet to be revisited by both countries.

A number of contents of the MOU could be useful if put into action, including identifying designated officers in both countries in charge of ensuring easy exchange of information that will enable investigations of trafficking cases and the repatriation of victims to their country of origin. However, these points of contact do not exist in line with the MOU and information sharing remains an ongoing problem for both countries. In the quest for various agencies in their own way to seek the cooperation of Nigerian agencies, they have been hindered by the lack of trust and bureaucratic nature of government institutions. Most importantly, more obstacles stand in the way of achieving future collaborations including the lack of shared knowledge of the problem, the conflicting identities of both countries in augmenting the political will to address trafficking especially in addressing migration and human rights. There is also the absence of required capacity that could be useful for cooperation. Nevertheless, there is still a glimmer of hope for cooperation as the current UK Anti-Slavery Commissioner has placed Nigeria at the top of his agenda. With two major experimental visits to Nigeria and his eagerness to extend the engagement of the Nigerian communities in both the UK and Nigeria, it would generate an intended but needed network for the anti-trafficking movement for the collaboration of both countries. It seems that the Commissioner has placed more emphasis on actions that ‘paper signing’. Whilst updating the bilateral agreement is necessary, what is truly important is the impact on reducing trafficking, which every concerned social actor is patiently waiting to evaluate.

Notes

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CHAPTER 8

Conclusion: Rethinking Approaches to Anti-Human Trafficking

The twenty-first century has witnessed the proliferation of different measures that have been put in place to end human trafficking through laws and policies by states as well as the activism of non-state actors in form of NGOs and scholars. As a result, there is a pressing need to invent and adopt comprehensive measures and a holistic approach to address the menace. This chapter concludes by further reaffirming the human-centred approach as a new way through which we ought to look at existing obligations and anti-trafficking approaches. It interrogates the main aspects constituting the inherent problem of trafficking within the context of this study and the quest to move beyond the legal parameters to fulfil the objectives of the anti-trafficking regime. It prescribes actionable recommendations, which the UK, the Nigerian government and other social actors may adopt to stem the tide of human trafficking. It observes that human trafficking is a war worth fighting and we are closer than we have ever been towards reducing the menace.

The Inherent Problem of Trafficking Between Nigeria and the UK

One of the main issues of trafficking as identified in this book is the problem of concept and how such understanding has affected the responses of the relevant stakeholders. It made the case for extending the human rights understanding and approach by inculcating a human-centred approach

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explained through the perspective of migration, labour and gender. Migration is a predominant factor that has mainly concerned the UK and Nigerian migrants who have viewed migration as a passport to a better life. The ongoing problem of migration is the difficulty in making clear demarcations between trafficking and smuggling. Despite the legal definitions of the two concepts, both can be viewed as 'two sides of a coin' with a great deal of 'crossover'.[1,2] For states such as the UK, migration threatens its national security, and as such, it has officially regarded human trafficking as an immigration problem that requires an anti-immigration approach. Although the UK has condemned the actions of traffickers and has declared its political will to eradicate trafficking by preventing the crime, protecting victims and prosecuting traffickers, its 'best intentions' have not been practically actualised due to the approaches adopted. Some scholars such as Hathaway argue that the legal regime of anti-trafficking favours the UK's concept of trafficking as it gives ammunition to its anti-immigration agenda in the façade of protecting the persons affected.[3]

The state-centric viewpoint of migration/trafficking nexus reflects the major difficulty in pursuing anti-trafficking measures in cross-border situations. Restrictive borders as an anti-trafficking measure employed by the UK have led to three situations: it has increased the vulnerability of those at risk of trafficking; it has led to a disproportionate negative response to victims and it has often resulted in re-trafficking. With the level of risk that some Nigerians are willing to undertake in order to secure a better life in the UK, restrictive migration has only increased the vulnerability of migrants, leading them into the hands of smugglers-cum-traffickers. As Feingold puts it, "trafficking is often migration gone terribly wrong".[4] The immigration approach of the UK has significantly informed the policies of the UK concerning its NRM victims' identification mechanism and the support that follows thereto.

With the UKBA and the NCA in charge of assessing and confirming victims from Nigeria and the conclusion reached so far, UK CSOs have seen the NRM system as an anti-immigration hot seat. The migration status of victims and the associated crimes often takes precedence over victims' protection and support. As a result, ascribing victimhood as a gateway to support has been highly disproportionate where only less than 10% of referred Nigerians are concluded as trafficked as opposed to over 90% when the referred persons are British. As it currently stands, victims' identification remains a problem that fundamentally undermines law

enforcement efforts, as they are unable to identify or prosecute traffickers without first identifying the victims.

Re-trafficking sets in where lack of identification has led to deportation and where significant consideration of the non-refoulement principle has been difficult to apply to replace repatriation. This study observes that after deportation, victims tend to be re-trafficked back to the UK with a different identity. Where these victims have been repatriated, they lacked the protection, rehabilitation and reintegration that could protect them from being re-trafficked. Prevention programmes by European destination countries in Nigeria have often taken the stance of dissuading Nigerians from illegal migration and the risks associated with that venture. However, that has not stopped people from risking their lives every day to cross borders with hope of bettering their lives.

For many Nigerians who live in extreme poverty, their poor situation is more severe than the exploitation that may result from trafficking. How does one deal with a set of people whose appetite and penchant for taking risk for material considerations are so high? It increases their susceptibility to exploitation and therefore the likelihood to volunteer themselves to be trafficked. Following the testimonies of some trafficked victims from Nigeria, rescue could be meaningless if the push factors that made them vulnerable in the first place have not been addressed; hence, many opt to go back/stay with their traffickers, while others confirmed that they would make the journey again, despite all the dangers, risks and vices associated with trafficking.

Addressing the push factors of migration that may increase a person's vulnerability to trafficking remains the prime responsibility of the Nigerian government. Although the Nigerian state has the onerous responsibility to prevent the occurrence of wrongful acts meted on its citizens and the obligation to respect, promote and fulfil the human rights of its citizens, it has failed woefully in this regard. Despite its massive oil wealth, economic conditions in Nigeria are severe and life is brutish because of endemic corruption and expropriation of state resources by a privileged few. More than 70% of the population live below poverty line and subsist on less than one US dollar per day. This type of environment constitutes a veritable hindrance to anti-trafficking measures. As it stands, the country does not provide significant mechanism to enable the safe repatriation of its citizens nor an enabling environment that will protect victims from possible reprisals from their traffickers or even community members.

Consequently, Nigerian victims in the UK are in constant asylum legal battles to remain in the UK because of the dire economic conditions at home and the lack of the need protection. This is a failure for human rights. The Nigerian government has failed to appreciate the huge concerns of its citizens in eradicating human trafficking but rather aims at fulfilling the expectations of external actors whose foreign policies on the issue are used as a benchmark. In the light of the foregoing, Nigeria's anti-trafficking approach cannot supplant the inherent need to enhance its human rights record. Anti-trafficking should serve as an obligation of the state towards protecting and enhancing the welfare of its citizens.

With significant concern on human vulnerability, states are considered key actors driven by plural interests and, in this era of global competition, now stranded between three regimes of managing crimes, human rights and economic proficiency.[5] In order to ensure that human rights do not upstage migration, it is important to treat these three regimes as three dimensions of an interconnected whole.[6] There is absolutely no denial of the importance of migration in human trafficking. Nevertheless, there is a need for a migration management framework that addresses the interest of states and the human rights/concerns of migration in enunciating enduring anti-trafficking polices.

Despite the interest of states and their various approaches to trafficking, Nigeria/UK trafficking also has to contend with cultural factors that impinge on anti-trafficking efforts. This includes local traditions that fuel trafficking and impinges on intervention efforts whether in the process of identifying and rescuing victims or in terms of fuelling its prevalence. Culture has emerged within this study in a number of ways, including how some Nigerian communities often perceive migration as seen above, the control mechanism and traditional fostering system. Anti-trafficking stakeholders most consider these cultural elements in addressing trafficking. At the moment, its absence in anti-trafficking measures has been detrimental to achieving the best results for trafficked persons. The peculiarity of trafficking from Nigeria is complicated by the unique control mechanisms adopted by traffickers as demonstrated in the chapter that explores the MO of trafficking between Nigeria and the UK.

This control mechanism in form of traditional oath-taking (juju contract) does not only operate to keep trafficked persons in bondage but also hinders victim identification and the actualisation of a human rights-based approach. In the light of experiences of African traditional religion, this traditional oath-taking instils significant fear of reprisal on victims that

often dissuades them from giving evidence that could substantiate them as victims in need of support. This is a big dilemma that reflects in many cases of trafficking observed in this case study, which makes the actualisation of anti-trafficking measures very complex. With the difficulty on how to deal with this peculiarity and the recognition of this element in the UK criminal justice system, coupled with its anti-immigration mandate, trafficked victims are criminalised and therefore fail in obtaining justice. This aspect of trafficking calls for in-depth research into ways of integrating such peculiarity towards addressing the complexities it presents in resolving human trafficking cases from Nigeria.

Culture is also implicated in the aspect of child trafficking through the traditional fostering system in Nigeria. The concept that encompasses the notion of childhood in Nigeria is often shaped by the belief and norm that children are a source of wealth to their parents. Children tend to fall prey to domestic servitude, which is a commonly accepted form of child labour in many Nigerian communities. Even though the laws of Nigeria condemn this notion, the practice has found commonplace in the culture of many communities through the 'house boy/girl' system, a euphemism for traditional fostering. As McGillivray puts it, "We are blinded by our context, our place in history, our socialisation from knowing not only how children are treated but how they should be treated."[7]

The perceptions, ideas and attitudes towards children in pre-colonial era on fostering have been rendered impracticable by the quest for materialism and increasing level of poverty in Nigeria.[8] This has resulted in some parents freely giving their children away for domestic servitude in the UK or in some cases, deceived into such agreement. This study does not condemn the traditional fostering in Nigeria but instead highlights the need to take account of its shortcomings in terms of the loophole it creates for trafficking and child abuse. Cultural factors create a smokescreen for trafficking and affect how different communities have reacted to the problem.

As the survey carried out by University of Benin Observatory shows, families who have been enriched by the proceeds of trafficking do not often support anti-trafficking projects.[9] This survey identified assets such as houses, boreholes, and second-hand vehicles commissioned or owned by victims/survivors of trafficking who are members of these communities.[10] These so-called profits gained by trafficked victims have drowned the voice of reasoning in major source communities and have advertised trafficking as a contributor to community development which drives

many to fall prey to traffickers.[11] In fact, some community leaders went as far as undermining the experiences of trafficked victims, saying that whatever these victims/survivors were doing was better than armed robbery.[12] On the other hand, some others perceived trafficking as resulting from greed.[13]

Arising from the issues highlighted above and the need for shared responsibilities in addressing trafficking from the demand and supply states, it is evident that Nigeria and the UK require strong anti-trafficking collaborations/cooperation. Although Nigeria and the UK signed an MOU in 2004 to address human trafficking across their territory, no pragmatic approach has been taken to put it to practice. Whilst a bilateral agreement presents an opportunity to address the gaps in trafficking policies identified so far, the MOU can at best be described as moribund. Its content as reviewed was too vague and ambiguous in many instances and does not reflect the world and the problem it intends to change and address respectively. It is a matter of regret that both countries failed to utilise the opportunity offered by the MOU to advance positively the urgent and burning issue of trying to whittle down the pervading problem of human trafficking across their borders.

However, this study did not overlook the fact that limited knowledge due to the timing of the MOU could help explain some underling limitations of the MOU. This includes the fact that at the design stage, NAPTIP had only just been established and UKHTC did not exist at all until 2006, amongst other related agencies and commissions that were the offshoot of the anti-trafficking movement. However, the agreements made provision for occasional review, which has not taken place to date. Cooperation between Nigeria and the UK in the main suffers from administrative problems, which include information sharing, mistrust amongst law enforcement authorities, bureaucracy, limited capacity and above all a shared knowledge and absence of consensus on the norms of trafficking within its true context.

Trafficking derives most of its power from its scope and prevalence. However, there seems to have been a lack of consensus between Nigeria and the UK on the prevalence of the issue between their borders. To the UK, Nigeria presents a strong challenge to anti-trafficking within its territory, maintaining top five-source country for trafficking into the UK until date. Hitherto, Nigeria does not perceive the UK as an urgent case for trafficking intervention in comparison to other parts of Europe. The UK is not the top five destination country for trafficking from Nigeria. The

explanation could be located on how Nigerian stakeholders perceive trafficking and the suspicion that interventions are driven by the level of aid provided by destination countries for anti-trafficking measures in Nigeria.

Nigeria conceives trafficking as a problem of prostitution, thereby overlooking other forms of trafficking such as domestic servitude. Nuances of domestic servitude resonate in the cultural trends in Nigeria and many citizens including prominent anti-trafficking stakeholders hardly associate it with the semantics of trafficking as explained earlier. This conflict in the understanding of trafficking and reaching a consensus has undoubtedly undermined the importance of addressing trafficking within this case study in terms of prompting the needed cooperation. It is for this reason, amongst others that broader steps need to be taken towards addressing the inherent dilemma of trafficking as identified within the context of study.

Anti-Trafficking Regime: Beyond Legal Framing

The anti-trafficking regime has not lacked the support of international law, especially in promoting international cooperation and compliance, at the very least, by setting minimum standards in addressing human trafficking. This is evident in the provisions of the Organized Crime Convention, EU anti-trafficking laws and the multilateral treaties adopted by ECOWAS. Viewing the aspirations of these international laws through the lens of rule compliance leads to insufficient analysis and understanding of the diverse complex elements inherent to trafficking and oversimplifies the relation of trafficking and sociocultural, economic and political realities. While states and crusaders of anti-trafficking must always apply the law in their quest to eradicate this modern-day slavery, they have to consider that the law is not the only significant factor in addressing human trafficking.[14] An analysis of the international laws against human trafficking shows some apparent limitations. For instance, the principles of the Trafficking Protocol have aligned themselves closely to the interest of states and, as a result, have proven to be inadequate in dealing with the issues highlighted in this study. According to scholars such as Todres, the failure of the anti-trafficking regime started from the design stage following the principles of the Trafficking Protocol and its law enforcement framing.

Although the domestication of the Trafficking Protocol by Nigeria and the UK could be seen as a positive progress towards compliance, its

interpretation and implementation has remained problematic. However, the UK has taken significant strides in improving its anti-trafficking efforts through the domestication of new law and policies that engender most of the reservations of social actors who continue to be key drivers of the anti-trafficking movement. Current UK strategic plans for anti-trafficking seem promising, especially with the needed priority placed on making anti-trafficking more inclusive of businesses. The latter move placed anti-trafficking on a different level (a positive level at that), that extended the responsibilities of anti-trafficking stakeholders. The new Anti-Slavery Commissioner is not oblivious of the gaps and obstacles in addressing human trafficking from Nigeria. Such acknowledgement is the first step to finding a solution. As the Modern Slavery Act and its strategy are still new, anti-trafficking activists patiently act as watchdogs to see how the plans of the government work out in reality. The vast improvement made by the UK government is far more intensive than what has happened in the same amount of time in Nigeria. Although the 2003/2005 NAPTIP Act was repealed and replaced with the 2015 NAPTIP Act, there are still gaps identified in what currently stands as law in Nigeria, both on paper and in practice.

As demonstrated in this study, the practice of trafficking is embedded in social relations and as a result remains diverse. It is difficult to generalise about interpretations across different states like those of this case study with diverse identities and interests. Some anti-trafficking stakeholders have insisted that trafficking in Africa does not entirely fit into the international definition.[15] The Trafficking Protocol does not reflect the peculiarities of trafficking from Nigeria and therefore does not set a substantial foundation for cooperation with the UK. Proposing a conceptualisation of trafficking beyond legal parameters, this study also asserts that such proposal should be integrated in the cooperation of states. Each of the theories explored in this study—namely, realism, liberalism and constructivism—offered an insight in explaining why and how states cooperate within the anti-trafficking regime at present. The rationalist regime is most relevant to the US sanction regime with a realist framing and the Trafficking Protocol, EU and ECOWAS, which are consistent with the liberal approach with the assumption that states possess a common interest to combat trafficking. Without denying the points made by the rationalists in terms of the status quo of anti-trafficking cooperation, the constructivists' standpoint best caters for the diversity that abounds cooperating states such as Nigeria and the UK. The diversity inherent in

trafficking between Nigeria and the UK and the identified gaps in addressing the problem can only be achieved through a shared understanding by both states while taking into consideration their history, social, cultural and political underpinnings.

Such an understanding could emerge through communicative processes that include the cross-cultural interactions between states through persuasion, arguments and knowledge building currently absent in the case study. With the inclusion of highly represented epistemic communities and the engagement of relevant stakeholders, both countries of study stand the chance of reaching a consensus in norms that integrate contextual gaps that transcends legality in actualising the rights of those affected by trafficking. In devising the best way for Nigeria and the UK to cooperate, one cannot isolate the need for 'shared causal beliefs, policy agenda and notions of validity' by both states.[16] It is for this reason that policy recommendations that may enhance the status quo of cooperation between Nigeria and the UK as part of adjusting their individual policies should start with revisiting their bilateral cooperation.

Recommendation: Putting Human-Beings at the Heart of Anti-Trafficking

The massive improvement that has been made in the UK in terms of the new structures that have been put in place to address modern slavery is highly commended. It is now time to deliver in line with the aspirations of the Modern Slavery and the Anti-Slavery Commission. Even though it is a bit premature to assess the effectiveness of the new law, this study examined areas that have created obstacles to anti-trafficking in the UK. There is an urgent need to reform how immigration has been linked to anti-trafficking approaches utilised in the UK and as seen within this study. It should commence with changing how the NRM is currently managed, given that now, it deters victims from seeking help. UKVI and the NCA as competent authorities restrictively assigned to assess third-national's victims relegate UK's measures to border control. So far, this has undermined the impact of anti-trafficking activities. A fair assessment would mean ensuring that all victims regardless of their nationalities are accessed indiscriminately. There is no denial that migration is a crucial factor in trafficking and the UKVI has a role to play. Nevertheless, their role should remain at the borders to intercept traffickers as well as introducing a

'bridging visa' for identified victims of trafficking as required for their protection. Its migration approach should aim at policies that address fundamental vulnerabilities that may arise from stringent border control policies and not one that drives the business underground.

The identification of Nigerian victims has been recognised as one of the core problems for the UK and remains an obstacle to reaching a definite conclusive result through the NRM system. Concerning Nigerian victims of trafficking, identification is an issue that UK frontline practitioners know too well, following the peculiarities of the Nigerian trafficking experience which suffers from the use of African traditional religious belief system as a weapon to bond victims in slavery.

Consequently, not only does the Nigerian scenario of trafficking peculiar but the fear generated from the oath-taking rituals the traffickers often use to bond their victims restricts the victims from giving all evidence that can ascertain their victimhood. The inability to identify Nigerian victims of trafficking has resulted in a disproportionate response to their cases and could possibly lead to the criminalisation of neglect of these victims. Missing out on victims means missing an opportunity to reduce trafficking. Therefore, there is a need to build the capacity of UK frontline practitioners through training programmes to better understand the indicators of trafficking from Nigeria. This includes providing various practitioners with the capacity to comprehend sociocultural factors that form part of trafficking from Nigeria. Essentially, this will enable them to inculcate a human-centred approach in the way in which they identify, associate, recognise and actualise the rights of Nigerian victims. This cannot be achieved without the multisectoral collaborations of all stakeholders in the UK, which could be beneficial for harmonising existing anti-trafficking measures in the UK and deriving value for money in its current investment in anti-trafficking. It is hoped that the upcoming guideline for the identification of trafficked victim breaks new ground for victim identification, especially those that have raised some difficulty as seen with the case study of Nigeria.

Furthermore, the UK must also ensure that it fulfils its obligations towards protecting the rights of those who have been trafficked. This includes ensuring that they are not criminalised due to crimes they committed under duress. Instead, the UK government should take practical measures to ensure that the Crime Prosecution Services incorporates the non-criminalisation principle in its anti-trafficking policies within its criminal justice system, as stipulated in the Modern Slavery Act. In addition,

criteria for accessing victim's support should reflect the experiences of victims to accommodate them, rather than a select few. The UK government must also ensure that victims are returned voluntarily and safely in a way that guarantees that they would not be exploited and re-trafficked. The recent commitment of the new Anti-Slavery Commission to make Nigeria a priority country in its anti-slavery strategic plan is well intentioned. However, it is crucial that this commitment does not resemble another Western intervention in situations such as this where prevention programmes are highly patronising, losing consciousness of who their beneficiaries are and how far the project can actually meet its long-term objectives.

This is especially pertinent in the sort of rehabilitation programmes that have been created in anti-trafficking projects over time. Utilising a human-centred approach, the Commission should first understand what communities want in order to prevent trafficking and what victims/survivors require to stay safe and recuperate. The Commissioner may well realise that the odd petty skills such as catering, tailoring and the likes will never go a long way in rehabilitating victims as many victims of trafficking did not spend thousands of British pounds to end up that way. This is not to say that the UK or any anti-trafficking stakeholder should cater to every wishful thinking of victims, survivors and their communities but instead seek corporate partnerships that will collaborate with them to provide dignity to victims, survivors and their communities. As this requires shared responsibilities with the source country, this measure should be well integrated into their bilateral cooperation agreements.

The Nigerian government has a major role to play, especially concerning tackling the supply of trafficking to the UK. The Nigerian government has to invest more on tackling other human rights issues that increase the vulnerability of its citizens to trafficking. This includes tackling cultural practices that lead to abuse and discrimination; issues associated with social exclusion; poverty and corruption in Nigeria. While NAPTIP must be better funded, the Nigerian government should also ensure the establishment of other institutions that would better address the aforementioned factors that undermine anti-trafficking activities. Essentially, trafficking cannot be addressed in Nigeria solely by NAPTIP but requires measures that address the concerns of its citizens. Therefore, the Nigerian government must endeavour to restore the confidence of its citizens by taking bold and clear measures to address their welfare. This includes ensuring that existing laws reflect the status quo.

Specifically, the Child Rights Act 2003 must be amended to eliminate the loophole for child trafficking. Child protection and safeguarding measures must be put in place to counter child abuse and social exclusions that may lead to child trafficking. The current NAPTIP Act must also be amended to include mechanisms that protect Nigerian citizens during and after repatriation. The recently amended Act should take a cue from the Modern Slavery Act to address risk factors, increase penalties for traffickers and include the corporate sector into its laws and policies, but beyond the UK Modern Slavery Act, Nigeria should never forget the role of the family as a major driver of trafficking. Action most also be taken to address the aspect of 'juju contract' associated with trafficking in order to find an appropriate approach to deal with it, keeping in mind the potential ethical issues involved. In short, NAPTIP must demonstrate, both on paper and in action, a zero tolerance for trafficking in a way that dissuades people from the act despite the cultural nuances associated with the crime. NAPTIP as an agency has a wealth of experience in cases of human trafficking from Nigeria and in Nigeria. Such knowledge can be published yearly as part of contributing to global knowledge that would make a massive difference in terms of shared knowledge that will be beneficial to the anti-trafficking movement. In addition, Nigerian stakeholders must also endeavour to work with the UK to address areas of shared responsibility.

First, both countries most create an opportunity for dialogue towards reaching a consensus on the problem of trafficking and developing appropriate measures. Such platform for dialogue could potentially lead to shared knowledge and consensus between both countries. Subsequently, the 2004 MOU between Nigeria and the UK to suppress human trafficking must also be reviewed and reinstated as a functional document. The reviewed MOU should include concrete measures that would enable better information exchange, MLA and extradition. Specifically, there should be clearly appointed officers designated with the duty to oversee/coordinate the operationalisation of the MOU. In addition to this designated officers, there is a need for the appointment of National Rapporteur in each country to oversee the independent monitoring and evaluation of trafficking and anti-trafficking beyond what currently exists. National Rapporteurs could be crucial to the continuous assessment of cooperative measures (both bilateral and multilateral) and best practices amongst states.

Second, concerning the prosecution of traffickers, the UK and Nigeria need to consider engaging in joint investigations and police exchange programmes for the purpose of enhancing investigation of trafficking cases.

Police exchange programme enables exchange of knowledge, informal police-to-police cooperation and good police practice. Although most prominent in Europe, Nigeria and the UK may consider its usefulness in enabling better law enforcement cooperation through the platforms of Police Colleges in both countries. Both the Nigerian Police and the Met Police possess intelligence critical to dismantling trafficking networks. Although the Nigerian Police lack the technical capability and the essential ethics in practice, as highlighted in this study, the UK can profit from their local knowledge. The Nigerian Police also needs to be critically sensitised on the consequences of its complicity to trafficking and the Nigerian government must take the necessary steps to criminalise such actions that fuel trafficking.

The role of international actors has been crucial to addressing trafficking in both countries. Embassies, international organisations such as the IOM, ILO, UNODC, UNICEF, USIAD, as well as CSOs and individuals have all been catalysts in enhancing anti-trafficking efforts in both Nigeria and the UK. However, with ongoing duplications and limited resources, there is a need to establish an international network of all organisations tackling trafficking for the harmonisation of anti-trafficking activities through joint work and resources that would allow for projects that are both sustainable and long-term as opposed to existing projects, which are short-term and piecemeal. Such international network could be beneficial to UK and Nigerian agencies that are in dire need of international cooperation towards addressing the issues that trafficking currently presents. In order to make this networks inclusive, membership especially from Nigeria should go beyond CSOs handpicked by NAPTIP to including other human rights organisations working in Nigeria.

The role of social movements was highlighted in this study, as the growth of the anti-trafficking movement has been pertinent to how much anti-trafficking activism has grown and evolved. The movement have exercised great power in pushing governments to change their attitudes in the way they address human trafficking. The role and successes of these movements are very clear in the UK, especially in the way it has advanced the anti-trafficking discourse. The rate at which the anti-trafficking movement have grown in the UK in the last one year after the Modern Slavery Act was enacted has been phenomenal. The UK owes it all to social actors such as the NGOs in the UK who have worked tirelessly to consistently challenge the government and bring their consciousness back to home and back to the actual experiences of the very people the movement aims to

protect (the victims). The movement includes the epistemic communities who work with NGOs to provide sound information that helps explore the subject further. Unfortunately, the movement has not fully benefited Nigeria NGOs who suffer lack of fund, mistrust of funding agencies due to the over dilution of the NGO sector in Nigeria and the lack of an enabling environment to express their grievances and freely challenge the Nigerian government like their UK counterparts.

The NGO sector in Nigeria still has a long way to go in building the trust of the individuals that could also help grow the movement. Such trust needs to be restored through regulatory bodies in Nigeria and the collaboration of the movement in the UK who could extend their prevention programmes by working with Nigerian NGOs and supporting the growth of the anti-trafficking movement in Nigeria. Such collaborations can be founded through international social networks. The Nigerian people are most crucial to the anti-trafficking movement in Nigeria and may well be the key to turning things around in Nigeria once they are in congruence with the message of anti-trafficking. It is only then that the government can be effectively held to account for their neglected obligations and major strides can be made in anti-trafficking in Nigeria. There is much indoctrination to be carried out to convert Nigerian communities into changing their beliefs about trafficking and reinforce the need to fight the crime of trafficking for the sake of their children, daughters, sons, mothers and fathers.

Above all, there is need for all stakeholders to adopt a human-centred approach that ensures the overall safety of persons affected without prejudice to their nationality or status in the community. Human rights should be paramount in all strategies of anti-trafficking from rescuing and rehabilitating victims, protecting them from their traffickers and granting them economic independence that is sustainable in order to avoid re-trafficking. Part of a human-centred approach involves sensitising communities in Nigeria about the importance of victims' reintegration and the supportive role they can play in safeguarding and helping victims reconnect with their communities. It is only after this has been accomplished that the victims can be truly survivors of trafficking. At this stage, it is pertinent that anti-trafficking agencies engage these survivors in prevention programmes, as their first-hand experiences are the key to communicating the true nature of trafficking to relevant individuals and bodies.

This study also presents opportunities for further research into various aspects of trafficking especially in exploring the effect of culture in constructing and addressing human trafficking and expanding the application

of the human-centred approach, amongst other opportunities. Human trafficking continues to destroy the lives of many and must be eradicated to maintain human dignity. Today, more organisations, scholars, activists and individuals have presented a united front to advocate for the end of modern slavery. Despite the tremendous progress in this regard, the war against slavery continues unabated. As Skinner rightly puts it, today's slavery is "a war worth fighting" and we cannot overlook the people who unfortunately, bear the brunt of it all in the process.[17]

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Appendix

Memorandum of Understanding on Co-operation to Prevent, Suppress and Punish Trafficking in Persons, Freedom of Information (FOI) request from the Home Office, 26 October 2011, FOI ref.—CR19858 [Re-typed]

MEMORANDUM OF UNDERSTANDING
ON CO-OPERATION TO PREVENT, SUPRESS
AND PUNISH TRAFFICKING IN PERSONS
Between
The Government of the Federal Republic of Nigeria

And

The Government of the United Kingdom of Great Britain and Northern Ireland

Dated 17th November 2004
MEMORANDUM OF UNDERSTANDING
ON CO-OPERATION TO PREVENT SUPRESS AND
PUNISH TRAFFICKING IN PERSONS

M. Ikeora, *Bilateral Cooperation and Human Trafficking*, Global Ethics,
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Between

The Government of the Federal Republic of Nigeria

And

The Government of the United Kingdom of Great Britain and Northern Ireland

The Government of the Federal Republic of Nigeria and the Government of United Kingdom of Great Britain and Northern Ireland (henceforth referred to as the "participants"),

Recalling our commitment to, and obligations under, all relevant international legal instrument, and in particular the following legal instruments:

i. The United Nations Convention on the Rights of the Child, of 20 November, 1989;
ii. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, of 25 May, 2000;
iii. The Convention adopted by the General Conference of the International Labour Organization on 26 June 1973 (convention number 138, Minimum Age Convention);
iv. The Convention adopted by the General Conference of the International Labour Organization on 17 June 1999 (convention number 182, the Worst Forms of Child Labour Convention);
v. The Convention on the Elimination of All Forms of Discrimination Against Women, of 18 December 1979;

Determined to work together and co-operate having regard to the United Nations Convention Against Transnational Organized Crime and its supplementing protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children;

Noting that In line with the United Nations Convention Against Transnational Organised Crime and the Protocol there to referred to above, the Government of the Federal Republic of Nigeria has enacted the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003 and created a specific agency to enforce the law;

Noting further with deep concern the negative economic and social consequences of trafficking in persons and the resultant human rights abuses and the social implications to the society at large;
Realizing the urgent need to jointly tackle the menace of trafficking in persons at the source, in transit and in destination countries and to prosecute and confiscate any proceeds of crime;
Determined to deny safe haven to those who engage in trafficking in persons to co-operating on the international level, to detect and prosecute such criminal activity wherever it occurs;
Conscious of the rights of and the need to assist victims of trafficking;
Considering the resultant well-being of children and the mutual benefits from co-operation between the two participants; and
Noting the forthcoming Memorandum of Understanding "The Bilateral Policing Agreement" between the Nigerian National Police and The Commissioner of Police of the Metropolis;
Have reached the following understanding:

DEFINITION OF TERMS

1. For the purpose of this Memorandum, the following terms and expressions are defined as follows:

i. "Trafficking in Persons" will mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat, or use of the 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 purposes of sexual exploitation. The consent of the victim of trafficking in persons to the intended exploitation will be irrelevant where any of the above means has been used or where a victim is a child.
ii. "Child" means a person under eighteen years of age (and "Children "will be construed accordingly).
iii. "Competent Authority" in the context of this Memorandum means in relation to each Participant, the agencies responsible for the prevention, and suppression of trafficking in persons or any other persons so designated by the Participant of this Memorandum.

iv. "Exploitation" as explained in Article 3 of the UN Protocol include at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, child pornography, forced labour, or services, slavery or practices similar to slavery, servitude or the removal of organs.

OBJECTIVES

2. The Participant in accordance with the provisions of this Memorandum will co-operate with and assist one another as requested or on their own initiative while observing the laws, regulations and procedures of their own states.
3. In particular, the objective of the memorandum are:

i. To facilitate international co-operation, develop common goals and prevent, suppress and punish trafficking in persons;
ii. To protect victims of trafficking, and to provide them with assistance to enable reintegration into their original environment;
iii. To provide mutual support, capacity building and strengthening of institutional capabilities to effectively prevent, suppress and punish the offences of trafficking in persons, and;
iv. To promote co-operation between the participants with a view to attaining the above mentioned objectives.

4. This Memorandum will not prevent the participant from using other mutually acceptable forms of co-operation whilst observing the laws, regulations and procedures of their own States.

CO-OPERATION

5. The participants acknowledge that persons who commit human trafficking offences should be prosecuted wherever they may be and that where possible steps should be taken to confiscate the proceeds of such offending.
6. The participants will, in accordance with and consistent with the laws and regulations in force in their respective States and the provision of this Memorandum, establish mutual co-operation in order to prevent, suppress and punish trafficking in persons.

7. The participants will, in accordance with all relevant national laws and regulations exchange relevant information with a view to preventing, suppressing and punishing trafficking in persons.
8. The participants will exchange contact telephone numbers, fax numbers and e-mail address of competent authorities with the aim of exchanging information on all matters connected with this Memorandum.
9. Each participant will nominate agencies responsible for arranging co-operation and exchanging contacts under this Memorandum. Within three calendar months of the date this Memorandum is signed, each participant will notify the other, in writing, of the name and address of a single point of contact within the designated agencies.
10. The participants will provide advice to each other relating to the law and procedure in their respective jurisdictions relating to the provisions of mutual legal assistance and the extraction of persons sought for trial punishment.
11. In relation to an offender, the extradition of whom is sought by one of the participants, the other participant will subject to the laws governing extradition to and from its jurisdictions, offer such assistance, as it is able, to ensure that the offender is brought to justice.
12. The participants will subject to the laws governing the provision of mutual legal assistance within their respective jurisdictions provide such assistance, as they are able to obtain any evidence that may be requested in a form admissible in the jurisdiction of the requesting participant.
13. Any information provided or exchange between the participants orally, or in writing for the purposes of the implementation of this Memorandum will be considered confidential and used in conformity with conditions that may be laid down by the providing participant.
14. For the purpose of further implementation of the objectives of the Memorandum, the participants will exchange relevant legislations and regulations in force in their respective states, and the results of research and studies concerning the subject matter of this Memorandum for the information of the competent authority in each participant's state.

OTHER BASES FOR CO-OPERATION

15. This Memorandum will not prevent either of the participants from co-operating and granting assistance in accordance with the provisions of any applicable international treaties and agreements or by any other mean.

STATEMENT OFVICTIMS OF TRAFFICKING IN PERSONS

16. The participants will provide such assistance, as they are able to facilitate the proper identification of victims.
17. The participant will consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons and will in appropriate cases co-operate with non-governmental organizations in the provision of:

i. Counselling and information regards their legal rights; and
ii. Medical psychological and material assistance.

18. The participants will take such measures, as they are able, to protect the privacy and identity of victims of trafficking.
19. The participants will not subject any victim of trafficking in persons to degrading; or inhumane treatment and will to the extent, that they are legally bound to do so provide for the physical safety of victims of trafficking in persons in their respective jurisdictions.
20. The participants will apply whatever measures are available to protect victims from potential retaliation or intimidation, including in cases where the victim gives evidence in relation to the prosecution of persons for offences covered by this Memorandum.
21. The participants will facilitate and accept without undue or unreasonable delay the return of victims of trafficking in persons to their country of origin having due regard for the safety of that victim.
22. The participants repatriating a victim of trafficking in persons will have regard to the safety, human rights and well being of such a victim and will allow the victim, subject to provisions in legislation relating to proceeds of crime, to return with their property and possessions.

CAPACITY BUILDING AND STRENGHTENING OF INSTITUTIONAL CAPACITIES

23. The participants agree within their available funding capacities and in line with acceptable procedures of funding, to assist each other in strengthening their enforcement, prosecution, administrative, research, public enlightenment, and rehabilitation capacities by way of providing requisite equipment and training of personnel.
24. The participants agree that they will each promulgate the objectives of the Memorandum in the respective international organizational to which they belong and will encourage other States to co-operate in a similar manner.

CONSULTATION

25. The participants will consult one another with the aim of making arrangements for the continuing and effective implementation of this Memorandum. They will, resolve any difficulties arising in connection with Memorandum through consultation and negotiation.

STATUS OF MEMORANDUM

26. This Memorandum is a statement of goodwill only and is not intended to impose any legal obligation whatsoever on either of the participants.

FINAL PROVISIONS: COMMENCEMENT AND TERMINATION

27. The participants will take necessary measures in accordance with the procedural requirements of their respective countries to implement this Memorandum.
28. This Memorandum will come into operation on signature and will continue in operation unless terminated by either participant giving written notice to the other.
29. Any disagreement relating to the interpretation and application of this Memorandum shall be resolved by the participants according

to principles of mutual understanding and respect. Nevertheless after consultation, notification and agreement the participants may in the spirit of mutual understanding amend or alter this Memorandum at any time.

30. Amendments or additions may only be made to this Memorandum with the written consent of both participants. Such amendments will be in accordance with national law and procedure.
31. This Memorandum does not establish any new international and interstate legal obligation for the participants and their States and does not affect any of their present international obligations. Co-operation within this Memorandum shall be effected through the constant willingness of the parties aimed at adopting practical decisions in combating trafficking in persons and other related organized crime and in the co-operative spirit, which characterizes this document.

The forgoing record represents the understanding reached between the Government of the Federal Republic of Nigeria and the Government of the United Kingdom of Great Britain and Northern Ireland.

Signed in duplicate in London, England on 17 November 2004.

Name: CHIEF AKINLOLU OLUJINMI SAN, FCI. Arb
Designation: HON. ATTORNEY GENERAL
OF THE FEDERATION &
MINISTER OF JUSTICE
For the Government of the Federal
Republic of Nigeria

Name: HARRIET HARMAN
Designation: H.N SOLICITORS GENERAL
Signature: THE RT. HON. HARRIET, QC, MP
HON. SOLICITOR-GENERAL AND MINISTER
For the Government of the United Kingdom of Great Britain and Northern Ireland.

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