

# The International Legal Framework to Combat Human Trafficking

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## Abstract

The growing concern about organized criminal groups and operation that cross national borders led to an increasing number of countries to consider and adopt new laws, measures and strategies to deal with the problem of human trafficking the United Nations Protocol to prevent suppress and punish Trafficking in persons, especially women and children (2000) was the first international legal instrument to define trafficking in person and provide for a comprehensive approach to combat the problem. This protocol remains the primary source that defines state responsibilities in developing their national approach to combat, prevent and punish trafficking in persons while at the same time protecting the internationally recognized human rights of victims. This paper examines generally the international laws relating to human trafficking. The conclusion of this paper reveals that countries should work on producing greater information on human trafficking; this is necessary in order to enable all actors in combating human trafficking to design new laws and implement a more effective response.

## I. INTRODUCTION

The last decade of the twentieth century saw an unprecedented level of international concern over the trafficking of human beings, including broad recognition of the links between trafficking and exploitation of human beings. Today, human trafficking is recognized as or distinct and egregious violation of human rights, comprising, one of the worst forms of child labour<sup>1</sup>.

Human trafficking is a growing problem that affects millions of children and families in many countries around the world. Unchecked, trafficking, will continue to grow, and combating it. However, will require an intensive, collective efforts on many level<sup>2</sup>. Recently, international interests in combating human trafficking have reached an unprecedented level. Today, there is a growing spectrum of international measures in the fields of prevention, protection and prosecution with the common objective of eliminating trafficking in persons<sup>3</sup>.

Trafficking in persons is a transnational crime with serious implications for the countries of origin, transit and destination<sup>4</sup>. The complexity of the transnational crime of human trafficking warrants the development and implementation of transnational policies in particular, the imposition of transnational sanctions or punishments, extradition and exchange of information. Among all countries<sup>5</sup>. There is a general consensus that the horrifying nature and dimensions of human trafficking urgently require a concerted and coordinated international response, which addresses the remote and immediate cause<sup>6</sup>. Of the complex crime of human trafficking.

It is of great significance to note that, the existence of a variety of international legal instruments containing rules and practical measures to combat human trafficking and exploitation of persons, especially women and children lend credence to the global concern<sup>7</sup>. For the fast growing<sup>8</sup> and organized crime of trafficking in human beings.

The international community has introduced variety of measures to combat human trafficking and all forms of slavery, exploitation and involuntary servitude, this paper will now examine those measures or conventions adopted at various international conferences:

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<sup>1</sup> Unbearable to the Human heart; Trafficking in children and Action to Combat it. International Programme on the Elimination of Child Labour (IPEC) publication Geneva, March (2002) P. 12.

<sup>2</sup> Ibid P. 14

<sup>3</sup> Gbadamosi, O. International Perspectives and *Nigerian Laws on Human Trafficking*. Network for Justice and Democracy. All Nigerian Press. Benin-City (2006) Page 54.

<sup>4</sup> Nigeria is a source, transit and destination country for trafficked persons. The Government of Nigeria can not provide a current, reliable estimate of the number of persons trafficked annually, but available anecdotal information suggest the magnitude of problem may be quite large.

<sup>5</sup> Gbadamosi, Opcit

<sup>6</sup> A number of socio-economic factors, including extreme poverty, large family size, lack of education, and lack of work opportunities all serve as vulnerability factors for human trafficking.

International trafficking appears to be focused on adults, mostly women or older girls, who are recruited for commercial sexual exploitation aboard.

<sup>7</sup> Gbadamosi, Opcit

<sup>8</sup> Human trafficking is widespread according to data taken the United Nations. Office on drugs and crimes (UNODC) 2015, Data base on human trafficking, about 137, countries in world appears to be affected

### **(a) The International Agreement for the Suppression of White Slave Traffic (1904).**

This agreement is considered to be the first international treaty to address human trafficking<sup>1</sup>. The agreement regulated only police measures against trafficking in persons the state parties to the agreement undertook to establish some authorities charged with the coordination of all information relating to the procuring of women or girls for immoral purposes.

The international trafficking in human beings particularly women and children also referred to as the white slave trade first gained international recognition in 1904 when the above international agreement for the suppression of white slave traffic was signed<sup>2</sup>.

The term “traffic”<sup>3</sup> was first used to refer to the so called white slave trade in women a round 1900. The trafficking and voluntary migration of white women from Europe to Arab and Eastern states as concubines or prostitutes was of particular concern to European middle-class man, women and governments. The result was the creation of an international agreement for suppression of the white slave trade in 1904.

## **II. THE ILO FORCED LABOUR CONVENTIONS**

### **a) Forced labour convention 1930 (No. 29)**

This convention defines forced labour, and requires states to criminalize its contains a list of exceptions.

Article 2: defines the term forced or compulsory labour as:

All work or services which is exacted from any penalty, and for which the said person has not offered himself voluntarily<sup>4</sup>.

Article 2, paragraph 2 provides exceptions for work that is required by: (1) compulsory military services, provided it is of a purely military character (2) normal civil obligations (3) conviction in a court of law (4) cases of emergency, and (5) minor communal services performed by members of a community and in the direct interest of the community<sup>5</sup>.

The imposition of forced or compulsory labour for the benefit of private individuals, companies or associations was prohibited immediately, but forced labour imposed by public authorities was not outlawed outright. Rather, member states undertook to suppress the use of forced or compulsory service in all its forms within the shortest possible period<sup>6</sup>. During a transitional period, recourse to forced labour could be had “for public purpose only and as an exceptional measure”. Since 1998, the committee of experts has held that this transitional period can no longer be invoked to justify forced labour practices. It is to be noted that in its 2007 General survey concerning the forced labour convention, the committee observed that the transitional period expired long ago and that “consideration should be given to the adoption of a protocol” that would have the effect of revoking references to the transition period<sup>7</sup>.

Article 25, criminalized forced labour as follows:

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any member ratifying this convention to ensure that the penalties imposed by law are really adequate = and are strictly enforced.

### **(b). Abolition of forced Labour Convention (1957)No. 105.**

This convention makes no change to the definition of forced labour provided in convention No. 29 the committee of experts has explained that these two conventions are complementary. While convention No. 105 is the more recent instrument, it build on the foundation laid down by convention No. 29, on the other hand, lays down a general prohibition on forced and compulsory labour, admitting only a few exceptions<sup>8</sup>.

Article 1 provides that forced or compulsory labour shall not be used:

(a). As a means of political coercion or education, or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;

<sup>1</sup>. Gbadamosi,Ibid

<sup>2</sup> Gbadamosi, Opcit.

<sup>3</sup>. “Traffic” means the movement of women and girls for immoral purpose e.g prostitution, commercial sexual exploitation, pornography. Initially, this definition required the crossing country borders, but by 1910 it changed to acknowledged traffic in women could occur within national borders. Or boundaries.

As a national and international often organized crime trafficking in person knows no boundaries-geographic, cultural political, or religious it victim and perpetrators hail from all around the world, and its flows reach from and to some of the most far-flung corners of the world today.

<sup>4</sup> Article 2 paragraph 1 forced labour convention 1930 (No.29).

<sup>5</sup>. Article 2: Paragraph 2, forced Labour convention 1930

<sup>6</sup> Article 1 paragraph 1

<sup>7</sup> Individual observation by the committee of experts on the application of and recommendations concerning forced labour convention No 29. 86 session Geneva (1988).

In this regard, the committee observes that...each member of the ILO..... undertakes to suppress the use of forced labour or compulsory labour in all its forms within the shortest possible time or period. Eradication of forced labour, general survey of (2007) page 196. Available at:[www.Ilo.org.publications](http://www.Ilo.org.publications). visited 12/09/15.

<sup>8</sup>. Forced Labour, General survey by the committee of experts on the Application of convention and recommendations, ILO 52, session, Geneva, (1958). See also eradication of forced Labour, General survey of 2007page 42. Available at: [www.ILO.org](http://www.ILO.org). visited 08/12/2015.

- (b). As a method of mobilizing and using labour for purposes of economic development;
- (c). as a means of labour discipline.
- (d). as a punishment for having participated in strikes
- (e) as a means of social, racial, national or religious discrimination.

**(c) Worst Forms of child Labour Convention (1999). No. 182.**

Article 3 of this convention defines the worst forms of child labour as;

- (a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment for children for use in armed conflict<sup>1</sup>.
- (b) The use, procuring or offering of a child for prostitution, for 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 circumstance in which it is carried out, is likely to harm the health, safety or morals of children.

Article 7, provides that each member state shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the convention including the provision and application of penal sanctions or, as appropriate other sanctions.

### III. UNITED NATIONS SLAVERY CONVENTIONS:

(a) Slavery Conventions 1926. The league of Nations, concerned about the continued trade in African slaves, appointed a temporary slavery commission in 1924 to investigate and report on the issue. In 1926, the league adopted the slavery convention, which entered into force in 1927. This is the first international instrument to provide a definition of slavery.

Article 1 provides that:

Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

There was a debate about the possible inclusion of forced labour, but ultimately the delegates decide to treat it as a separate issue. Unlike the forced labour convention mentioned earlier, the slavery convention contained no permissible derogations and no transition period. The parties to the convention were to “bring about” progressively and as soon as possible, the complete abolition of slavery in all its forms.

In its preamble, the league also noted its desire to prevent forced labour from developing into conditions analogous to slavery<sup>2</sup>.

(b). Supplementary convention on the Abolition of slavery, the slave Trade and Institutions and practices similar to slavery, 1956.

In 1956, the united Nations, citing both the forced labour convention and the slavery convention, decided to adopt a supplementary convention on the abolition of slavery. The preamble to the convention noted that ‘slavery’ the slave trade and institutions and practices similar to slavery have not yet been eliminated in all parts of the world, and expressed the need for the original slavery convention of 1926 to be augmented by the conclusion of a supplementary convention designed to intensify national as well as international efforts<sup>3</sup>.

It of great importance to note that the intent was to out law debt bondage, serfdom, servile marriage and other forms of child labour:

Article 1 provides that:

Each of the states parties to this convention shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of the following institutions and practices, where they still exist and whether or not they are covered by the definition of slavery contained in Article 1 of the slavery convention, signed at Geneva on 25 September 1926:

- (a) **Debt bondage;** That is to say the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.
- (b) **Serfdom;** That is to say the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate services to such other person, whether for reward or not, and is not free to change his status.
- (c) Any institution or practices whereby:

<sup>1</sup> . Worst form of child labour convention (1999) No. 182. The convention recognizes child trafficking as one of the worst forms of trafficking which must be eliminated without delay according to the I.L.O

<sup>2</sup> . redman RC; the league of Nations and the right to be free from enslavement: Chicago-Kant Law Review (1995) Vol.70 Page 39

<sup>3</sup> . Preamble to the supplementary convention on the abolition of slavery, slavery trade and institutions and practices similar to slavery (1956).

- (i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
  - (ii) The husband of a woman, his family, or clan, has the right to transfer her to another person for value received or otherwise; or
  - (iii) A woman, on the death of her husband, is liable to be inherited by another person.
  - (d) Any institution or practice whereby a child, or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person, or of his labour<sup>1</sup>.
- (c) Convention Against torture and other<sup>2</sup> cruel in human or degrading treatment or punishment (1948).  
Article 1 Provides that:

The term torture means any act by which severe pain or suffering whether physical or mental, is internationally inflicted on a person...for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in official capacity.

It does not include pain or suffering arising only from inherent in or incidental to lawful sanctions.

Article 2 provides that:

Each state party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

(d) Convention for the suppression of trafficking in persons and exploitation of the prostitution of others (1949). This convention had consolidated previous treaties regarding trafficking in persons and exploitation of prostitution such as the international agreement of 18 May 1904, for the suppression of the white slave traffic, international convention of 4<sup>th</sup> May 1910 for the suppression of the white slave traffic, international convention of 30<sup>th</sup> Sept. 1921 for the suppression of the Traffic in women and children and international convention of 11 October 1933 for the suppression of Traffic in women of full age<sup>3</sup>. It is important to note that the 1949 convention was the result of an abolitionist and feminists struggle in England in 1866, led by Josephine Butter. Whereas slavery had just been abolished in most of the European countries, butter considered the system of prostitution to be a contemporary form of slavery that oppressed women and was injurious to humanity in general. The convention for the suppression of the traffic in person and of the exploitation of the proposition of others is one of the international human rights instruments of the United Nations that address slavery and slavery like practices.

Although the preamble of the 1949 convention sets forth the principle that prostitution and trafficking are in compatible with the dignity, and worth of the human person, it does not judge or penalize the victims of traffic king and prostitution. Woman in prostitution are not considered as criminals to be scorned or punished but as victims to be protected, rather, the 1949 convention advocates punishment for those who procure, entice or lead others into prostitution<sup>4</sup>.

The convention takes the burden of proof off the victim and puts it on the perpetrators other exploitation of prostitution and trafficking for prostitution thus, article 1 of the convention provides:

The parties to the present convention agree to punish any person who gratify the passions of another, procures, entice or lands away, for the purpose of prostitution, another person, ever with the constant of that person, exploit the prostitution of another person.

By implication, article 1 covers procurers such as traffickers, recruiters who have procure or entice any person for the purpose of prostitution. Thus, the convention does not put the responsibility of the criminal act on person in prostitution<sup>5</sup>.

Article 2, of the convention advocates punishment for any one who:

Keep or manages or knowingly finances or take parts in the financing of brothel or knowingly lets or rents a building or other place or any part thereof for the purpose of prostitution of others<sup>6</sup>.

It is to be noted that the convention by implication indict those who keeps brothel or finance such places, for in same countries police have prosecuted women in prostitution for procuring when they have rented an

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<sup>1</sup> This is equivalent to Article 3 of the United Nations Trafficking protocol which provides that exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practice similar to slavery, servitude or the removal of organs. Paragraph (b) provides that: The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph 9a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

<sup>2</sup> The convention was adopted and opened for signature and ratification 1984

<sup>3</sup> Marcovich, M, Guide to the United Nations convention of 2<sup>nd</sup> December 1949 for the suppression of the Traffic in person and Exploitation of the prostitution of others available at: <http://www.unhcr>. visited 12/11/15.

<sup>4</sup> Gallagher, A. Human rights and the new U.N protocols and conventions on human trafficking and migrant smuggling: A preliminary analysis. Human rights quarterly (2001). P. 23.

<sup>5</sup> See article 1 and 2 of the 1949 convention

<sup>6</sup> Article 2 (1) and (2) *ibid*

apartment and themselves engaged in act of prostitution on these premises. This policy contradicts the convention which instead provides protection or women in prostitution<sup>1</sup>.

Article 6, provides:

Each party to the present convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which person who engage in or are suspected of engaging in prostitution are subject either to special registration or to any exceptional requirement for supervision on notification.

Therefore, going by the above provision of this article countries cannot make prostitution legal or regulate it in any way article 6 also prohibits states from recognizing prostitution as a labour and economic sector or as a legally regulated work. Since labour laws entails administrative recognition, control and regulation.

Article 14 and 15 encourage states to establish services and centralize information and investigation and trafficking in person and exploitation of the prostitution of others, and such services should compile all information calculated to facilitate the prevention and punishment of the offences referred to in the present convention and should be in close contact with the corresponding services in other states<sup>2</sup>.

Finally this convention has together a total of 28 articles and 73 countries have so far ratified it.

#### **(e) United Nations convention against transitional organized crime (2000)<sup>3</sup>.**

This convention represent a major step forward in the fight against transnational crime and signifies the recognition of the United Nations member states that it is a serious and growing problem that can only be solved through close international cooperation. States parties to the convention are to rely on one another in investigating, prosecuting and punishing crimes committed by organized criminal groups where either the crimes or the groups who commit them, have some elements of transitional movement. This should make it much ore difficult for offenders and organized criminal groups to take advantage of gaps in national laws, jurisdictional problems or lack of accurate information about the full s cope of their activities<sup>4</sup>.

It should be noted that this convention is essentially an instrument of international cooperation in order to combat transnational organized crime more effectively. The convention generally seek to prevent a situation whereby organized criminal activities or the concealment of evidence or profits can take place, by promoting the adoption of basic minimum measures. Five offences whether committed by individuals or cooperate entities are covered under this convention.

- a) Participation in an organized criminal group
- b) Corruption
- c) Obstruction of justice
- d) Money laundering and
- e) Serious crime<sup>5</sup>.

There are two principal pre-requisites for application:

- The relevant offence must have some and of transnational aspect
- It must involve an organized criminal group<sup>6</sup>.

Both two elements are defined very broadly, the convention defines transnational offence as follows:

....an offence which is committed in one state but substantially planned, directed or controlled in another state, or committed in one state but involving an organized criminal group operating in more than one state, or committed in one state but having substantial effects on another state<sup>7</sup>.

While an organized criminal group is defined as:

....as structural group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offence....in order to obtain, directly or indirectly, a financial or other material benefit.<sup>8</sup>

“Serious crime” refers to conduct constitution a criminal offence punishable by a maximum deprivation of liberty of at least for years or more serious penalty. “Serious crime” is defined in such a way as to include all significant criminal offences, as a result, state will be able to use the convention to address a wide range of modern criminal activity including human trafficking and related exploitation as well as migrant smuggling.<sup>9</sup>

<sup>1</sup> Article 15 and 16

<sup>2</sup> Article 6 (1) of the 1949 convention for the suppression of traffic in person

<sup>3</sup> Article 18 and 27 of the convention

<sup>4</sup> Articles 1 and 3 (a-d) of the convention

<sup>5</sup> Article 10 of the convention

<sup>6</sup> Article 3, Ibid

<sup>7</sup> Article 3 (1) and article 3 (2) a-d

<sup>8</sup> Article 2 (a) of the organized crime convention

<sup>9</sup> See article 3,2 (b), but this definition is based on the results of a study of legislation in the United Nations member states contained in U.N DOC. A/AC 254/22.

This is especially important in view of the fact that states may become parties to the convention without having to ratify any or all of the protocols.<sup>1</sup>

In line with its nature as a transnational cooperating agreement, the convention actually contains very little in the way of hard obligation. This was clearly an important factor in its relatively speedy completion.

This was clearly an important factor in its relatively speedy completion. State parties according to the convention will be required to criminalize:

- (a) Participation in an organized criminal group.
- (b) Laundering of the proceeds of crime.
- (c) Public sector corruption as defined under the convention<sup>2</sup>.

The above offences along with obstruction of justice are also to be made subject to appropriate sanctions.<sup>3</sup> The criminalization obligation addresses one of the key reasons for the existence of the convention, the lack of the uniformity of the convention, the lack of the uniformity in national legislation and the resulting difficulty in cross border cooperation. One of the principle obstacles to effective action against transnational organized crime including both trafficking in persons and migrant smuggling has been the lack of communication and cooperation between national law enforcement authorities<sup>4</sup>.

The convention sets out range of measures to be adopted by state parties to enhance effective law enforcement in this area through, inter-alia improving information flows and enhancing coordination between relevant authority.<sup>5</sup>

(f) United Nations Protocol to Prevent, suppress and punish trafficking in persons, especially women and children (2000).<sup>6</sup>

This protocol also known as the Palermo protocol seeks to prevent trafficking in persons, especially women and children, protect victims and promote anti-human trafficking co-operation among nations. The protocol is an important multilateral component of the world wide efforts to combat modern day slavery. The protocol for the first time provides an internationally agreed upon definition of trafficking in persons. And aims to prevent and combat trafficking in persons especially women and children, to protect and assist victims of such trafficking with full respect for their human rights and promote cooperation among the state parties in order to meet these objectives<sup>7</sup>.

It is important to note, this protocol was adopted by state parties as a comprehensive international approach to prevent and combat trafficking in persons especially women and children in their countries of origin, transit and destination.

The stated purpose of the trafficking protocol is two fold (i) to prevent and combat trafficking in person, paying particular attention to the protection of women and children and (ii) to promote and facilitate cooperation among states to this end.<sup>8</sup>

The protocol shall apply, except as otherwise stated here into the prevention, investigation and prosecution of offences established in accordance with Article 5 of the trafficking protocol, where those offences are transnational in nature and involve an organized criminal group as well as the protection of such offences.<sup>9</sup> The protocol enjoins state parties to adopt in such legislative and other measures necessary to establish as criminal offence, the conduct amounting to trafficking as defined in Article 3, of the protocol.<sup>10</sup> The protocol also contains provisions for protection of trafficking victims and enjoins state parties to establish comprehensive policies, programmes and other measures like border control, information exchange and training necessary to prevent and combat trafficking in human beings.

The key features of the trafficking protocol can be summarized generally as follows:

- (a) The protocol defines trafficking as a crime against humanity, marked by the intent to deceive and exploit<sup>11</sup>.
- (b) Expands the range of actions considered part of the trafficking process i.e recruitment, transportation, transfer, harbouring and receipt of persons.<sup>12</sup>
- (c) Makes consent to the intended exploitation irrelevant, where any of the means outlined in the definition

<sup>1</sup> Article 37 (3) of the organized crime convention.

<sup>2</sup> Article 5 (1-4)

<sup>3</sup> Article 6 (1)a

<sup>4</sup> Article 9(1) and (2)

<sup>5</sup> Article 23(a) and (b)

<sup>6</sup> The trafficking protocol is found at <http://www.odccp.org>. The protocol was adopted by United Nations resolution, A/RES/55/25. Of 15<sup>th</sup> November 2000. And came into force on 25<sup>th</sup> December 2003, Nigeria signed and deposited the instrument of ratification on 13<sup>th</sup> December, 2000.

<sup>7</sup> Article 3 of the protocol

<sup>8</sup> Article 6 sub-section (1-5)

<sup>9</sup> See article 3 (1-e)

<sup>10</sup> Articles 6, 9 10 and 11 of the protocol

<sup>11</sup> Article 3 (a)

<sup>12</sup> Ibid

are used.<sup>1</sup>

- (d) Recognizes a range of purposes of trafficking in persons, in addition to exploitation.
- (e) Contains rights-based on protective social, economic, political and legal measures to prevent human trafficking, protect, assist, return and reintegrate trafficked persons and to penalize trafficking and related conduct.<sup>2</sup>

Generally, the United Nations protocol to prevent, suppress and punish trafficking in persons especially women and children, supplementing the United Nations convention on organized crime, which entered into force on December 25, 2003, is the central tool provided by international human rights law to punish the crime of trafficking in person, to provide a comprehensive framework for victim protection and to guide an effective prevention strategy.

The United Nations protocol on Trafficking is the first such comprehensive international legal tool in the realm of trafficking in persons, and it covers all aspects of the crime. It thus represents a significant reconceptualization of the term trafficking and highlights also the problem of forced labour.

**(g) United Nations Protocol Against smuggling of migrants: supplementing the United Nations Convention Against Transnational organized crime (2006).**

This protocol is a land mark in the fight against the transport of people across border for financial gains and has been articulately designed as a tool to strengthen the international community's response in countering transnational organized crime groups and their highly sophisticated networks to smuggle migrants, exploiting human misery and making sizeable criminal profits in the process.<sup>3</sup>

It is to be noted that, the protocol aims to criminalize the smuggling of migrants and those who practice it, while recognizing that migrants are often victims needing protection<sup>4</sup>. Migrants are often confined or coerced into exploitative or oppressive forms of employment. Often in the sex trade, or in dangerous occupations, with the illicit incomes generated from these activities going into organized crime.<sup>5</sup>

Under this new legal instrument, government agree to make migrant smuggling a criminal offence under national laws, adopt special measures to crack down on migrant. Smuggling by sea, boost international cooperation to prevent migrant smuggling, and seek out and prosecute offenders<sup>6</sup>.

This protocol requires the adoption of general measures to prevent migrant smuggling with a particular emphasis on prevention through improved law enforcement through improved law enforcement little attention is given to the root causes of migrant smuggling.<sup>7</sup>

**(h) United Nations resolution on Eliminating Demand for trafficked women and Girls for all forms of exploitation (2005).**

In 2005, the United states presented a resolution to the United Nations to highlight the need to eliminate the demand for trafficked women and girls for all forms of exploitation. The resolution, eliminating demand for trafficked women and girls for all forms of exploitation, attracted more than 50 nations as co-sponsors and was adopted by consensus on March 11 2005<sup>8</sup>.

It is to be noted that the united states advanced this resolution at the commission on the status of women as part of its ongoing effort to build international partnerships to combat human trafficking and in response to former presidents Bush's call for increased focus on the demand side of the crime of human trafficking.<sup>9</sup>

This was the first resolution of a United Nations body to focus on eliminating demand for human trafficking and with this resolution, the commissioning the status of woman (CSW) also acknowledge the important link between commercial sexual exploitation and trafficking in women and girls.<sup>10</sup>

This resolution observed that,, to fully fight the crime of human trafficking, the world must increase attention not only on the root cause that leave people vulnerable to trafficking, but also on eliminating the demand for commercial sexual exploitation which actually impacts on women and girls and fuels the growth of

<sup>1</sup> Article 3 Ibid

<sup>2</sup> See articles 7, 8 and 9 of the protocol.

<sup>3</sup> Gbadamosi, O. opcit page 62.

<sup>4</sup> Landan M.T. Migration, Trafficking, *Human rights and refugees under international Law: A case study of African*. Ahmadu Bello University Zaria University Press, (2006). Page 16.

<sup>5</sup> Ibid

<sup>6</sup> Raimo, V. illegal immigration, *Human trafficking and organized crime*. United Nation University press, Finland (2009). Page 12.

<sup>7</sup> Toolkit to combat trafficking in persons: global programme against Trafficking in persons (UNODC) Vienna (2007). Page 10. Available at <http://www.unodc.org/traff>, visited 12/06/2015.

Human smuggling generally means the facilitation transportation, attempted transportation or illegal entry of a person(s) across an international border, in violation of one or more countries laws, either clandestinely or through deception, such as the use of fraudulent documents. Human smuggling is normally with the consent of the person(s) being smuggled, who often large sums of money once in the country of their final destination they will generally be left to their own device.

<sup>8</sup> Gbadamosi, opcit, page 65. See also, Trafficking in persons: the U.S and international response, congress Research services: (2008) p.8 available at: [www.usaid.gov](http://www.usaid.gov), visited. 10/12.2015

<sup>9</sup> Gbadamosi Ibid

<sup>10</sup> Bales, K., Disposable people: *New Slavery in the Global Economy*. (University of California press) (2008) page 29.

human trafficking<sup>1</sup>. The resolution calls upon governments to:

- (a) Take all necessary/appropriate measures to eliminate demand for trafficked women and girls for all forms of exploitation.<sup>2</sup>
- (b) Take appropriate measures to address the root factors, including poverty and gender inequality, as well as external factors that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriage and forced labour, in order to eliminate such trafficking, including by strengthening existing legislation with a view to providing better protection for the rights of women and girls and to punishing perpetrators, through both criminal and civil measures.
- (c) Criminalize trafficking in persons, especially women and girls, in all its forms and to condemn and penalize traffickers and intermediaries, while ensuring protection and assistance to the victims of trafficking with full for their human rights.
- (d) Adopt or strengthen and enforce legislative or other measures, such as educational social and cultural measures, including through bilateral and multilateral cooperation, to deter exploiters and eliminate the demand that fosters trafficking of women and girls for all forms of exploration.
- (e) Conclude bilateral, sub-regional, regional and international agreements to address the problem of trafficking in persons, especially women and girls including mutual assistance treaties.

This resolution generally, calls on states to conclude agreements and memorandum of understanding to enhance law enforcement and judicial cooperation and specific measures aimed at reducing demand, as appropriate to complement the United Nations convention against transnational organized crime and its protocol to prevent, suppress and punish trafficking in persons especially women and children.<sup>3</sup>

#### **IV: CONCLUSION**

This paper reveals that the starting point in the fight against human trafficking is the implementation of the United Nations protocol to prevent suppress and punish trafficking in persons especially women and children. Which supplements the United Nations Convention against transnational organized crime. This paper further suggest that: countries should work on producing greater information on trafficking in persons, this is necessary in order to enable all actors incubating human trafficking to design new laws and implement more effective response.

Generally international laws aims to provide a central guiding framework for states in combating human trafficking and forced labour for this effort to be most effective national legislature should design legal provisions which while consistent with international law are also responsive to national specifics and are tailored to the legal structures and phenomenon of trafficking as manifested in each state.

It should be noted that despite all the above mentioned conventions legal instruments to combat trafficking in persons the menace continues unabated because most state parties are yet to domesticate and strictly implement those laws.

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<sup>1</sup> Article 1 of the resolution

<sup>2</sup> Article 2 of the resolution.

<sup>3</sup>. See article 2 (f) of the resolution