



Victim of Human Trafficking: Rights to protections under Nigeria, Iran and International Instruments.

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ABSTRACT

One of the most outrageous human rights violations of 21st century is the violations suffered by human trafficked victims, the violations are often in three stages: first by the traffickers who capture, enslave and exploit individual directly or sell them to be used in industries and jobs for cheap labor and services, second is the destination countries where victims are been exploited in labor yet denied all legal recognition as victim of crime rather is treated as criminal- illegal migrant who is deported without any chance of fair hearing and finally the third is the home country of victims of trafficking that denied victims the required legal assistance in prosecuting traffickers, rehabilitation and reintegration of victims back into the society . In most cases victims of human trafficking in addition to the physical and mental damages suffered during traffic process, are also being prosecuted and punished for the criminal acts perpetuated as a result of being trafficked or deported for being illegal migrant without any chance of fair hearing. In discussing the above topic, it is important to know the true concept of human trafficking under international and domestic laws of our discussion, their legal status and involvement in crimes, and if they could possibly be prosecuted for crimes committed during the trafficking period.

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Introduction

Generally speaking victims are those who had suffered some harm in criminal events or natural disasters. Long before 1970s victims of crimes were totally neglected and denied the right to be heard by the criminal justice system. The harm suffered by them were hardly been addressed by the law. As a result, victims became redrawn and lack the zeal to participate in criminal proceeding involving them, assuming their rights are fewer than their assailant. This was the situation until 1970s when Victim's Compensation Fund was established. The establishment of Victim's Compensation Fund was a new hope for victims, as they could claim for damages and compensations for harms suffered during criminal events (West's Encyclopedia of American Law, (2008).)

Several factors are responsible for the victimization of any person. Criminals are careful in selecting their prospective victims and crime arenas; people and places most suitable and susceptible to crimes are areas or those who pose less risk and much profit for the anticipated crimes. Factors that is responsible for vulnerability of victims, ranges from societal, physical appearance, loose security residential areas, age, sex and etc. The exploitation of individuals for profit in cheap labor and services has been the bedrock of human trafficking, vulnerable victims are usually women and children from poor homes and security loose society target for cheap business abroad. Traffickers are able to manipulate and exploit the vulnerable conditions of their unsuspecting victims to make supply for the ever growing demands for cheap labor and services in the global market (Shelley, L. (2010), p3.) It is recorded that the most growing and profitable criminal enterprise after arms and drug trafficking

is traffic in human beings with its low risk and high profit profile.

Victims of human trafficking are recruited from all worth and Conner of lives having some similar trait and character. Victims are readily available due to the general ongoing crises for food and security in most countries. Therefore, the counties of targets are mostly countries where these needs are most paramount- poor nations of Africa and Asia. Victims are promised good jobs with better pay, healthy and good living conditions, education, security etc. by their traffickers at the source country. Most victim commence their journey with a hope for better future, only to be trapped in slavery in a foreign land far away from home without any escape or return route-a condition worst than what they were fleeing.

Victims are trafficked for various purposes of exploitations which are mostly demeaning, inconsistent to human living and devoid of all known legal and moral value acceptable to human beings. Victims are faced with various forms of threat of deprivation and torture from their traffickers in order to maintain full possession and control over them, the plight of some victims could be worse than death (Bales, K., & Soodalter, R. (2010). p4). It is impossible for victims to seek redress and assistance from the authorities of their destination countries due to either their illegal status in the destination country or their involvement in crimes. Most victims are trapped in forced labor and slavery for years hoping for freedom one day in future. Most rescued and escaped victims are faced with long term emotional, mental and psychological depressions, some having physically body damages or diseases as an aftermath of long term torture, exploitations and constant abuse/rape suffered during the traffic process (ibid).

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Some victims are reported to have taken refuge in drugs while some others are said to have made several attempts to commit suicide in order to cope with, or end depression (Lederer, L.J. and Wetzel, C.A., 2014. p. 61)

While it may be said that some victims are completely innocent and have no direct participation toward the harm they suffered, except their natural disposition or characteristic such as; age, sex, mental disposition, physical structure etc. it could also be argued that some victims are partly responsible for the harms committed against them, because some victims are fully aware of the nature of jobs they were to do abroad. The level of awareness may however varies in addition to some push factors pressuring them to escape unpleasant and difficult situation at home, therefore they may not have enough time for prudence to properly analysis the situation before embarking on the long and dangerous trip abroad (Aronowitz, A. A. (2009), p5).

Defending Human Trafficking

The most acceptable and standard definition of human trafficking is the definition provided by article 3 of the UN Protocol in year 2000, which stated thus: Trafficking means the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. The consent of a victim of trafficking in persons to the intended exploitation is irrelevant where any of the means set forth have been used. The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if this does not involve any of the means set forth (Article 3, subs (a)-(c), 2000, UN Protocol).

The definition was a climax for several attempts and efforts made in the past to come up with a suitable and comprehensive definition that reflect what trafficking in human really means.

This definition highlights the three important segments of the crime namely;

- 1) The ACT: - which includes recruiting, transporting, transferring, harboring or receiving a person;
- 2) MEANS: - such as coercion, deception or abuse of vulnerability;
- 3) PURPOSE OF EXPLOITATION: - the forms of exploitation specified in the definition of trafficking in persons include, sexual exploitation, slavery and forced labor, organ removal etc. However, the list of forms of exploitation provided under the protocol is not an exhaustive one, which means States parties are free to make addition to the list of exploitative purposes to their national legal definition.

Another outstanding definition of trafficking in human beings suggested thus: "all acts involved in; within or across border, whether for financial or other gains or not; and in which material deception, coercion, force, direct or indirect threats, abuse of authority, fraud or fraudulent non- disclosure is used; for the purpose of placing a person forcefully against his /her consent in exploitative, abuse or servile situations, such as forced prostitution, sweetshop, labor, or family

relationship whether for pay or not" (Miller, A., & Stewart, A. N. (1998). p.16)

The US Victims Protection Act defined severe form of trafficking to include;

- (A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. (Law, P. (2000).)

From the above definitions of human trafficking, trafficking in human beings could be categories into three; namely:

1. Sex trafficking
2. Labor trafficking
3. Organ trafficking. However this last form of trafficking (organ trafficking) which could be more deadly than the other two (labor and sex trafficking) is not mentioned under the 2000 victim of trafficking protection Act. Which means that the most severe form of trafficking according to the Act is sex and labor trafficking. This could be a serious over look by the legislators, as organ trafficking is no less dangerous than sex and labor trafficking.

Trafficking Under Local Legislations

Nigeria Anti-Trafficking Act, 2015 defined trafficking in persons as

"Trafficking or Traffic in Persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or other forms of coercion ,abduction, fraud, deception, the abuse of power of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in forced or bonded labor, or in slavery-like conditions, the removal of organs or generally for exploitative purposes"(Nigeria, Trafficking Act,2015, section 82.)

The anti- human trafficking and prohibition Act enacted 1383 (solar calendar) Iran, described trafficking in persons as: the importation or exportation of person or persons legally or illegally across the country border by means of force, coercion, threat, fraud or deception or abuse of power of authority or position or condition of vulnerability of persons afore mentioned with the intention of prostitution, organ or body parts removal, slavery and sham marriages.

The provision went further to state that; receiving, transferring, harboring or providing hiding place for person or persons mentioned in section one (a) above is regarded as trafficking under this law when it took place after crossing the country's border with similar intention (Iran ,Trafficking in persons Act, 1383).

From the above definitions, trafficking of persons could summarily be defined as;

The use of threat, deception, coercion, force, abuse of power of authority or vulnerability of persons to transfer and take possession/control of such person for the purpose of engaging him/her in services, labor, prostitution, sham marriages, organ removal etc. of which the person lack the power to quit.

It is however important to understand that deception, coercion and force could occur at any stage or phase of

trafficking, therefore not necessarily at the recruitment stage. Thus the act of subjecting a person(s) to exploitation or coercion in job of which there is no freedom or choice of quitting could amount to trafficking under the definition of the protocol (Elezi, A. (2011), P.85.).

It is also however, important to note that trafficking in person could take place within the boarder of a country(internal trafficking),in which case the act of harboring, transfer, possession and exploitation of victim all took place within the victim's home country. Therefore the phrase " after crossing the country's border" provided under the definition section of Anti-trafficking Act of Iran tends to limit human trafficking to International trafficking alone, thus excluding similar acts committed within the country as a trafficking.

Victims of Trafficking

The word "victim" was said to have its root in Latin word "victima" which was a term used to describe animals meant for sacrifice on religious ceremonies. The term was later incorporated into English language under the influence of Rhemish translators of the Bible and subsequently the supreme court of California in *People v. Williams* (1860) had to consider whether the term "victim" used in describing one who suffered damages in relation to act do by another could prejudice the position of defendants in criminal charges, the term simply connotes non-blameworthy status of the injured therefore could be a prejudice to justice. The court however, sated thus;

The word victim, in the connection in which it appears, is an unguarded expression, calculated, though doubtless unintentionally, to create prejudice against the accused. It seems to assume that the deceased was wrongfully killed, when the very issue was as to the character of the killing. ... When the deceased is referred to as "a victim," the impression is naturally created that some unlawful power or dominion had been exerted over his person" (Nash, 2008). Other definition of victim includes; "someone or something that has been hurt, damaged, or killed or has suffered either because of the action of someone or something else, or because of illness or chance" (Cambridge, Dictionary).

"Persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power (UNGA Resolution, 1985.)

From the definitions above, it could be said that victim is one who suffered the consequences of an act or omissions of which he or she may either hold some blames or not at all. However, the question of whether a victim could be blamed for the misfortune that befell him/her does not exclude the person from being referred to as victim. In mid 1900s, Benjamin Mendelsohn, after studying the various categories of victims and their involvement in crime, classified victims of crime into six categories (Hegan, F. E.2008) based on their culpability or degree of blameworthiness in the crime as follows:

1. Completely innocent victims;
2. Victim with minor guilt;
3. Victim as guilty as offender/voluntary victims;
4. Victim guiltier than the offender;
5. Most guilty victim and
6. Imaginary victim.

From the above description and analysis, it is clear that victims of crime are not always as innocent as the word "victim" may suggest, therefore the word victim even though may refer to someone who had suffered the outcome of an event, does not necessarily mean that the sufferer is free from all blames as to the occurrence of which he/she is a victim of, however, the extent to which victim should bear blame is left for the jury to decide in any particular case.

The knowledge of victim's participation in crime is not to exonerate criminals from their criminal liabilities or justifying the crime they perpetuated against their victims, but rather it is to assist law makers and juries to make judgments/ decisions and offer crime control services as the case may be. In applying the above definitions (trafficking and victim) to victim of trafficking, it could therefore be said that; human trafficking victims are generally those who suffered the outcome of the acts numerated under article 3(a)-(c) of the UN Protocol on trafficking (Chuang, 1998, p.88). However, it could be said that the definitions cited suggests the illegal conducts of traffickers rather than any act of the victim and therefore the protocol did not cover those who became victim willingly, this assumption is not correct because one who been exposed to exploitation by the acts and means numerated under the protocol, automatically became a victim and is protected irrespective of his or her own participation in the process that leads to his exploitation.

Categorizing Victims of Trafficking

Human trafficking victims could be divided into two main categories, taking into consideration the nature and circumstances leading to their victimization. Namely;

1. Completely innocent victims; and
2. Guilty victims.

Guilty victims could however be further divided into two categories based on their intentions; those who are guilt of illegal migration and those who migrate for the purpose of prostituting in the destination country. This classification is necessary in determining the kind of responses and protections victims are offered by various countries concern.

a) Completely innocent victim of trafficking

The first categories of victims in this group are children and young person below the age of 18years. Article 3 (d) of the UN Protocol on trafficking in Persons, 2000 defines a 'child victim of trafficking' as any person under the age of 18, who is recruited, transported, transferred, harbored or received for the purpose of exploitation, either within or outside a country. Sub section(c) however added that the use of illicit means is irrelevant in child trafficking.

Child trafficking is one of the ugliest forms of child abuse and human right violations in the present day society. Child trafficking is brought about by globalization, internationalization, and free trade. According to UNICEF child sexual exploitation is taking place every minute across the globe. About 1.2 million Children are trafficked every year excluding the millions already being held captive by trafficking (UNICEF, 2003). UNICEF also reports that approximately 30 million children have lost their childhood through sexual exploitation as some victims trafficked as young as nine years were reportedly to have contacted HIV/AIDS before they could reach 20years of age. (Chawla, A. (2015)). Victims are trafficked from 127 countries and are exploited in 137 countries according to the United Nations. (UNODC, (2006)).

Trafficking affect almost every countries of the world, both industrialized and developing countries,but affected are

poor and under developed nations . Trafficked children are subjected to prostitution, forced into marriage or illegally adopted; they provide cheap or unpaid labor, work as house servants or beggars, are recruited into armed groups and are used for sports and games. Trafficking exposes children to violence, sexual abuse and HIV infection and violates their rights to be protected, grow up in a family environment or have access to education. (UNICEF, 2006). It is reported about child trafficking in Nigeria thus;

"Each year, more than 200,000 Nigerian children are forcibly taken from their homes to be put to work. Some go with the permission of their parents, and some do not. Many, especially boys who may be as young as five or six, end up as household slaves far from home, or as agricultural workers on smallholdings or in quarries, where they break large lumps of granite with heavy iron hammers and earn little more than a few cents a day. The dust they inhale will do them lasting damage. Some, especially the younger ones, die as a result; others end up with terrible scars, both physical and psychological. The girls who are taken may end up in domestic service, but many become prostitutes, perhaps in Ivory Coast or Gabon, but increasingly in Europe, particularly in Italy, where a well-organised criminal network distributes them to major cities like Rome, Florence and Turin"(Madike, Isioma,2017).

Living up to the challenges of combating trafficking especially in children, remain one of the biggest human right violations in Nigeria, it affects a large sector of the society, mostly children from poor homes and large families. Children are the hope and future of any nation. It therefore requires urgent and critical policies to be aimed at preventing child abuse, exploitations in labor and services. Also policies that ensure child safety, wellbeing and proper up bringing through education and family support programs should be considered.

Second categories of innocent victim of trafficking are those captured or kidnapped by traffickers or militants in war torn areas. Those fleeing wars and natural disasters are also highly vulnerable to be trafficked. These groups of people are "true" victims, victims who did not choose to migrate illegally, let alone prostitute themselves or involve in any crime. (Lobasz, J. K. (2009).p.264). In events of war and internal conflict, women and children are often the targets of militants and some regular armies alike; they are captured and used as child soldiers, war shields, and sex slaves or even been sold into slavery and forced marriages. It has been reported by numerous observers in war torn areas and conflict zones that, young women, men and teenagers are being abducted to be sold abroad for the purposes of forced prostitution, sexual slaves to the militants, while men captured are retained as forced militants. (Peyroux, O. (2016)). In Nigeria for example the militants, Boko Haram, since it began its insurgency in 2009, have abducted thousands of girls and women in northeast Nigeria – most notably is the more than 200 Chibok girls snatched from their school in April 2014 – which attracted world wild attention. The girls were said to be used by militants as cooks, sex slaves, and even suicide bomber (Lin Taylor, 2017). The terrorist groups were said to have generated up to \$30 million in 2016 through kidnapping and abductions alone. The group sell their captives, mostly women both domestically and internationally and once sold the owner possess absolute ownership in them just like any "goods", according to their view "what is being sold and bought is property, or an asset", and lacks legal entity" therefore the

owner can demand for any form of services from the "slave or asset" including criminal acts and any misconduct or disobedience could be punished with death. (Duhaime, Christine, 2015)

Apart from those being subjected to exploitations after captured by the militants from their homes, schools and working places, are also those who ended up being trafficked because they were escaping a dying situation of needs, general insecurity of lives and property, natural disasters etc. but ended up in the hands of those who sees them as tools for making money and profits. They never wanted to cross the border of any country illegally, neither did they seek to engage in any criminal activities or prostitute themselves, all they wanted is a safe place; anywhere away from war and disaster to start a new life and probably return home again in future when situation has become better.

b) Guilty victims

Victims in this category are made of those who cross country's border due to their desperate desire and hope for better living condition abroad (illegal migrants) and those who traveled to a foreign land in other to make money out of illegal means (migrant prostitutes).

i) The group of victims in the first category are those victimized as a result of their desires and quest to escape a critical economic, social or political situation. The desire to flee home for better life is so strong that despite some level of awareness they ignore all rational and logical warning and jump into illegal deals with traffickers, they are determine to go to any foreign land usually overseas with or without legal documents. Some with legal documents as tourist in the destination country while some others with illegal and fake documents. Traveling legally involve a lot of procedure and money which may be unaffordable to ordinary and poor people seeking a better life opportunity outside their country, therefore, engaging the services of smugglers to cross border is often resorted to by many in this category. Under the contemporary context, migration entails the Movement of a person or a group of persons, across an international border (interstate) or within a country (intrastate). The International Organization for Migration (IOM), put it thus: 'It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes ...' (Parnwell, M. (2006), p.9). Most victims of human trafficking belong to this category; they are people who seek to migrate to a new environment for better living opportunities. The generally dissatisfaction of people with situation and condition of living in their home countries act as a pushing factor for migration, people are ready to jump at any offer for better lives outside their homes. Migration itself is motivated by search for greener pasture and better life opportunity, there is always the willingness to travel miles away to achieve and fulfill this aims and roles in life. (Olagbegi, et.al, (2006) p.33). The entry of a country's territory without legal document expose migrants to many threats- including; threat of being treated as illegal migrant, seeking jobs with irregular employers of labor and work, getting accommodations, being taken advantage of by smugglers who may turn to exploit them by taking advantage of their illegal status, possession of fraudulent work permit, violation of tax laws, fake documents etc.

Some early migrants before the strict policies on migration in Europe actually succeed in having a legal status

confer on them after a while, they were able to work in menial jobs, acquiring valid resident permit and became citizens. Their achievements in works and status became incentives for others at home facing similar hardship. Traveling out became the only option and answer of getting out of poverty and misery at home. Parents who are poor and cannot provide the basic needs and necessity of life for their children are willing and eager to surrender such children to the care of others with the hope that their children will be well taken care of, succeed and come back home to rescue them from abject poverty. (Bales, Kevin.(2005) p.13) Traffickers capitalize on the desires of victims and unsuspecting parents to escape poverty and hardships to offer those promises of education, acquisition of skills, good living condition etc. to lure their victims. Most victims in this category are uneducated or school drop outs so they fall easily for promises of marriage or jobs overseas, mostly in the informal and unregulated sectors, such as hairdressers, nannies, or domestics services (Olagbegi,(2006) supra) . Most victims are determining to go overseas and engage in hard labor to save themselves and their loved ones from abject poverty, they are actually not aware of the nature of jobs they would be asked to do or any idea that their trafficker whom they see as a friend and savior would turn them to objects for making money at their destination abroad. This reality became too late; they have been deceived into prostitution and forced labor. Victims in this category are usually subjected to torture, repeated rapes, hunger/starvation, beating and threats of harms to relatives and loved ones to keep them submissive to their pimps. (Aronowitz, (2009), p. 10).

ii) The last categories of trafficking victims are those who could be said to be guilty because of their intention of going out for "immoral" or "illegal" purposes, mostly prostitution which has become a liberal issue in many countries of the west especially after being given a legal recognition by the International Labor Organization in 1998 as "sex work" (Foundation against Trafficking in Women. 2001, p.4). However, the fact remain that prostitutions is still an immoral act and a worst form of business any free person may venture into, it attracts punishment in most countries where religion and moral values reign supreme. Victims in this category usually commenced their journey from the source countries (prostitution prohibited or less attractive zones) with the intention of going out to engage in prostitutions, earn a lot of money, probably quit the job after earning enough, return home and settle down for a normal life. Most people in this category are usually those who had worked in sex industry or having prior prostitution experience or those generally of low moral background, the bases for their journey is in furtherance of these purposes. If people of these category became victims of sex trafficking they are often seen as co-criminal to the traffickers and are often treated as such and may never be able to escape being punished especially in prostitution prohibited zones. These categories of victims are also referred to as the "unworthy or guilty victims" because they have chosen to travel out of their country to engage in prostitution for better pay. (Tyldum and Brunovskis, A. 2005, p.26). Though it could be said that victims in this categories consented to prostitution, but the fact that they made a choice of self-prostitution does not mean they choose to be held captive in prostitution without any option of quitting or be subjected to exploitation and severe abuse. The moment the prostitute lack choice of hours

of work, numbers of clients to be seen, how much to be paid and right to quit prostitution she is no long a voluntary prostitute but victim of trafficking and forced prostitution and therefore requires the protection of law irrespective of her initial choice of prostitution.

The issue of whether one could consent to trafficking was long resolved under the UN protocol on trafficking when it explicitly stated that: "the consent of a victim of trafficking in persons to the intended exploitation is irrelevant where any of the means set forth (in article 3 of the protocol) have been used". The protocol added that, in case of child trafficking, consent of a child or means used is irrelevant. Which implies that adult could consent to prostitution. This notion was a major stumbling block to the agreement between nations as to whether non-coerced adult migrant prostitution should be included in the definition of trafficking. Countries were in deep disagreement, one group sees the inclusion of distinction between voluntary and coerced prostitution as moral decadence and unacceptable as such would amount to giving legal backing to prostitution, while some other group of countries sees it as a blur and distraction to trafficking and migrant smuggling. (Gallagher, A.T. (2010), P27). At final conclusion, it was agreed that the inclusion of the phrase "irrespective of consent of the person" to exploitation, suggests the inability of traffickers escaping punishment on the bases of victim's consent (ibid). Nevertheless, the fact remain that, consent or absence of consent is not relevant were a person is devoid of the choice to quite a particular job, the continual detention of one against his/her will in any job or business negate any prior consent given by the person even when there was one at the beginning.

It became clear therefore, that the protocol did not want to venture into the issue of prostitution but rather leave such decision to be handled by the various domestic policies and laws.

While it may appear that the only good example under this category is migrant prostitutes, it is not to say that other group of people who migrant to other places in order to pursue illegal purposes are exempted, especially when such is been outlawed in their source countries, that is, if they happened to be outsmarted in the process of carrying out their intended illegal activities in the destination country by traffickers who commit them to severe exploitation in their illegal activities whether they could come under protection. Seeking assistance and protection from the law would be problematic for such victims, as such would also expose their crimes and illegal deals.

In line with the above explanations, it could be inferred that, the kind of protection and assistance envisaged under the protocol could only be rendered to migrant prostitutes in Member States where prostitution is legalized or decriminalized, migrant prostitutes could legally be protected and assisted as victims of human trafficking. However, in countries where prostitution is criminalized, migrant prostitutes may face a different measure and may even be prosecuted as an accomplice to crime or a direct offender in prostitution cases despite having faced severe exploitation in the hands of traffickers.

Human Trafficking Victims Protection laws

Victims of human trafficking irrespective of their involvement in crimes are obliged to be protected by the law, due to the heinous nature of the exploitations attributed to trafficking; consent of victim to exploitations is irrelevant and is not a valid excuse before the court. Victims of trafficking

are often treated with suspicious, contempt and as a threat to internal security because of their connection and involvement with criminal activities and organizations, so they are often been detained and deported from destination countries without thorough or serious investigations into their case (Obokata, T.(2006),p.153). States are obliged to recognize the fact that trafficked persons are victims of serious human rights abuses, and therefore should protect their rights notwithstanding their irregular immigration status or involvement in crime; they should be protected from reprisal and harm. (Foundation Against Trafficking in Women, supra).

The 2000 Trafficking in Persons Protocol does not only give recognition to these type of challenges and criminalization, trafficked persons are exposed to, but also provides that the domestic law of each of the states party to the Trafficking in Persons Protocol should strive to provide for the protection, privacy and identity of victims of trafficking in persons including inter alia by making legal proceedings relating to such trafficking confidential (UN Protocol, 2000, Article 6). The need to protect and assist victims of trafficking with full respect for their human rights were further provided under Article 2(b) of the Protocol's statement of purpose.

The Nigerian anti-trafficking law, the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (TIPLEA), 2003 (as amended) under sections 36, 37 and 38 provides for a humane treatment of trafficked victims, their protection and non-discriminatory practices towards them as victims. The provision went further to make an elaborate protection and non disclosure tactics of hiding victim's names, identity and persons. The law also provides immunity to victims on crime and offences committed in consequence of being a victim. (TIPLEA, Section 37). The same provisions were repeated under sections 61, 62, 63, 64 and 65 of the 2015 repealed Act. Protection steps extend to provision of temporary accommodation, asses to health care and other social services during the period of temporary stay, right to return home, rehabilitation of trafficked person and where the circumstances so justify, trafficked persons shall not be detained, imprisoned or prosecuted for offences committed while being a victim of trafficking, including non-possession of valid travel, false travel or other documents (TIPLEA Section 62). The law also makes provision for compensation, restitution and recovery for economic, physical and psychological damages suffered by the victim during the traffic process which shall be assessed and paid out of forfeited assets of the convicted trafficker; this is irrespective of the immigration status of the victim (TIPLEA, section 65). In addition to the criminal litigation, victim of trafficking in persons also have the right to institute a civil litigation against the trafficker or public officer who may have subjected him/her to abuse and exploitation (TIPLEA, Section 65(3)).

Under the anti-trafficking Act (1383) of Iran however, it is interesting note that the word "bezedideh" which is the equivalent meaning of the English word " crime victim" was used for the first time under criminal law in the trafficking Act (Raekhayan,(1384)p.16) the word signify one who has suffer the act of trafficking. This implies that victims of human trafficking are giving legal recognition as someone who had suffered a criminal act of traffic. However, the Act, despite this recognition, is completely silent about any specific treatment for trafficking victims; neither legal

assistance nor punishment was further mentioned in the Act under this regard. Therefore, it would be difficult to discuss victim of human trafficking in Iran, using the 1383 Act as a yard stick. However, in order to discuss victims of human trafficking rights to protection under the legal instruments of Iran, we need to look far beyond the provisions of the 1383 human trafficking Act of the country, and probably draw inferences from other legal sources available for crime prevention and control, victims protections and rehabilitations laws in the country.

Generally speaking, in crime control and prevention policies, we ought to look at those policies put in place to help prevent crime from occurring; in other words making criminal activities less attractive, through punishments and other legal obstacles aimed at depriving criminals from carrying out and benefitting from their criminal activities, providing necessary information and assistances to the vulnerable persons in the society and putting in place rehabilitation facilities to re-absolve victims /offenders back into the societal cycle, hence preventing them from falling victim again.

Considering the heinous nature of human trafficking and the harm usually suffered by its victims it is highly essential that victims of such crime should be given a specially attention and assistance to rebuilding their physical, mental and psychological health as this would also help them to become confident in giving out information that will finally lead to arrest and prosecution of the criminal groups responsible for human trafficking. It is only logical that victims of human trafficking should be assisted; otherwise trafficker would be giving a "save heaven" for their crimes in exploiting the perpetual fears of their victims in furthering their crimes. In addition to this, law enforcement officials should be well trained to see to the need to respect and treat human trafficking victims as victims and not otherwise to avoid further victimization of already victims.

There are several crime prevention and protection and rehabilitation provisions that could be drawn from various legal documents such as;

The provision of section 156 of the constitution of Islamic Republic of Iran 1368, makes it mandatory for the judiciary arm of government to see to the effective measure that will ensure rehabilitation of criminal and offer them opportunities to be accommodated back into the society after the expiration of their punishment or jail terms .In considering this particular provision therefore, it could be inferred that if convicted persons are giving chances of rehabilitation under the law, then the more deserving groups [those who had suffered the occurrence of crime] could possibly not be denied the same benefit.

The provision of Section 2 of the Trafficking Act, Iran recommend severity of punishment for trafficking of persons below the age of 18 years, this could also be inferred as a deterrence to child trafficking and exploitations in the country. But this provision does not offer any remedy to child victim of trafficking.

In order to secure the most vulnerable victims of trafficking (women and children) under international laws however, there are a lot of international documents /policies put in place to check undue exploitations in work and services, migration, custody of minor/ adoption policies, marriages etc. The two countries (Islamic Republic of Iran and Nigeria) under discussion are signatories to these particular provisions and have enacted ACTs in their various

domestic zones to prohibit and punish slavery and child exploitations in labor and works that are considered to be harmful to the general welfare of child. For further information see the provisions of Iran children and young person Act 1381 and the provisions of sections 6, 38, 75, 77, 79, and 83 of Islamic Republic of Iran labor Act 1369.

Particularly in regard to child protection, Article 3 of the optional protocol to the convention on the Right of the child on the sale of children, child prostitution and child pornography 2002, outlines the relevant criminal offences of child trafficking thus;

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnational or on an individual or organized basis:

a) In the context of sale of children as defined in Article 2:

i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

- a. Sexual exploitation of the child;
- b. Transfer of organs of the child for profit;
- c. Engagement of the child in forced labor;

ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption; b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in Article 2;

c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in Article 2.

Though in the Optional Protocol, the term trafficking itself is not defined but the protocol includes the transfer of organs of the child for profit, as well as illegal adoption, child labor, sexual exploitation of child etc. are all part and parcel of trafficking. The protocol further obliged all state parties to make stiffer measure and punishment that reflect the grave nature of the crimes so numerated (Art.3 (3)).

Also, article 35 of the Convention on the Rights of the Child, provides that all ratifying states should "take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or the traffic in children for any purpose or in any form" (UNICEF, (1989)).

The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (2000), under Article 3 mention the worst form of child labor to include;

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;

(b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Regarding this particular provision (article 3 (d)), the protocol under article 4(1) stated that; "the types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority..." which in essence signifies that children may be engaged in services

under the local enactment as long as such services are not harmful in nature to the health, safety or moral of child.

The above measures are enacted under the various national laws of the countries of our discussion to prevent vulnerable groups such women and children from falling victims of the heinous crimes of trafficking. The question here is what are remedies or treatment provided by various domestic laws to victims who despite all these measures became victim to trafficking? While Nigeria has come out with clear provisions under its anti trafficking ACT under sections 61-65 on victims of human trafficking treatment and rehabilitation programs, including right to claim monetary damages for the loss suffered from trafficking irrespective of having been engaged in prostitution or otherwise, there is no clear and specific consideration made under the Iran anti trafficking law or other documents for compensation for damages suffered by victims of trafficking, even section 8 of the 1383 Act that mentioned the seizure of all monies and wealth accrued by traffickers through the direct exploitation of victims or payments received from a third party for same purposes, specifically stated that such monies and wealth so accrued will be confiscated for the benefit of public fund.

This silence on the victim's treatments by the Act has giving room for criticism and suspicion from analyst and researchers seeking information on victims of human trafficking protection rights, especially with the knowledge that prostitution is a punishable offence in Iran. The faiths of migrant that intentionally leave the country to engage in prostitution and was later held into forced prostitution or sex work is unclear as to whether she could safely return to the country without having to face prosecution offence of prostitution abroad.

Conclusion

With the belief that one of the major sources of social change and 1 regulation a country could have is a good legislative policy, in tackling human trafficking problems therefore, policies should be focused towards recognizing all forms of trafficking as specific and serious crime that deserve serious sanctions, in addition legislation should identify that trafficked person are victims of crime and therefore deserve sympathy and legal assistance irrespective of their involvement in any illegal deal during the period of their traffic. Therefore identifying and differentiating victims of trafficking from criminals and victims of other crimes is great necessity towards human trafficking eradication.

It is also a necessity to recognize that the means prescribed under article 3 of the protocol could be used at any stage of trafficking, from recruitment to exploitation stage, therefore should not be restricted to the recruitment stage alone, therefore anyone who enter a contact on free will could be a victim of trafficking if he/she is held against his/her will in the job without the option or power to quit it.

Victims are entitled to some basic human rights (victims in this category include the victim already identified as such, derivative victim, the vulnerable victim, the potential victim, and the presumed victim) irrespective of whether victims are completely innocent or not, and lastly legislatures should be all encompassing and comprehensive to cover area such as; prevention, protection, provision, prosecution, and participation; this approach is usually been referred to as the Five P's, as a best way to effectively fight and eradicate the menace posed by trafficking of persons.

Victim's interest and their human right protection should be paramount to any state that seeks human trafficking

eradication, therefore, victims of trafficking in persons are to be treated with compassion, dignity, fairness, and respect for their human rights as they have already been exposed to a lot of abuse and exploitations; they are wounded mentally, physically, emotionally and psychologically, therefore all what they need is to be given chance to be alive, mend their ways and probably contribute their own quota towards crime eradication by offering services to campaign against trafficking, giving useful information on modus operandi of traffickers etc. Therefore any condemnation will only worsen their psychological situation and will only make them to rely more on the criminals for protection. Victims right to safety, privacy, Information, legal representation, right to be heard in Court, the right to compensation for damages, right to medical assistance, right to social assistance, right to seek residence, right to return and reintegration into the society should be clearly stated and ensure by the law through a specific and special legislation, this will ensure their confidence in the authority and the readiness to share information that is needed to arrest and prosecute the traffickers .

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