

# Nigeria

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## 1. Introduction

Nigeria has a population of some 140 million.<sup>1</sup> With increasing poverty and tough economic reform policies, Nigerians constitute the largest population in a significant flow of migrants from developing countries in Africa to industrialised countries in Europe and elsewhere. Migrants come from all classes, irrespective of age, educational background and ethnic origin. As a result of this growing trend to migrate, fanned by globalisation and improved technology, many destination countries have reacted by imposing strict immigration laws on Nigerians, while in Nigeria itself, administrative structures and measures neither hinder nor facilitate the movement of citizens outside the country beyond the normal emigration requirements for all travellers. One of the significant reflections of this is the recent international concern about the trafficking of Nigerian women and girls to various parts of the world.

Nigerian women are trafficked to Europe predominantly to earn money for others from commercial sex, especially in Belgium, France, Italy, the Netherlands and Spain. The UNICEF has reported that 80 per cent of young women engaged in sex work in Italy are Nigerians (UNICEF, 2002). South Africa and the United States are also destination countries, while the United Kingdom and Ireland are countries of transit as well as destination for Nigerian women. There is confusion about how many Nigerian migrants earning money in Europe's sex industry have in fact been trafficked and are being coerced. Alongside the trafficked women in these countries, there are others who are earning money from commercial sex but who have not been trafficked and distinguishing between them has proved difficult.

People from Ghana, Togo, and Benin are trafficked into Nigeria.<sup>2</sup> Young women are trafficked both within Nigeria and to other West African countries (such as Cameroon, Gabon, Guinea, Mali and Côte d'Ivoire) for domestic work, sex work and to work as street vendors. Children from Nigeria's southern and eastern states are trafficked to cities in the north and west of Nigeria and to other West African countries for exploitation as domestic servants, street hawkers and forced labourers. Children from Togo and Benin are trafficked to Nigeria for forced labour.

The Nigerian government has developed several sets of measures to address the issue of trafficking in women, especially for sexual exploitation abroad. These include: the passage of an anti-trafficking legislation, the establishment of a specialised anti-trafficking agency, prosecution of offenders and massive awareness raising. NGOs have also played a significant role in prevention and elimination of human trafficking, as well as providing rehabilitation and support services to returnees.

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This chapter looks at the various anti-trafficking interventions in Nigeria, initiated by the government and its partners<sup>3</sup> in order to assess their compliance with human rights standards. In so doing, it will compare experiences and methods in anti-child trafficking interventions with other forms of trafficking, including trafficking of women for sexual exploitation.

### **Defining Human Trafficking in Nigeria**

Section 50 of the *Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003* of Nigeria (routinely referred to by Nigerians as the NAPTIP Act) defines trafficking as including:

...all acts and attempted acts involved in the recruitment, transportation within or across Nigerian borders, purchase, sale, transfer, receipt or harbouring of a person involving the use of deception, coercion or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in force or bonded labour, or in slavery-like conditions.

This definition draws greatly on Article 5(2a) of the UN Trafficking Protocol in making attempts to traffic a person a criminal offence. This has enabled law enforcement agents to institute criminal proceedings when they suspect that an offence related to human trafficking is about to be committed, even where the act is yet incomplete. However, such proceedings can also impede other lawful activities (such as migration), owing to a suspicion of an attempt at human trafficking. In applying this clause, law enforcement agents are confronted with the problem of proving that there will be actual exploitation of the intercepted 'victims' upon arrival at their destination. Illustratively, on 14 March 2004, the police intercepted a bus-load of children along the Calabar to Itu road on their way to Cameroon. The children, ranging in age from 14 to 16 years (eight girls and seven boys), were told by the adults arranging their journey that some were going to work while others would go to school. Both the suspected traffickers and the children were brought to the Cross River State Central Intelligence Division for interrogation. Due to lack of facilities for their care, the children were sent home to their parents and guardians (Imogbo, 2004, 1).

The definition also covers cases of internal trafficking, providing impetus for initiatives to address cases of child trafficking for domestic servitude, begging and other purposes within Nigeria's borders. Previously these activities were routinely regarded as so closely linked to indigenous cultural practices (involving child fostering) that they were allowed to continue uninhibited. The Act takes an original step in criminalising commercial carriers with knowledge of the trafficking transaction. However, the element of *guilt due to knowledge* may be difficult to prove in order to secure the conviction of a commercial carrier and no prosecutions have yet occurred.

The NAPTIP Act does not define sexual exploitation, even though the words are used widely within the Act, with the effect that acts which would not ordinarily constitute sexual exploitation are misinterpreted by government authorities to be forms of exploitation, such as voluntary sex work by adult women abroad. Again, the Nigerian definition ignores the problem of trafficking for the removal of organs. While in Europe and elsewhere, this practice is often perpetrated for the purpose of unlawful organ transplants, in Nigeria organs are most often removed unlawfully for the purpose of rituals associated with traditional religious beliefs, and the possibility that some intended victims for such rituals are trafficked is unfortunately overlooked by its absence from the definition in the law.

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Despite the definition it gives to human trafficking, the NAPTIP Act does not specifically punish human trafficking as one single offence. All provisions in the offences section deal with women and girls in various situations that could form all or part of the offence, thus bringing together all of the existing Nigerian laws on sexual offences with a few changes and increased penalties. These other Nigerian laws include the *Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria, 1990* (the Criminal Code), which covers the southern parts of the country, and the *Penal Code (Northern States) Federal Provisions Act, 1960* (the Penal Code), which applies in the north.

In Nigeria, human trafficking is often conflated with sex work. This misconception became obvious in a particular incident in the 1990s involving the massive deportation from Italy of trafficked women and girls who mostly came from Nigeria's Edo State in the south. Most of the women and girls had been trafficked for sexual purposes. The reaction of the public to these deportations and the subsequent sensational media coverage of the incidents were to assume erroneously that all cases of trafficking were for purposes of sex work, and, worse still, to stereotype victims of trafficking as women from Edo State only. Trafficking for labour exploitation, internal trafficking and trafficking of persons into Nigeria have not so far received commensurate attention.

The equation of human trafficking with sex work has further worsened the abuse suffered by trafficked persons, who, irrespective of the form of labour they are trafficked for, on arrival back in Nigeria, are considered sex workers. This is best appreciated in the case of the deportation of Nigerian girls from Europe. An Anti-Slavery International report (Pearson, 2002, 169) referred to the Nigerian situation thus: "The procedures facing deported nationals in Nigeria violate basic human rights by discriminating against and stigmatising women as sex workers, forcing them to undergo STD tests and preventing them from leaving the country legally again."

This misunderstanding of concepts ignores the fact that some migrants travel abroad expecting to earn a living from any form of labour (including sex work), and that many of these migrants do not have the resources to pay for their travel costs and so have to borrow money for which they make ritual oaths or other forms of agreements to repay. These kinds of transactions are not necessarily linked with human trafficking and often the migrant in question is not under obligation to engage in a specific form of work to repay the debts incurred. Thus it is wrong to construe that they are in a form of debt bondage and have been trafficked.

The question then arises of how Nigerian women earning money from commercial sex in Europe should be categorised. Is it really practical to assume that all those who are caught on Italian streets and repatriated are 'victims of trafficking', when there seems to be evidence that many have not been trafficked – rather, they are migrants who find there are few alternatives to earning money apart from commercial sex and who also (but separately) feel under pressure to earn money, both to repay moneylenders in Nigeria and to provide themselves and their relatives with an income. In view of this, it becomes mandatory for European authorities to investigate each case in more detail and decide on the basis of its merits whether it is appropriate to repatriate the migrant concerned.

Further, the persistent equation of trafficking with sex work makes it convenient for governments and some activists to call for the criminalisation of sex work in their attempts to combat human trafficking. Sex work is prohibited in the northern part of Nigeria, and in the year 2000, Edo State, from where the largest number of women and girls are trafficked for sexual exploitation, reacted by amending its existing Criminal Code on the issue of trafficking.<sup>4</sup> The amendment criminalises sex work, exposing women who have been trafficked into sex work to the risk of being prosecuted.

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This conflation has also resulted in a poor understanding of what comprises trafficking (especially of children) for other rampant forms of exploitation that have been ongoing for decades, such as domestic work or farm labour in circumstances involving force or coercion. Policy and other interventions of UN agencies such as the UNICEF and the ILO-IPEC to try and stop child trafficking and child labour in Nigeria have resulted in some distinction being made between child trafficking and child labour on the one side, and human trafficking on the other, though there is not much coordination of efforts in addressing the related issues. When the NAPTIP Act was first drafted, it largely ignored the situation of children who are exploited in forms of forced labour, servitude and bondage beyond commercial sexual exploitation.

## 2. Current Legal Frameworks: Examining Specific Laws and Extent of their Application

The Nigerian legal system is derived from the British Common Law, Islamic Law and customary laws. These different laws operate geographically, giving rise to different court systems – the British-derived laws have effect nationally, except in criminal matters where the Penal Code (influenced by Islamic Law) prevails in the north and the Criminal Code, drawn from the British laws, operates in the south. Customary laws apply in the south only in matters of marriage and family. There is a common constitution which guarantees the civil and political rights of every citizen as well as the democratic values of human dignity, equality and freedom. In practice, however, power tends to be distorted in favour of the state.<sup>5</sup> Observance of the rule of law has been criticised as weak, due to long years of military intervention in governance. But in the new democratic dispensation, the judiciary has remained vibrant, striving to ensure checks and balances in the executive and legislature.

The various laws which govern all facets of civil and criminal life in Nigeria are largely active, but there is need for enhancement of the capacities of the institutions responsible for their enforcement. There is also the question of differences in provisions of these laws on similar issues, raising ambiguities in their effective application. For instance, in 2003 Nigeria became the first country in West Africa to adopt national legislation to deal specifically with the issue of human trafficking. The Act is the *Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003*, or the NAPTIP Act. Prior to the enactment of the NAPTIP Act, the Criminal Code and Penal Code of Nigeria were the only sources of reference for addressing offences related to, or similar to, human trafficking. Being criminal codes, they only made provisions for offences and their punishments, without regard to the need for protection of the victims. In these codes, provisions for offences such as slave dealing, unlawful confinement or detention of a person and procurement of girls under the age of 18 to become a prostitute within or outside Nigeria could be used to prosecute the offence of trafficking.

Upon its enactment, the NAPTIP Act restated some of the offences in the Criminal and Penal Codes and prescribed stiffer penalties for them, but all three laws exist alongside and are equally applicable.<sup>6</sup> A common thread that runs through all these laws is the strong focus on trafficking of women and girls abroad for purposes of sexual exploitation. Women are generally assumed to be victims and men to be perpetrators.<sup>7</sup> This focus has equally affected the perception of the authorities (especially law enforcement officials) about which acts constitute trafficking in persons, with the effect that majority of interventions highlight the phenomenon of sexual exploitation while placing less emphasis on the broader problem of trafficking of men, women and children for other purposes and also paying scant attention to the trafficking of boys for sexual exploitation (Jordan, 2002, 2). All three laws

need to be harmonised to properly reflect international standards (notably the principle of non-discrimination) and create uniformity.

Nigeria is signatory to several international conventions that are relevant in addressing trafficking in persons and its forced labour dimensions. Of special significance in this study is the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* and the UN *Convention against Transnational Organized Crime*, which Nigeria has signed, ratified and given domestic effect through the enactment of a local legislation. The Nigerian domesticated laws are *The Protocol to Prevent, Suppress and Punish Trafficking in Persons especially women and children (Ratification and Enforcement) Act, 2003* and the *UN Convention against Transnational Organised Crime (Ratification and Enforcement) Act, 2003*. Nigeria has also ratified a number of ILO Conventions that are instrumental in combating forced labour and other labour abuses.<sup>8</sup>

A holistic approach will be taken in this section to analyse how these laws (both national and international) have impacted on the phenomenon of human trafficking in Nigeria. The analysis looks first at the role of the UN Trafficking Protocol and regional initiatives and next at national legislation. A brief look will also be taken at the prosecutions based on the existing laws and the extent to which, in practice, they serve to protect victims.

### **International Instruments and Regional Initiatives**

#### ***The UN Trafficking Protocol and The Protocol to Prevent, Suppress and Punish Trafficking in Persons especially women and children (ratification and enforcement) Act, 2003***

Being one of the first countries in Sub-Saharan Africa to ratify the UN Trafficking Protocol and make its provisions applicable locally<sup>9</sup> shows the political will of the government to combat human trafficking in Nigeria. However, the new law, which has a domestic application, is a verbatim reproduction of the UN Trafficking Protocol, and there are inherent difficulties in this. The UN Trafficking Protocol is largely preoccupied with the relationship between State Parties in dealing with cases of human trafficking, while national legislation should address situations known to arise in the country adopting the legislation. Some of the provisions are inappropriate in the socio-political context of the country. Furthermore, the UN Trafficking Protocol assumes the commission of crimes by organised crime syndicates, while in Nigeria most crimes relating to human trafficking are committed by individuals who are sometimes close relatives or neighbours of those being trafficked and who are not concealed in sophisticated networks.

Local application of the UN Trafficking Protocol, in the form of the Protocol (Ratification and Enforcement Act, 2003), should strengthen the national legal framework for combating human trafficking and forced labour in several major areas. First, the definition of human trafficking in this Act has made it possible to include, within the ambit of trafficking, acts committed by parents or guardians who give out their children to intermediaries who then place them in forms of exploitation or slavery-like conditions. Second, since the NAPTIP Act deals mainly with trafficking for sexual exploitation to the neglect of trafficking for other forms of labour, prosecutors could potentially cite the Protocol to cover these other forms of exploitation. Also, since the NAPTIP Act does not provide for trafficking for removal of organs, the Protocol could be cited to address such offences which are also covered by the Criminal and Penal Codes. Finally and more importantly, the Protocol could cover the gaps in the NAPTIP Act with regard to protection for victims of human trafficking. It is noteworthy that the Protocol also provides for legal measures to ensure the possibility of compensation to victims. This provision is replicated in section 25 of

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the NAPTIP Act and its implementation should in no small measure assist victims in their rehabilitation. In practice though, the Protocol is not being applied alongside the NAPTIP Act due to the difficulties highlighted above.

### *The ECOWAS Initial Plan of Action on Human Trafficking*

On 17 December 2001, at a ministerial meeting in Dakar (Senegal), Ministers of Foreign Affairs from the states belonging to the Economic Community of West African States (ECOWAS) adopted a Political Declaration and the Action Plan against Trafficking in Persons within the region. The Action Plan called for countries to ratify and fully implement crucial international instruments adopted by the ECOWAS or the UN that would have the effect of strengthening national laws against human trafficking and provide protection for victims of trafficking. It also recommended the following: the formation of special police units to combat human trafficking; law enforcement training to focus on the methods used in preventing trafficking; prosecution of traffickers; and protection of the rights of victims, including protecting victims from their traffickers. Under the Plan, the ECOWAS will set up direct communication between their border control agencies and expand efforts to gather data on human trafficking.

The Plan of Action is yet to be fully implemented in the sub-region, though in keeping with its requirements, NAPTIP, with the support of the ILO and other stakeholders, recently developed the National Plan of Action on Human Trafficking and Forced Labour, yet to be adopted by the Federal Executive Council.

### **National Legislation**

#### *The Nigerian Constitution*

*The Constitution of the Federal Republic of Nigeria, 1999*<sup>10</sup> (the Constitution) in Chapter IV guarantees the protection of fundamental human rights. Section 34 of the Constitution guarantees the right to the dignity of the human person, prohibiting the subjection of any person to slavery, servitude or forced labour. It provides that: "Every individual is entitled to respect for the dignity of the person and accordingly no person shall be subjected to torture or to inhuman or degrading treatment; no person shall be held in slavery or servitude; and no person shall be required to perform forced or compulsory labour." By the provision of section 46 of the Constitution, any violation of its fundamental human rights provisions is remediable by the High Court in the state where the violation occurs. In practice, however, no case of violation of human rights as a consequence of human trafficking has been heard before a Nigerian court.

#### *The Criminal Code*

The Criminal Code<sup>11</sup> does not define what constitutes trafficking nor does it deal with the various forms of trafficking. However, it deals with offences which may constitute cross-border trafficking for prostitution and slavery. For example, the Criminal Code makes it an offence to procure women and girls for prostitution in or outside Nigeria (section 223(2)) and also makes slave dealing an offence (section 369), in accordance with international law. However, the Criminal Code penalties for offences that constitute human trafficking seem surprisingly lenient. The penalties seem to regard the offences as mere misdemeanours (rather than felonies), and penalties range from fines and imprisonment of two to seven years, which seem unlikely to deter traffickers.<sup>12</sup> In Edo State, where the incidence of human trafficking for commercial sexual exploitation is particularly high, the Criminal Code has been amended to increase the penalties substantially.

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### *The Penal Code*

The Penal Code is fashioned after the Sudanese Criminal Code, which in turn was based on the Indian Penal Code.<sup>13</sup> Trafficking in women is recognised as an offence in the Penal Code with special provisions according to the age of the victim. In general, there are stronger provisions in the Penal Code against offences related to human trafficking than in the Criminal Code, and while the Criminal Code treats some of these offences as mere misdemeanours, the Penal Code categorises them as felonies and provides stricter punishments.

Section 276 of the Penal Code prohibits trafficking of women into Nigeria, but does not refer to women being trafficked abroad from Nigeria. In addition, section 270 of the Penal Code prohibits forced labour and imposes a penalty of imprisonment for a term that may extend to one year or a fine. Human trafficking being a lucrative business (ILO, 2005), traffickers will find it much easier and a relief to pay the fines and continue with their trade. Interestingly, it is only the Penal Code that provides for the offence of *traffic in persons* though the provision also relates the offence to slavery. This is contained in section 279 of the Penal Code, which 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.

Furthermore, the Penal Code provides in sections 271, 272 and 273 for severe penalties (maximum of 10 years and a fine) for offences relating to enticement, deceit and inducement of children (below 14 years for boys and below 16 years for girls) into prostitution without the consent of the guardian. This provision is inconsistent with international law that prohibits the prostitution of minors (below 18 for boys and girls) under any circumstances. The notion of 'consent' should be simply deleted as, under the terms of international law, it is irrelevant and may not be taken into consideration, unless to punish the lawful guardian as well.

### *Edo State Law against Human Trafficking*

The *Law to amend some of the provisions of the Criminal Code Cap 48 Laws of Bendel State 1976 as applicable to Edo State, 2000* (the Edo State Law) was passed by the Edo State House of Assembly in 2000 to amend the existing Criminal Code to specifically refer to the offence of human trafficking. Although the Edo State Law extended the reach of the law to criminalise accomplices such as family members, religious leaders and anyone who facilitates the trafficking of women and children, it criminalises prostitution as well, creating the possibility that individuals who have been trafficked and subjected to commercial sexual exploitation may be liable to prosecution, even if their exploitation occurs outside Nigeria. The sections of the State Criminal Code that this law has amended are 222a, 223, and 225a.

The law addresses trafficking indirectly and does not specifically cover situations where children and young women are trafficked abroad for the purpose of other forms of exploitation besides sexual exploitation.

### *Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003*

In July 2003, the Federal Government of Nigeria enacted the *Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003* (the NAPTIP Act) and in 2004 it set up a special Agency, the

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National Agency for the Prohibition of Trafficking in Persons (NAPTIP), to oversee matters relating to human trafficking and related issues. This law is the first attempt to develop a national legal framework to combat human trafficking in Nigeria through legislation.

The NAPTIP Act introduced severe penalties for several offences relating to human trafficking ranging from two years<sup>14</sup> to life imprisonment.<sup>15</sup> Penalties for trafficking offences related to sexual purposes and involving minors under the age of 18 are much more severe than other penalties.<sup>16</sup> The NAPTIP Act does not cover trafficking for the “removal of body organs” as mentioned in the UN Trafficking Protocol. This offence occurs in Nigeria and is not covered adequately by other laws. Other laws refer only to the use of human ‘remains’ in *juju* worship,<sup>17</sup> suggesting that the crime involves the use of body parts of corpses rather than procuring living people especially so that parts of the body can be used.

Examining the NAPTIP Act as a whole, one finds that the legislation is oriented more towards the prosecution of traffickers than towards the prevention of trafficking or the protection of trafficked persons. Another major flaw is that the offences mentioned in the NAPTIP Act focus on trafficking for sexual purposes to the neglect of offences relating to trafficking for other forms of exploitation.

The deficiencies in the NAPTIP Act regarding the protection of victims and witnesses have made it difficult to secure the testimonies of victims and witnesses for use in prosecutions, as they fear reprisals from traffickers. In its first two years of existence, only two cases were successfully prosecuted to conviction under the law, despite the thousands of trafficking transactions taking place in Nigeria. To the extent that the NAPTIP Act lacks effective victim or witness protection, it has not complied with the UN High Commissioner for Human Rights’ *Recommended Principles and Guidelines on Human Rights and Human Trafficking* (Guidelines 6 and 9).

It is pertinent to mention that section 45 of the NAPTIP Act provides that: “Where a person volunteers to the Agency or an official of the Agency any information, which may be useful in the investigation of an offence under this Act, the Agency shall take all reasonable measures to protect the identity of that person and the information so volunteered shall be treated as confidential.” Despite this provision, the requirement that trials be conducted in public (except where children are involved) poses a threat to victims and witnesses, creating the need for their protection.

Section 36 of the NAPTIP Act concerns the treatment of trafficked persons. Sub-section (a) essentially requires NAPTIP to take action to prevent discrimination against trafficked persons, to provide access to social services and to guarantee protection of identity to the trafficked person. Section 37 of the NAPTIP Act also provides that:

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.

The clause, “Where the circumstances so justify” creates a loophole for violation of the provision. Rather than stating that victims of crime should not be detained and specifying a few exceptional circumstances when they can be, it suggests to law enforcement officials that the norm is to detain trafficked persons.



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### *Amendments to the NAPTIP Act*

In 2005, the NAPTIP Act was amended by the *Trafficking in Persons (Prohibition Law Enforcement and Administration (Amendment) Act, 2005*, at the instance of the NAPTIP Agency. The amendments concerned administrative issues, such as membership of the Agency's board and which government ministry it belonged to. They also established the Victims of Trafficking Trust Fund into which forfeited assets of traffickers would be paid (with no explicit provisions as to the uses of the trust fund), and introduced provisions creating an offence of employing forced labour and punishing employers responsible for unlawful employment of a child as well as provisions for the forfeiture of traffickers' property following conviction.

### *Prosecutions under the NAPTIP Act*

Since the NAPTIP Act was adopted, there have been eleven successful prosecutions of traffickers and thirty-two cases pending in court. The kinds of trafficking involved ranged from outright sale, child domestic work, forced prostitution and other forms. Two of the earliest convictions secured by the NAPTIP are reported below.

#### *Attorney General of the Federation v. Sarah Okoya (High Court of Justice, Benin City, Edo State)*

This is a case of human trafficking where the accused procured six young women with the promise of assisting them with jobs in Spain. The accused was charged with 18 counts ranging from procurement for prostitution, punishable under section 15, to deceitful inducement under section 19 of the NAPTIP Act, 2003. Judgment was delivered on 18 November 2004 and the accused was sentenced to three years' imprisonment without option of fine. This was the first conviction secured by the NAPTIP Agency.

#### *Attorney General of the Federation v. Hussaina Ibrahim & Another (High Court of Justice, Kano State)*

This case involved 15 Nigerian women who were deported from Saudi Arabia and reported to the NAPTIP for investigation. The accused were arraigned on four counts, charges ranging from procurement of persons for prostitution under section 15 to slave dealing, punishable under section 24 of the NAPTIP Act, 2003. The first accused was sentenced to three years on the first count and two years' imprisonment without option of fines, while the second accused was sentenced to two years' imprisonment without option of fine.

In both cases, the proceedings were not treated with confidentiality,<sup>18</sup> as the Nigerian criminal procedure rules require trials to be conducted in public (except where children are involved). Special efforts by the courts to ensure the psychological and physical wellbeing of the trafficked women and other witnesses included clearing the gallery to hear the testimony of victims and ensuring they left the court as soon as their testimony had been heard. The NAPTIP ensured that the victims arrived at the court premises in vehicles that had shaded or tinted windows to protect their identity. The victims were also given adequate information regarding the court proceedings. However, while their testimony helped secure convictions, no order for compensation was made as criminal procedures do not always guarantee 'automatic' compensation within criminal trials. No civil suits were instituted in their favour for damages or compensation as well.

### *The Child Rights Act, 2003*

The *Child Rights Act, 2003* (CRA) gives effect in Nigeria to the critical provisions of the *Convention on the*

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*Rights of The Child*<sup>19</sup> and *ILO Convention 182 on the Elimination of the Worst Forms of Child Labour*. In addition, some states have enacted their own state laws on child rights.

Children in Nigeria are routinely trafficked for purposes that constitute the ‘worst forms of labour’ prohibited by ILO Convention 182. UNICEF estimates that about eight million Nigerian children are engaged in exploitative child labour.<sup>20</sup> Such forms of labour include domestic servitude, prostitution, begging, farm labour, work in illegal mining sites and quarries. Not only are Nigerian children taken across borders, but children from other neighbouring countries are also trafficked to Nigeria. In 2003, hundreds of Beninese children were rescued from Ogun State where they had been employed in illegal quarries digging for stones with their bare hands, underfed and living in the open air in the bush (Terre des Hommes, 2005).

Some of the provisions discussed earlier in the Criminal Code, Penal Code, Edo State Law and NAPTIP Act are relevant to the prosecution of child traffickers, but the CRA is the most comprehensive law in Nigeria today for the protection of the rights of the child. In accordance with international norms, section 277 of the CRA defines a child as a person below the age of 18 years. Section 14 of the CRA states that a child must not be separated from the parents against the will of the child, except where it is in the child’s best interests. Trafficking of a child for any purpose, whether with or without the consent of the parents, is a clear violation of the child’s right to parental care, protection and maintenance (ILO-PATWA, 2006).

Some elements of trafficking in persons, such as exploitative labour and the unlawful removal of a child from the lawful custody of another, are also covered under the CRA. Section 28 prohibits exploitative and forced labour of children, employment of children in any capacity except where the child is employed by a member of the family on light work of an agricultural, horticultural or domestic nature. This section is the same as section 59 of the Labour Act, and the penalty for contravening the provisions of this section is five years’ imprisonment or ₦50,000 (US\$385) fine.

Similarly, section 30 of the CRA that prohibits the buying, selling, hiring or otherwise dealing in children for the purpose of hawking or begging for alms or prostitution reflects the provisions of ILO Convention 182. This section is also wide enough to cover practices under the *almajiri*<sup>21</sup> system of semi-formal Qur’anic education<sup>22</sup> which has, in some cases, come to rely on forced begging by pupils to support their *mallams* (Islamic teachers). This practice has been going on for decades in many cities of northern Nigeria and neighbouring parts of West Africa’s Sahel and has grown to gain some inferred acceptance by society. These children are migrant students from within and outside Nigeria, and can be seen in hundreds around the cities begging for alms. However, some are also observed committing crimes such as stealing and drug peddling.

Sections 31, 32 and 33 of the CRA prohibit sexual intercourse with a child, other forms of sexual abuse and exploitation, and punish these offences with imprisonment of up to 14 years, while section 34 prohibits recruitment into the armed forces in accordance with ILO Convention 182. In 2005, Nigerian immigration officials arrested a security man at the Banki border who was trying to traffic young secondary school boys into Chad to join an armed rebel group.<sup>23</sup>

### ***The Labour Act***

*The Labour Act Chapter 198, Laws of the Federation of Nigeria, 1990*<sup>24</sup> (the Labour Act) applies to all

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workers and to all employers except the armed forces and the police, prisons and intelligence agencies. Section 73 of the Labour Act, in keeping with the Nigerian Constitution, prohibits forced or compulsory labour. The NAPTIP Act also has similar provisions with much higher penalties: while the penalty in the Labour Act is two years' imprisonment or ₦1000 (US\$7.70) fine for private individuals and six months' imprisonment or ₦200 (US\$1.55) fine for public officers, the NAPTIP Act provides a penalty of five years' imprisonment or a fine of ₦100,000 (US\$770) or both. Both laws are in conflict in relation to their penalties and could create difficulties in prosecution and sentencing. In reality, the law which is most applied in such cases is the NAPTIP Act.

Sections 49 and 59 of the Labour Act set the minimum age at 12 years for employment and apprenticeships, except for light agricultural or domestic work performed for the family. Sections 59 and 61 prohibit children of less than 12 years from lifting or carrying any load likely to inhibit a child's physical development and establish a minimum age of 15 years for industrial work and maritime employment. The Labour Act also prohibits children less than 18 years from any employment that is dangerous or immoral, but it does not apply to domestic service.

The Ministry of Employment, Labour and Productivity is responsible for enforcing legal provisions regarding working conditions and protection of workers through a specialised department that has a unit dealing with child labour. Section 78 of the Labour Act states that in addition to other powers conferred on labour officers, an authorised labour officer may, for the purpose of ensuring the enforcement of the Act, enter and inspect certain premises including labour encampments, farms, hospital buildings, factories, etc. Private homes are, however, not included, though many people who are trafficked internally end up as domestic workers. Since labour inspectors have the power to do whatever is needful to ensure the proper implementation of the Act, it is implied that they have the power to prosecute offenders, and this covers issues of child labour and forced labour but not domestic or artisanal work. In reality, there are few labour inspectors and few resources to visit sites which are isolated or far away from their offices. Inspectors also need specialised training to become more effective in the execution of their mandate and more adept at the recognition of situations of trafficking or forced labour. Inspections are conducted only in the formal business sector where there are few occurrences of forced and child labour.<sup>25</sup>

Another aspect of the Labour Act that has provided an avenue for the supply of trafficked persons to the local and international labour market is the *de facto* unregulated operation of recruitment agencies in Nigeria. While section 23 of the Labour Act prohibits recruitment by intermediaries except those under permit or licence, section 25 provides that the Minister may license fit and proper persons to recruit citizens of Nigeria for the purpose of employment as a worker in or outside Nigeria. In reality, however, these recruitment agencies operate without the required licences and without effective control on the part of the government, with the effect that they provide a ready source of cheap labour and inhibit the power of collective bargaining of workers.

### **3. Laws and Policies on Immigration and Emigration and Efforts to Protect Migrants**

The Nigerian government has a *laissez-faire* emigration policy, leaving it up to individuals to decide for themselves whether to accept employment offers abroad and under what terms. This is due, perhaps, to the inherent difficulties of making policy applicable beyond the limits of national borders (Nightingale, 2002).<sup>26</sup> As a result, administrative structures and measures neither hinder nor facilitate the movement of citizens outside the country beyond the normal immigration requirements for all travellers. The resultant effect of this is that Nigerians emigrate mostly through neighbouring countries of the ECOWAS in largely undocumented flows towards Europe, Africa and

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other parts of the world, without any guarantee of the protection of their rights either by the Government of Nigeria or of the destination countries. In an unpublished study recently conducted by the Institute for Migration and Economic Studies of the University of Amsterdam, Nigerians and Ghanaians are reported to form the largest groups of African migrants in the Netherlands. In 2004 alone, there were 18,727 immigrants from Ghana and 7,298 from Nigeria, with over a thousand irregular migrants from each country. Many countries of the world are beginning to develop solutions or strategies for managing migration into and out of their countries. Nigeria too can seek examples of good practices from other countries and use these to develop a unique model for negotiating the protection of the rights of its migrants, wherever their services are needed. The current situation is that many countries of the world source Nigerian migrants into informal sectors of their economy without the direct involvement of the Nigerian government.

For women, Nigerian emigration requirements have discriminatory overtones and the *laissez-faire* attitude is more damaging in view of the fact that they could be subject to higher levels of exploitation and abuse than their male counterparts in the migration process. To acquire a Nigerian passport for instance, a married Nigerian woman has to present a declaration (in standard format) from her husband showing that she has obtained his permission to secure a passport for the purpose of travelling. The same declaration is also required for the purpose of securing a certificate of clearance from the Nigerian Drug Law Enforcement Agency (NDLEA) for travel to certain countries. This certificate is an attestation that the intended traveller is not known to be a drug trafficker. Passport and other immigration requirements, immigration policies of many foreign countries, limited exposure and knowledge of their rights and lack of access to better job opportunities all serve to increase negative outcomes of migration for Nigerian women.<sup>27</sup>

Nigeria's immigration laws do not take account of the demand for labour in informal labour sectors such as agriculture, handicrafts, traditional manufacturing and domestic work. Section 34 of the *Immigration Act, 1963* gives conditions under which an immigrant can seek employment in the country. It states:

Where any person in Nigeria is desirous of employing a person who is a national of any other country, he shall, unless exempted under this section, make application to the Director of Immigration in such manner as may be prescribed and shall give such information as to the provision to be made for repatriation of that national and his dependants as the Director of Immigration may reasonably require. No such person shall be employed without the permission of the Director of Immigration given on such terms as he thinks fit.

In Nigeria, illegal immigrants, if detected, are usually deported. On the other hand, the legal system permits civil proceedings to claim damages against offenders convicted under the NAPTIP Act, and, as such, victims of human trafficking can, in theory, institute civil actions to claim recovery of lost wages, compensation for unpaid work, and restitution and damage claims for human rights abuses. The situation, however, does not always work favourably for victims. Trafficked persons of other nationalities when identified in Nigeria have invariably been treated as illegal migrants and deported. The labour law of the country does not respect the rights of irregular immigrants, even if they are nationals of the ECOWAS.

Section 18 of the Immigration Act contains provisions on prohibited immigrants, liable to be refused entry into the country or deported. Among those listed is:

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A prostitute or any person who is or who has been a person trading in prostitution, a procurer, a brothel keeper, etc.

On the basis of this provision, someone who is trafficked into Nigeria for sex work (or sexual exploitation) should automatically be deported once she (or he) is caught, without an attempt to find out the circumstances under which the person became a prostitute. The Edo State Law and the Penal Code that is applicable in northern Nigeria make sex work an offence. Sex work is generally frowned on but is not prohibited in the southern part of the country where the Criminal Code operates. However, indecent dressing, soliciting and owning of brothels are illegal. In spite of these provisions, if by any chance a person trafficked into Nigeria is still in the country after the conviction of the trafficker, section 38 of the NAPTIP Act gives such a person the right to institute civil action against a trafficker or any other person, and is entitled to compensation and restitution.

### **Bilateral Agreements on Migration<sup>28</sup>**

Nigeria has entered into various bilateral agreements and Memorandums of Understanding (MoUs) with individual countries within and outside Africa on immigration matters that relate directly to human trafficking, forced labour and migration in general. In entering into these bilateral agreements, Nigeria has overlooked the importance of negotiating better conditions of admittance and residence for its migrant labourers. The agreements focus mostly on procedures for repatriation of Nigerian nationals (Nwogu, *Forced Migration Review*, 2006). Among the countries with which Nigeria has signed agreements are:

**Italy (2000):** In theory, Italy is committed to ensuring that trafficked persons who denounce their abusers and testify against them will be given the same scale and type of protection as those who speak out against the Mafia. In practice, there is vagueness and ambiguity. Over the past few years, there has been a wave of repatriations of young Nigerian women from Italy, most of who appear to have been trafficked. The agreement does not make any specific mention of human trafficking, nor clarify the conditions under which victims of human trafficking are repatriated. Indeed, the vagueness seems to be a deliberate ploy to allow the Italian authorities to avoid investigating the specific circumstances of each Nigerian migrant's situation and to avoid meeting their obligations as far as those who have been trafficked are concerned. Deported women have claimed they were denied the opportunity to take advantage of legal provisions in Italy. Many Nigerian women deported from Italy have worrying tales of the indignities suffered. Held in detention centres prior to being put on flights to Nigeria, they are not allowed to return to places of residence to collect clothes and other belongings they had acquired during their stay in Italy.

**Spain (2001):** The agreement with Spain does refer to victims of human trafficking and provides guarantees that those repatriated may take with them any legally acquired personal belongings. The agreement specifies joint measures to combat illegal migration, facilitate repatriation, exchange information on trafficking networks and establish skills acquisition centres in Nigeria for those who have been repatriated, as well as mechanisms for legal access by Nigerian workers to Spain. The extent of actual implementation of this agreement is still vague.

**United Kingdom (UK) (2004):** The MoU refers to the joint need to combat human trafficking and address the poverty which drives Nigerians to entrust their fate to traffickers. Recognising the need for greater sensitivity by UK immigration and law enforcement officers, it is less condescending than the other agreements, which assume a one-way flow of technical assistance, with Nigeria always at the receiving end. It calls for common strategies to ensure the protection of trafficked persons and technical and institutional capacity building to prevent trafficking,

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protect victims and prosecute offenders. It also refers to programmes to provide counselling for the physical, psychological and social recovery of trafficked persons. Here again as in the preceding agreement, information on the extent of its application is vague and difficult to obtain.

**Benin (2003):** Concern about smuggling, cross-border crimes, human and drug trafficking and illegal immigration led Nigeria and the neighbouring Republic of Benin to sign an agreement in 2003 to work together to identify, investigate and prosecute agents and traffickers and return victims to their country of origin. In implementing the terms of this agreement, both governments have been preoccupied with repatriation and neglected the human rights of trafficked persons. A notorious case involved a large group of Beninese children found working in illegal quarries in Ogun State in 2003. They were repatriated without proper investigation of their circumstances, wishes and best interests.<sup>29</sup> This case is outlined in more detail below.

### **The ECOWAS Protocol on the Free Movement of Persons (1979)**

Nigeria is a signatory to the *ECOWAS Treaty and the Protocol (No. A/P1/5/79) Relating to the Free Movement of Persons, Residence and Establishment* (hereafter the ECOWAS Protocol).<sup>30</sup> The ECOWAS Protocol provides in Article 2, among other things, for the following rights to be enjoyed by all citizens of ECOWAS member states and which were to be established in the course of a transitional period (of 15 years) in three phases, namely, Phase I: the right of entry and (consequently) the abolition of visas; Phase II: the right of residency; and Phase III: the right of establishment, which includes the right to employment.

These rights are, however, conditional on the migrant's acquisition of a valid passport or identification certificate or travel documents, the possession of a valid international health certificate and the official record of the migrant's entry. In practice, most migrants within the ECOWAS region move from country to country without such documents.

The initial grant of stay is for a period of 90 days which may be renewed on application to the relevant authority of the host country (Article 3). The ECOWAS Protocol also allows the free movement of privately-owned vehicles subject to the possession of valid documents.

It is significant to note that the ECOWAS Protocol provides for the situation where, if the need arises to repatriate the citizen of a member state, then the security of such a person and his/her family will be guaranteed by the host country and the person's properties will be protected and returned on departure. This provision echoes a similar provision in the High Commissioner for Human Rights' Recommended Principles and Guidelines and ought to be persuasive, especially in view of the fact that Article 12 of the ECOWAS Protocol allows states to resort to other bilateral agreements in a case where the ECOWAS Protocol is silent.

The ECOWAS Protocol is ostensibly designed to facilitate free movement, especially for the buoyant economic activities within the sub-region, but the manner of its implementation has tended to impact negatively on other socio-economic factors, as well as encouraged the rate of transnational crimes. First, the corrupt and inept attitude of border officials in the different states has resulted in the poor implementation of the ECOWAS Protocol. Thousands of ECOWAS nationals cross various borders in the sub-region daily without possessing valid travel documents or any documents at all. There is also a poor (almost non-existent) mode of recording movements, especially at the land border posts. In addition, with as little as ₦100, 1000 Ghanaian Cedi or 200 CFA Francs (all equivalent to less than US\$1) paid to the border or immigration officials, an ECOWAS citizen can cross the border to another country without any documents at all.

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These lapses in effective and efficient implementation of the ECOWAS Protocol have, apart from allowing free passage to human traffickers to traffic their victims, also made crime detection very difficult. There is in fact no information to the general public on the ECOWAS Protocol and the extent of its formal implication.

### **Multilateral Cooperation Agreement to Combat Trafficking in Persons especially Women and Children in West and Central Africa (Abuja, 6 July 2006)**

This agreement aims to help both sub-regions, i.e. the ECOWAS and the ECCAS (Economic Community of Central African States) develop concrete strategies for mutual assistance in the investigation, arrest and prosecution of offenders. It also covers issues of prevention, protection, reunification, reintegration, rehabilitation, repression and cooperation. The agreement imposes special obligations on origin, destination and transit countries with regard to rescue, protection, access to information, repatriation and reintegration of victims. Member countries resolved to set up a Joint Permanent Monitoring Commission to monitor implementation of the agreement.

### **The Migration Industry in Nigeria**

The migration industry in Nigeria is largely informal, with those planning on migrating abroad dependent on networks of friends and family already living abroad or with connections overseas to help facilitate their emigration. These informal networks underscore the peculiar situation that, contrary to the inherent assumption in the UN Trafficking Protocol that traffickers belong to organised criminal networks, human trafficking in Nigeria (and indeed in many parts of Africa) is most often perpetrated by family members, relations, friends or acquaintances.

An emerging trend is the use of the recent information communication technology ‘explosion’ among young Nigerians to seek for better fortunes abroad. In a practice called *yahoo-yahoo* in local vernacular, unemployed Nigerians spend hours surfing internet chat sites in the hope of making romantic connections with foreigners that could possibly lead to a life abroad or, in a criminal twist, to advance fee fraud whereby these youngsters prey on gullibility and greed to defraud foreigners of their money.<sup>31</sup>

Nigerian newspapers are regularly crammed with advertisements by so-called private employment agencies (PEAs) offering immigration services to persons seeking to work or study and live abroad. Only a minute number of these advertisements are easy to verify, while many others raise suspicions when the only contact information accompanying the advertisement is a mobile phone number. Recently, NAPTIP intercepted two men as they obtained over ₦500,000 (about US\$3,900) from two young girls on the promise of helping them secure admission to institutions of higher studies abroad. The young men claimed the entire deal was a scam intended to dispossess the girls only of their money, but to NAPTIP it was not clear (for the purpose of prosecution) whether they had plans to attract the girls abroad and exploit them.<sup>32</sup>

### ***Private employment agencies***

The evolution of job placement as a lucrative private business has not been lost on Nigerians. Many PEAs operate on a small scale and provide job placement services, mostly into the informal sectors such as domestic work, cleaning services, private security services, sports, and modelling. These PEAs operate without any licences and without being regulated by the government and many have the potential to recruit people fraudulently and for the recruitment to be a form of trafficking.

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In reaction to this development, in 2005 the Ministry of Labour amended the existing provisions of the Labour Act for licensing and monitoring recruitment agencies, and with regard to penalties for offences. There are plans for labour officers to be trained to check if the regulations are respected. Part of the checks provided by the regulations is the empowerment of the labour officer to enter, inspect and examine all premises or places of economic activity, including those used for PEA operations. It is also mandatory for the labour officer to locate, identify and confirm places of operation before issuing licences to applicants. Both the employer and employee could report each other to the nearest labour office in case of any violation of the employment contract. It is difficult to ascertain whether this provision is being taken advantage of by either employers or employees. In practice, over a year after the licensing regulations were finalised, no licences had yet been issued. Private recruiters continued to operate on their own terms without any government involvement to check possible excesses or violations of the law. The private recruiters are also not self-organised and so the possibilities for self-regulation are non-existent.

In July 2005, the ILO's Action Programme against Human Trafficking and Forced Labour in West Africa (PATWA) facilitated a workshop for government officials of the Ministry of Labour and Productivity, owners of recruitment agencies, and representatives of the Nigerian Labour Congress. The workshop clarified certain concepts relating to private recruitment. There were discussions on the evolution of PEAs, monitoring models, definitions of forced labour and trafficking, existing labour laws and regulations in Nigeria, problems of enforcement, experience of recruitment agencies, public information and links with migration management. The overall aim of the workshop was to improve the capacity of the labour ministry to promote law-abiding PEAs and control fraudulent ones.

### *Migration for sex work*

Throughout Nigeria, taking money in exchange for sex is generally regarded as contrary to religious and local cultural norms, although it is defined as a crime in the Penal Code and the Edo State Trafficking Law. Sex workers work on the streets, in bars/hotels and in brothels. There is the subtle form of sex work in which young female university undergraduates provide sexual services to wealthy middle-aged men<sup>33</sup> in exchange for money and gifts such as jewellery. However, there is no 'culturally acceptable' sex work. Sex work in Nigeria does not seem to be well organised, and most women work independently; in some cases, older sex workers do organise younger ones (Pearson, 2003, 32).

Migration within Nigeria and abroad is mostly informally organised with little interference from the government beyond administrative concerns. Thus migration for sex work is only confronted as an issue within the realm of anti-trafficking interventions. Due to NGO sensitisation and increased media coverage of the issue, many women seeking to work abroad are aware that they will be earning money from commercial sex, but are largely unaware of the specific conditions of work, i.e. that their identity documents may be confiscated to control their movements, they may be forced to work long hours on the street every day, forced to serve a minimum number of clients per day, or subjected to physical abuse, threats and debt bondage (Pearson, 2003, 29).

Interviews conducted with six sex workers in Lagos and Benin City found in all cases the women were well informed about the trafficking of women to Europe as they had heard stories from other sex workers who had been to Europe. Several stated that they did not go to Europe because they did not have enough money to pay the required deposit (Pearson, 2003, 32).



## **Regulations and Practices Concerning Internal Migration**

Nigerians (adults and children) migrate freely within the country as section 41 of the Nigerian Constitution guarantees that:

Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereby or exit therefrom.

There are no regulations concerning internal migration in Nigeria. The government will only interfere in cases where there is suspicion that an offence such as human trafficking or related offences within the definition of the NAPTIP Act and other relevant laws has occurred or is about to occur. This most often happens when policemen monitoring checkpoints along the highways detect suspicious movements of children in large numbers that create doubt as to whether they are siblings and whether they are accompanied by adults or otherwise. In 2005, for example, a woman was intercepted with a cold-truck (usually used for transporting frozen food) containing over 65 children (including her own daughter) from Niger State on their way to Lagos. The children varied in ages from 8 to 16 years. Upon interrogation, she claimed that she was on her way to Lagos to place the children in domestic service for a small fee. This, according to her, was a seasonal migratory practice endorsed by the children and their families and she was well known and respected in the community for rendering them this service. The children were distressed that their journey and the hopes of earning a living were interrupted. The community and the families of the children condemned NAPTIP loudly for interfering in their livelihoods and arresting a woman who they regarded as a heroine. NAPTIP undertook several sensitisation visits to the community to convince them of the dangers and criminality<sup>34</sup> of sending out their young children into domestic service. The Agency also set up a rehabilitation scheme for the children in their home community. While it is clear that NAPTIP was acting, according to their perception, in the children's best interests, such interventions have been known to result in gross detriment to the interests of the child, especially as the children and their families are not offered any practical or feasible alternative sources of livelihood.

## **Inconsistencies in Approach by the Police and Immigration**

NAPTIP is a specialised government agency, empowered with law enforcement and prosecution of trafficking cases. The Agency has an investigation unit and a legal department which are primarily responsible for prosecuting all trafficking cases in Nigeria. Section 8(2) of the NATPIP Act (as newly amended) gives powers to the police, immigration, customs and NAPTIP to arrest suspected offenders, but the powers of prosecution rest solely with the NAPTIP. Thus where arrests are made by these other agencies, the suspects have to be handed over to the NAPTIP for prosecution. In order to carry out this role, the NAPTIP Agency instituted a National Investigation Task Force, consisting of the Nigerian police, immigration and the Directorate of State Services to effectively monitor, investigate and respond to requests of victims and their families.

The Nigeria Police Force (NPF) is designated by section 194 of the Constitution as the national police with exclusive jurisdiction throughout the country. The NPF performs conventional police functions and is responsible for internal security generally, and for supporting the prison, immigration, and customs services and performing military duties within or outside Nigeria as directed. The mandate of the police concerning human trafficking includes investigating, apprehending and prosecuting traffickers as well as raising awareness of the public about

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the phenomenon.<sup>35</sup> The NPF had been handling the problem of human trafficking before the establishment of the NAPTIP in 2004 and had established specialised Anti-Human Trafficking Units (AHTU) at its headquarters and in Juvenile Welfare Centres in 12 of the Federation's<sup>36</sup> states. The police usually assist in receiving deported victims on their arrival in Nigeria, after which they are documented. Victims are provided temporary shelter, although such facilities are limited and prone to overcrowding.

The Nigerian Immigration Service (NIS) is concerned with the issuing of travel documents and controlling the country's borders. In 2003, the immigration service created anti-trafficking units to help tackle the problem of trafficking in women and children,<sup>36</sup> following the increasing number of cases of human trafficking involving Nigerians. Several cases have been investigated since the creation of the units but they are not working at full capacity.

In any given case of human trafficking, there is always some level of coordination between NAPTIP, the police and the immigration service from the point of detection to apprehension, investigation and finally prosecution. There have often been inconsistencies of approach in handling cases. For example, in the case of the 65 children from Niger State mentioned above, the children were apprehended by the police and were kept in custody for a few days while preliminary investigations were concluded. NAPTIP, on the other hand, was concerned with the welfare of the children and the need to relocate them from police custody as fast as possible.

### **4. Human Rights Impact of Anti-Trafficking Measures**

Reliable data is a critical factor in determining the impact of anti-trafficking initiatives, but the clandestine nature of human trafficking makes it difficult to obtain much needed data. It has also not been a government priority to collect accurate data or commission research. In the case of the 261 children repatriated to the Benin Republic, the lack of data resulted in a faulty prognosis of the scale of the problem: anecdotal reports suggested thousands of children were working in gravel pits scattered all over the region, but there were no clear or credible figures. Evidently, the reluctance of victims to report their experiences to the authorities, in large part because they are not convinced that this is in their best interests is also instrumental in preventing the emergence of a clear picture of the scale or trends of trafficking.

Anti-trafficking interventions in Nigeria can be classified into two types: those that aim to prevent trafficking from occurring (public education and sensitisation) and those that protect and assist people who have already been trafficked (provision of shelter, rehabilitation, skills acquisition, family tracing, provision of scholarships and health care, legal aid, reintegration, counselling and financial assistance). But efforts to stop human trafficking have not had much impact on trafficking flows because they often seem to be too narrowly focused on achieving a particular aim, such as preventing trafficking exclusively via public information programmes or securing convictions of traffickers, as if these activities were not part of achieving a larger objective (of putting an end to trafficking). For example, information and awareness raising campaigns alone, without efforts to provide concrete alternatives to the desperate financial circumstances of vulnerable populations, seem bound to ensure that these campaigns will not yield positive results. Reports of the trafficking and re-trafficking of young girls from Edo and Delta states illustrate that prevention strategies have not adequately addressed the root causes of the problem. Poverty is one of the major push factors. Therefore, any prevention project which does not address poverty directly, by economically empowering communities or households where disproportionate numbers of trafficking cases occur,

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seems unlikely to achieve positive results. Other push factors include violations of human rights (these include mass violations of civil and political rights that affect whole communities, as well as discrimination against particular groups, such as girls, women or minorities), natural disasters, conflicts, harmful traditional practices, social exclusion, lack of functioning governments and political persecution. If these factors are ignored, people will continue to explore unsafe migration channels and ultimately find their way into the arms of traffickers (Nwogu, *Alliance News*, 2004, 26).

Illustratively, in the case of the 261 children above, their discovery was the result of a ‘war’ between different traffickers in which there were high economic stakes and one trafficker decided to blow the whistle on the others. Prior to this chance event, government and NGO efforts met with surveillance and alarm systems preventing penetration (Feneyrol, 2005, 21). After their repatriation, the traffic in children between Nigeria and Benin appears in fact not to have declined. The Terre des Hommes report claims that the gravel pit scandal is still alive and well (Feneyrol, 2005, 32). The practice which had flourished for the last two decades and become acceptable in the eyes of the different local populations was rooted in the structural realities that characterise their present economic situation caused by lack of livelihoods or too many children to feed. In one of the interviews conducted during the Terre des Hommes research, a villager claimed, “When families don’t have enough money to send a child to school, even if the child works well, they take the child out of school and send him to Nigeria, (meaning – to the stone pits).” While another villager asked, “What are we going to receive from the people who won’t allow us to send our children away?”

Many young migrants are enticed by the affluent lifestyles of other returnees and so view public information campaigns as government propaganda. A baseline survey conducted by the ILO Programme against Trafficking and Forced Labour in West Africa (PATWA) in Nigeria revealed that young persons rely on their perception<sup>37</sup> of a better life outside their local communities and beyond the shores of Nigeria and entrust their lives to strangers or acquaintances (including friends and relations) in the hope that they can secure them an easy passage to the land of their dreams. In the Terre des Hommes research, a 15-year-old ex-gang leader and brother of a trafficker claimed, “My parents decided to send me because my brother came back with many things: a radio, a motorbike and clothes. The motorbike is now used as a *zemidjan* (motorbike-taxi) and my mother uses it.”

Corrupt border officials also ensure that those wanting to migrate continue to find irregular means of exit from Nigeria and entry into their target countries. The UNODC/UNICRI 2005 report recounts some victims’ experiences, suggesting that local law enforcement agents connived with traffickers to obtain false papers and rendered assistance at airports to smuggle victims into the country.

### **Impact of Legal Proceedings on Trafficked Persons**

Since its establishment in 2003 to date, NAPTIP has successfully prosecuted nine cases resulting in eleven convictions, while thirty-five more cases are on-going. NAPTIP investigators routinely experience difficulty in persuading trafficking victims to divulge the names of traffickers, both because of the victims’ fear of supernatural consequences (if they have taken a ritual oath) and because the NAPTIP does not provide meaningful protection either to victims or to their close relatives. There are no other strong witness protection laws that could be taken advantage of here. Sections 204–213<sup>38</sup> of the Criminal Code, which prohibit trial by ordeal, witchcraft, *juju* and criminal charms, are not used by NAPTIP prosecutors because they do not have the fiat to prosecute such offences, even though it is precisely by using such charms that people smugglers and traffickers are reported to

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keep control over their victims. The Agency has only been able to circumvent this by arresting the *juju* men (who administer ritual oaths) as accomplices and then offering them a mitigated sentence if they act as informants and witnesses. This has helped victims in a few cases to break the oath of silence. In the case of *Attorney General of the Federation v. Sarah Okoya*, Ms B<sup>39</sup> did not have any fears about confronting the trafficker even to give her testimony in the court. But in many other cases, proceedings have been stalled because the victims suddenly reneged on their testimony due to threats from the traffickers or fear of the *juju* oath which they had been forced to take, binding them not to reveal facts about their traffickers.

During a national hearing organised in Abuja in 2002 by the Enugu-based NGO Civil Resource Development and Documentation Centre, a Nigerian who was trafficked to Italy testified that some months after she was deported from Italy, her sister was killed in mysterious circumstances. She believes it is the work of the trafficker because a threat was issued after she escaped (ILO-PATWA, 2006, 25).

Other issues relating to legal proceedings include the lack of information provided to trafficked persons on their legal rights and possible remedies against the traffickers. This is due to the fact that securing access to justice for the victim is not high on the agenda of the government; rather, all initiatives focus on securing convictions of traffickers and redeeming the image of the country abroad. Again, all the prosecutions involve Nigerian victims and Nigerian traffickers, so the provisions of the law which allow a foreign victim to remain in Nigeria after the conviction of the trafficker are yet to be tested.

There has not been a single reported case of a Nigerian receiving legal aid to seek redress or compensation against their traffickers. Payment of compensation to victims of crime is not a very prominent feature in the administration of criminal justice in Nigeria<sup>40</sup> and as such there are scant resources available from donors or government sources for legal aid to victims of other crimes. Under the Nigerian legal system, damages are awarded when a victim brings a civil action after the criminal action has been discharged and the guilt of the accused person determined. This is certainly unrealistic in Nigeria, just as it is in many other countries where trafficked persons are poor and intimidated by legal procedures. The NAPTIP Agency is currently working on an amendment to the NAPTIP Act to guarantee that upon conclusion of criminal proceedings and conviction, the trial judge can make a proclamation in restitution for the victim against the trafficker. This is different from an award of damages and would not affect a subsequent civil claim for damages.

### **Impact on Sex Workers**

Sex work is sternly discouraged in Nigeria on moral grounds and sex workers are routinely stigmatised. This

attitude is brought to bear upon returnee victims of human trafficking, especially where the fact of their involvement in sex work abroad is made public knowledge (through the media) by the government agencies that receive them and work to reintegrate or rehabilitate them. Nevertheless, this does not deter young women interested in working in the sex industry from finding ways to migrate and achieve their aims. This is because the inequalities and desperation they face by staying are more pressing and so they tend to ignore the stigma. Public information programmes have exposed the mystery shrouding job quests abroad, but despite this young women continue to seek opportunities to go abroad and engage in sex work, especially from Edo and Delta states from where mainly young Nigerian women head for the sex industry in Europe.

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Much of the awareness raising efforts by NAPTIP and its international partners focus on women and sex work. These campaigns have created a more suspicious crop of law enforcement officers who take extra caution in investigating travel documentation of women and young girls travelling abroad. Such detailed scrutiny has helped the NAPTIP Agency to intercept women who were being taken abroad in suspicious circumstances.<sup>41</sup> On the negative side, such gender-specific controls tend to stereotype and stigmatise women as prostitutes.

Although these anti-sex work campaigns have not been aimed at deterring women from moving within Nigeria to earn money from sex work, there are reported cases of interception of young female victims of commercial sexual exploitation in big cities within the country. It is worth commenting, however, that the campaigns resulting in these interceptions suggest that the government's main intention is to protect the country's image (as opposed to protecting the rights of victims), with slogans such as, "Make your country proud, stay and build up the nation..." etc.

### **Impact on Migrant Workers Generally**

Anti-trafficking interventions seem to be making little impact in terms of deterring prospective migrants who fall prey to traffickers. Statistics from the police and immigration reveal that there has been an increase of over 1,000 per cent in the repatriation of Nigerians between 1997 and 2004 – evidence of the limited impact of anti-trafficking measures on people's desire to migrate for labour, as Nigerians have continued to find alternative ways to migrate in order to escape their harsh economic circumstances. Although many destination countries impose stricter immigration requirements on Nigerians (many European governments have imposed stricter conditions for issuance of visas to single young Nigerian women than for Nigerian men), these only serve to drive them further into finding irregular ways to migrate rather than deter them from the venture entirely. The harm here is that Nigerians, in seeking unorthodox migration routes, routinely have no alternative but to seek the assistance of traffickers and smugglers. Young women are especially vulnerable as the discriminatory immigration procedures and repressive policies of foreign governments force them to lower their sense of caution in seeking to realise their dreams. This is evidenced in print and electronic news reports of numerous Nigerians trying to get into Europe along with other West Africans.

Many migrant workers do not perceive the Nigerian government as having a tangible or positive role to play in ordering their affairs; in fact they avoid any contact with Nigeria's embassies due to their largely undocumented status and fear that they may face reproach from the government.<sup>42</sup>

### **Impact on Migrant Children**

Between September and October 2003, amidst much media attention, the Government of Nigeria repatriated 261 Beninese children to the Republic of Benin.<sup>43</sup> The children had been rescued from gravel quarries in Abeokuta, Ogun State, where they had been held in near captivity for months and years at a time. The children ranged in age from 8 to 14 years and were exploited for eight hours a day, six days a week for two-year cycles and then allowed to return home for a few weeks before being made to return by parents or guardians to complete further two-year cycles. The condition of the children was pitiful; they were deprived of education, affection and leisure and often faced molestation from stronger, more senior members of their work gangs. Their living conditions were harsh and abusive and dangerous to their health, wellbeing and moral integrity. These children were migrants from Zakpota Commune in the Zou Province of the Republic of Benin. They had followed their parents and siblings in a migratory route established by trade between Nigeria and Benin in the eighteenth century which had

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transformed into a pathway for labour migration of children and thereby their exploitation in the gravel pits and plantations dotting the area.

The case was celebrated at the time as a successful government rescue intervention. But the Nigerian authorities did not contribute financially to any of the costs incurred in assisting the children after they arrived back in Benin and neither did they make any attempt to recover the wages owed to the children or to secure any payments as damages. Two years later, an assessment on the return and reintegration process (Feneyrol, 2005) revealed inherent concerns and raised critical questions about the effectiveness of the return in improving the lives of the migrant children and their families, the adequacy of support from government authorities and other organisations involved, and whether the exploitation of children in the gravel pits had really ceased to occur. The answers to these questions are largely negative. Most importantly, the assessment found that, two years on, the flow of child migrants from Benin into the gravel pits in Nigeria continued unabated. The same is the case with the flows of migrant children from all over West Africa into Nigeria and from Nigeria outwards. The flows continue and the lack of accurate statistics makes it difficult to determine the scale or the trend.

### **Impact of Anti-Trafficking Initiatives on Trafficked Persons**

Most assistance programmes in Nigeria are based on the ‘rescue and rehabilitation’ model. Though these programmes are designed to benefit trafficked persons, the individuals managing them seem to have little understanding of the issues. Recovery work most often focuses on repatriated victims and children who have been rescued through raids on labour camps or who have been deported as illegal immigrants engaged in sex work abroad. Many NGOs which help trafficked persons in the recovery process round up returnee victims and run vocational courses without assessing their interest or aptitude for that specific skill. Victims have no involvement in making decisions about the courses or their contents, nor are there systematic efforts to find out if they benefited from the courses afterwards or if these should be modified to be more useful. An example of a rehabilitation project that has proved to be less successful (though not significantly less successful than a lot of others) was the ALNIMA Project in Edo State, instituted in 2003 by the European Network for HIV/STI Prevention and Health Promotion Among Migrant Sex Workers (TAMPEP – a European network of NGOs, based in Italy). The project, which lasted for one year, was evaluated as recording only 40 per cent success because of poor planning, lack of consultation and improper assessment of the needs of the beneficiaries. Eighty per cent of the beneficiaries reportedly walked out on the rehabilitation programme and found their way back to Italy. Many of them had been working voluntarily in the sex industry and were resentful at being ‘rescued’ and deported against their wishes, as it resulted in the deprivation of their livelihood.<sup>44</sup> The ‘rehabilitation’ mentality is also reflected in the NAPTIP Act, which, for instance, uses the term broadly and permits detention<sup>45</sup> of trafficked persons “where the circumstances so justify”. Some of the actions construed by the Act as rehabilitation include: counselling, skills acquisition, and family tracing and reunion. The real issue here and throughout this study is whether NGOs and government agencies often assume Nigerians to have been trafficked when they have not been or whether these people were in fact trafficked, but were so keen to go on earning a living that they felt propelled back to Europe and other destinations where they were previously exploited.

The process of return/repatriation of trafficked persons is fraught with abuses of their human rights. Most of the deported persons are not treated as victims of trafficking, but are regarded as criminals and illegal aliens by law enforcement agents both in the countries from which they are deported and in Nigeria. There have been reports

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of Nigerian women being subjected to various forms of physical abuse and humiliation while in the custody of law enforcement agents (UNODC/UNICRI, 2004, 35). International standards require that return and repatriation procedures should ensure the security of victims and their subsequent reintegration (UN High Commissioner for Human Rights' Recommended Principles and Guidelines, Guideline 6.8). Usually Nigerians who have been making money from commercial sex in Europe are repatriated on chartered aircraft, escorted by security agents and sometimes still wearing the same clothes they had on when trying to earn money on the streets. There are also reports that, contrary to human rights principles, the repatriated trafficked persons are not permitted to return with their money or properties, thus violating Article 17 of the Universal Declaration of Human Rights, which states that *No one shall be arbitrarily deprived of his property*, and Article 15 of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*. They are also not allowed to remain in the country long enough to obtain money they are owed (for example, as unpaid earnings), let alone to seek compensation or damages. In fact, trafficked persons should be allowed to stay in the host country for the period necessary to undertake penal proceedings against the traffickers and make a civil law case for recovery of unpaid wages and other compensation.

When recovery involves children, the issues appear easier to deal with as they are often returned home or sent to school, but there is still need to consider whether the solution is as simple as that or more practical solutions are required to address the situations that led to their being trafficked in the first place. In the case of the 261 children repatriated to Benin, there was poor planning and lack of a strategic operational rescue framework, due in large part to the relatively recent formation of the NAPTIP and the fact that an unexpected trigger effect had started the 'crisis' which led to the discovery of the children. The repatriations had many of the hallmarks of previous mass repatriations in West Africa of 'illegal aliens'. It was evident that the authorities appeared more preoccupied with getting some good publicity, by letting journalists photograph the repatriated children, than in following any internationally-recognised good practice concerning the treatment of unaccompanied or trafficked children.

The Terre des Hommes report notes the following bad practices:

- In Nigeria in 2003, the intervention carried out to assist the exploited children from the Abeokuta gravel pits was affected by a lack of any real intervention plan, guidelines, procedures and clear method of action centred on the children as well as on respecting their rights and their higher interest.
- The intervention hindered the detection and potential rescue of hundreds of other children exploited in the gravel pits. It did not respect minimum standards for protecting victims.<sup>46</sup> In some cases, traffickers bought children back; no one was attentive to the children's needs on their release from the worksites; there was forced repatriation; children were transported with their traffickers, etc.
- Correct identification of victims and their circumstances was not achieved by the intervention and led to certain cases being incorrectly handled.<sup>47</sup>
- The parents were promised some welfare aid from the state and from development partners to NOT send their children back to Nigeria, thus re-enforcing their perception of the child as a money-earner, or as a sort of bargaining commodity.

Some successful examples of an assistance programme for trafficked victims (UNODC/UNICRI, 2004, 42) include:

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- The activities of the Committee for the Support of the Dignity of Women (COSUDOW), an NGO run by the Catholic Church in Benin City, which infuses continuous counselling with skills acquisition and continues to monitor and follow the progress of the young women and girls they have resettled to ensure their stability. The NAPTIP is currently adopting this model of continuous counselling and long-term follow-up in resettling victims.
- The establishment of the National Investigation Task Force (NITF), a referral mechanism consisting of the Nigerian police, immigration and the Directorate of State Services, to coordinate efforts and effectively monitor, investigate and respond to distress requests of victims and their families. The NITF has set up small units in 11 states of the Federation with the worst trafficking problems. The task force members were trained in the provisions of the anti-trafficking law, care of victims, Interpol standards, corruption and human rights issues.
- The Universal Basic Education (UBE) programme and the National Poverty Eradication Programme (NAPEP) of the Nigerian government both guarantee free basic education and poverty reduction through micro-credit loans and job creation for youth and the unemployed generally. They are excellent initiatives that could strike at poverty and lack of information, which seem to be the core of the problem.
- UNICEF, ILO-IPEC and Terre des Hommes' re-insertion projects which combined economic support for the families with follow-up to ensure children's welfare and support for their reinsertion into school or the work force. These projects reported that they had enabled 90 per cent of the children repatriated from Nigeria to enrol in school or vocational training and remain enrolled. The projects also set up informal protection networks comprising people from the village and social circle of the child being re-integrated with the aim of ensuring minimal surveillance of the child and preservation of his or her fundamental rights.

### **Impact of Other Initiatives to Stop Trafficking**

In 2004, Nigeria was moved from Tier 2 to the Tier 2 Watch List of the US TIP Report. The reason given was that Nigerian security personnel were still complicit in trafficking in a significant way and there was a lack of evidence of government efforts to address this complicity.<sup>48</sup> The report urged the Nigerian government to move quickly to implement the new law through vigorous high court prosecutions of corrupt officials and traffickers. It was also urged to give adequate support to the new anti-trafficking agency and to improve protection facilities or funding for protection activities of NGOs.

In 2005, the US TIP Report promoted Nigeria to Tier 2 again because more than 40 cases of suspected trafficking were reported to have been investigated, leading to eight new prosecutions and the first conviction under the new NAPTIP Act. This move also 'qualified' Nigeria for increased US funding to improve law enforcement capacity to combat the problem. These developments met with much celebration by the NAPTIP, as though the whole point of its interventions had been to impress the international community (and particularly the US), to confirm that it was doing a good job and to receive a 'pat on the back'. While the US focus on prosecutions may have encouraged the NAPTIP to drive for efficiency in arresting and prosecuting offenders, it also served to transfer attention from the more complex problem of victim reintegration and prevention which fall squarely within its mandate.

Already critics perceive the NAPTIP Act as being a hurried response to international furore over the involvement of Nigerian women in sex work in European countries in conditions that often amounted to human trafficking.



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This international notoriety was not helped by earlier US TIP Reports citing the Nigerian government's lack of commitment to addressing the problem of trafficking and its subsequent 'demotion' to the Tier 2 Watch List. Indeed, the preamble of the NAPTIP Act refers to "the international image of Nigeria and Nigerians" while omitting any mention of the rights of trafficked persons and their need to be protected.

In a bid to support the NAPTIP Agency, USAID recently committed its largest donation for a single initiative to combat human trafficking in Nigeria. Interestingly, the main focus of the aid is on improving law enforcement's capacity to prosecute traffickers. Consequently it is likely to starve other critical areas where resources are much needed.

Edo State, the area of origin of so many trafficked to Europe, looks like a funding wilderness as far as anti-trafficking projects are concerned. Many donors, including the governments of European countries where women from Edo State are involved in sex work, have supported initiatives aimed ultimately at preventing women and girls from Edo State from finding their way into their countries. The reality of the matter is that the flow of people will almost certainly go on, so long as these interventions continue to ignore root causes and fail to invest in developing concrete alternatives to migration, or in regulating migration in such a way that the contributions of migrants are recognised and rewarded and their numbers are controlled in a manner that does not infringe upon their rights.

## 5. Conclusion

Throughout human history, migration has been a courageous expression of the individual's will to overcome adversity and live a better life. Today, globalisation, together with advances in communications and transportation, has greatly increased the number of people who have the desire and the capacity to move to other places.<sup>49</sup> The pressure to migrate is increasingly affecting women in the same proportion as men – as the case of the female migrants from Nigeria to Europe for sex work can evidence. The idea that one specific way in which women migrants are able to earn money (commercial sex) is intrinsically more unacceptable than a range of other ways in which Nigerian migrants earn money abroad in the informal sector, sometimes in situations of forced labour and frequently paid below the minimum wage, seems absurd and discriminatory.

Children from neighbouring countries are trafficked into Nigeria for cheap and harmful labour, while Nigerian children are moved all over the country and abroad for the same purposes. Instead of regarding migration as a matter of personal concern only, the government must take responsibility of ensuring that Nigerian migrants have the protection of their government to rely on as they venture abroad in search of livelihoods, and that children are adequately protected from being exploited by their parents, other family members in their immediate environment or even strangers, in a quest to gain financial or material benefits.

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### ENDNOTES

- <sup>1</sup> Nigerian Census 2006, figures released by the National Population Commission.
- <sup>2</sup> Human Rights Watch at <http://www.hrw.org/press/2001/07/traffick-0712.htm>.
- <sup>3</sup> Nigerian NGOs, international NGOs and governments of other countries.
- <sup>4</sup> Law to amend some of the provisions of *the Criminal Code Cap 48 Laws of Bendel State 1976 as applicable to Edo State 2000*.
- <sup>5</sup> UN Economic Commission for Africa (UNECA), *Africa Governance Report 2005*, chapter 6, page 75.
- <sup>6</sup> While the Criminal Code is applicable in southern Nigeria, the Penal Code is applicable in northern Nigeria and the NAPTIP Act has national applicability.
- <sup>7</sup> ILO-PATWA, 2006, Review of Human Trafficking Legislation in Nigeria.
- <sup>8</sup> These include the *Forced Labour Convention, 1930* (No. 29), *The Abolition of Forced Labour Convention, 1957* (No. 105), *The Minimum Age Convention, 1973* (No. 138), *The Worst Forms of Child Labour Convention, 1999* (No. 182), *The Discrimination (Employment and Occupation) Convention, 1958* (No. 111), *The Equal Remuneration Convention, 1951* (No. 100), *The Freedom of Association and Protection of the Right to Organize Convention, 1948* (No. 87), and the *Right to Organize and Collective Bargaining Convention, 1949* (No. 98).
- <sup>9</sup> Nigeria signed and ratified the *Convention Against Transnational Organized Crime* and the UN Trafficking Protocol on 13 December 2000 and 28 June 2001 respectively and made them applicable domestically by an Act of the National Assembly signed into law in 2003.
- <sup>10</sup> <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>
- <sup>11</sup> <http://www.nigeria-law.org/CriminalCodeAct-Tables.htm>
- <sup>12</sup> See the *Attorney General of the Federation v. Sarah Okoya case*.
- <sup>13</sup> Shari'a law is practised in Sudan and northern Nigeria.
- <sup>14</sup> Section 29(1) *Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003*.
- <sup>15</sup> *Ibid.* Section 11.
- <sup>16</sup> *Ibid.* Section 19(1) (a-f).
- <sup>17</sup> Chapter 20 of the Criminal Code (Ordeal, Witchcraft, Juju and Criminal Charms).
- <sup>18</sup> The case of *Attorney General of the Federation v. Sarah Okoya* is illustrative; the trial was conducted in the High Court in Edo State with members of the press privy to the entire proceedings.
- <sup>19</sup> Nigeria ratified the *Convention on the Rights of the Child* on 19 April 1991.
- <sup>20</sup> NAPTIP Fact sheet
- <sup>21</sup> Literally meaning – ‘Qur’anic student’. Similar itinerant Qur’anic students are referred to elsewhere in West Africa as *talibé*.
- <sup>22</sup> Education based on the Qur’an.
- <sup>23</sup> Ikpeme Anne. Interview with Ogbole Elijah, and M.D. Mohammed of the immigration anti-trafficking unit on 22 February 2005.

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24 <http://www.nigeria-law.org/LabourAct.htm>

25 US Department of State Country Reports, 2002, Nigeria, Section 6d.

26 <http://www.ilo.org/public/english/employment/gems/download/swmnig.pdf>

27 Women in Nigeria suffer great disparities in development than their male counterparts. According to the UNDP Human Development Report for 2005, the gender disparity in education is 82.2 girls per 100 boys, while women in wage employment other than agriculture constitute 79.4 per 100 men.

28 Copies of these agreements can be obtained from the Nigerian Immigration Service and the Federal Ministry of Justice.

29 See Principle 10 of the UN High Commissioner for Human Rights' Recommended Principles and Guidelines.

30 Adopted in Dakar on 29 May 1979 and ratified by Nigeria on 12 September 1979.

31 Popularly called 419, as the offence is described in section 419 of the Criminal Code; advance fee fraud is the crime of obtaining money by false pretences.

32 Interview, Ikpeme Anne, Staff Attorney, American Bar Association's Anti-trafficking Initiative in Nigeria, 28 November 2006.

33 These men are called *sugar daddies* while the girls are referred to as *aristos* in popular local parlance.

34 Section 22 of the NAPTIP Act as amended makes it a criminal offence to employ a child as a domestic help outside her or his own home or family environment.

35 Presentation by Ms Dorothee Gimba, Assistant Commissioner of Police at the 11th UN Congress on Crime Prevention and Criminal Justice, 18–25 April 2005, Bangkok, Thailand.

36 Vanguard (Nigeria) News of 6 January 2003, reporting an interview with the Minister of Internal Affairs, Dr. Mohammed Shata, in Abuja

37 The baseline survey revealed that a major contributor to the urban migration of youth has been the perception (in all the communities studied) that regardless of the prevailing conditions in the urban areas, life there is still better than life in the rural areas.

38 Section 210 (c, d, & e) states:

Any person who:

- c) makes or sells or uses, or assists or takes part in making or selling or using, or has in his possession or represents himself to be in possession of any juju, drug or charm which is intended to be used or reported to possess the power to prevent or delay any person from doing an act which such person has a legal right to do, or to compel any person to do an act which such person has a legal right to refrain from doing, or which is alleged or reported to possess the power of causing any natural phenomenon or any disease or epidemic; or
- d) directs or controls or presides at or is present at or takes part in the worship or invocation of any juju which is prohibited by an order of the State Commissioner; or
- e) is in possession of or has control over any human remains which are used or are intended to be used in connection with the worship of invocation of any juju;  
... is guilty of a misdemeanor, and is liable to imprisonment for two years.

39 One of the victims (not her real name)

40 This is a heritage from the Common Law system whereby the role of the criminal courts is seen as punitive and that of the civil courts as compensatory. The focus of criminal law is on the offender and the imposition of punitive sanctions and rehabilitative measures against him, where appropriate.

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- <sup>41</sup> NAPTIP reported several such cases across the country in 2005 and 2006.
- <sup>42</sup> Personal interaction with author and migrants on various visits to Europe between 2003–2006.
- <sup>43</sup> Subsequently this case will be referred to as the case of the 261 children.
- <sup>44</sup> Research conducted by Professor Hope Obianwu, Professor of Pharmacology, presented at the workshop on Global Threats, Personal Risks, Local Options, Abuja, 2004.
- <sup>45</sup> See section 37 of the NAPTIP Act.
- <sup>46</sup> It would be fair to note that the UNICEF *Guidelines on the Protection of Child Victims of Trafficking* had only just been published in Europe in 2003 and had not arrived in West Africa at the time.
- <sup>47</sup> Later in Benin, it became apparent that 26 ‘children’ were in fact over 18 years old, that 50 teenagers were between 14 and 16 years old and that 48 others were between 16 and 18 years old (consequently entitled to be working by national and international law, although, in the case of those under 18, not to be involved in dangerous work or in ‘worst forms of child labour’; they could no longer be sent to school but could legally work). This leaves a big question mark on the pertinence of their forced repatriation in place of seeking solutions in Nigeria to end their exploitation while taking into account their own wishes, capabilities and intentions.
- <sup>48</sup> US TIP Report 2004.
- <sup>49</sup> Report of the UN Secretary General on International Migration and Development, 6 June 2006.

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