

LEGAL MECHANISMS FOR COMBATTING VODOO AND OTHER CONTROL MECHANISMS IN THE FIGHT AGAINST HUMAN TRAFFICKING IN THE UNITED KINGDOM AND NETHERLANDS: LESSONS FOR NIGERIA

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Abstract

The use of voodoo and other control mechanisms by traffickers constitute an aspect that aids human trafficking. It has made arrest, investigation and prosecution difficult for our law enforcement agencies. This paper depicts how the law enforcement agencies in Nigeria found it difficult to prosecute traffickers as a result of voodoo and other control mechanisms administered on the victims of human trafficking. This paper further considers how law enforcement agencies in the United Kingdom and Netherlands have successfully combatted voodoo and other control mechanisms by enlisting anthropological experts, local priest or cultural experts to combat voodoo and other control mechanisms in human trafficking. This paper concluded that the involvement of cultural experts can contribute to a more comprehensive and successful approach in assisting victims of human trafficking. This paper recommended that the government of Nigeria should borrow a leaf from the United Kingdom and the Netherlands where law enforcement agencies make extra -ordinary efforts to employ and bring local priest, anthropological experts and cultural experts to court to assist in dousing the tension of the victims of human trafficking. This paper also recommended that since voodoo is not expressly stated in the Trafficking in Persons Prohibition Enforcement and Administration Act (TIPPEAA) 2015, the Nigerian government should take a step forward again by amending the principal legislation by making voodoo expressive in the Act not impliedly as it is in the TIPPEAA 2015.

Keywords: human trafficking, voodoo, trafficked person, trafficker.

1. 1 Introduction

Human trafficking has always been part of human history.³²⁰ Recently there has been a link between voodoo, other control mechanisms and human trafficking which are deeply rooted in some parts of Africa particularly Nigeria. Although voodoo, is not specifically stated in the provision of the TIPPEAA³²¹ but it is implied with the use of words like 'threat', 'force', 'coercion' and 'deception',³²² and intimidation under the Criminal code,³²³ are used by traffickers in the fight against human trafficking in Nigeria.

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³²⁰ Amy Joy, *Human Trafficking 101-Stories, Stats, and Solutions* (Amy Joy Publications, 2021) 12.

³²¹ TIPPEAA.

³²² TIPPEAA, s.82.

³²³ Criminal Code Act,(as amended)CCA,s224.

Traffickers use voodoo and other control mechanisms as a unique control method to dominate trafficked persons.³²⁴ Having full knowledge that the belief in the supernatural and voodoo practices regulates the lives of many Nigerian communities, the traffickers deceitfully manipulate this reality to control victims for sexual exploitation.³²⁵

1.2 Definition of Terms

The notion of human trafficking in Nigeria has elicited the research interest of several scholars from diverse backgrounds across the globe. This is as a result of the fact that human trafficking has received increasing global attention over the past decades.

Consequently, legal and social science scholars have done juridical and scholarly works on different issues on human trafficking, voodoo and other control mechanisms by traffickers in Nigeria. This is particularly so where conscious efforts are made by NAPTIP and other law enforcement agencies to put to end to the menace of human trafficking and voodoo which is administered as a control mechanism on trafficked persons in our country. An Attempt shall be made to review the opinions of scholars expressed in some existing literature that are relevant to this paper.

1.2.1 Human Trafficking

Zimmerman and Kiss define human trafficking as a multidimensional human rights violation that focuses on the act of exploitation.³²⁶ The most widely accepted definition of human trafficking is found in United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime 2000, which define human trafficking as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.³²⁷ The working definition of human trafficking for this paper is that human trafficking entails the use of force, fraud, or coercion to obtain some type of labour or commercial sex act for exploitation.

1.2.2 Voodoo

Macmillan Dictionary defines voodoo as a religion whose followers believe in magic and witchcraft.³²⁸ In the United States of America, voodoo is defined as black magic that

³²⁴ *Ibid.*

³²⁵ *Ibid.*

³²⁶ C Zimmerman and L Kiss, 'Human trafficking and Exploitation: A Global Health Concern' <<https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002437>> accessed 2 February 2024.

³²⁷ Art 3(a) Palermo Protocol

³²⁸ Macmillan Dictionary, Definition and Synonyms <<https://www.macmillandictionary.com/dictionary/british/voodoo>> accessed 2 February 2024.

is African witch craft concerned with casting of spells and hexes.³²⁹ Nagle and Owasanoye define voodoo as a religion based on the existence of an invisible world interconnected to the visible world. The authors went furthermore to describe voodoo as a ritual oath derived from religion and the oath seal the agreement between young women and girls who want to travel to Europe or other parts of Europe and traffickers who victimise them.³³⁰

1.2.3 Trafficked Person(s)

A trafficked person is a victim of human trafficking who is often subjected to physical violence, sexual abuse, psychological trauma, and severe deprivation.³³¹ According to the TIPPEA,³³² trafficked person means a victim of human trafficking.

1.2.4 Trafficker(s)

Joy defines trafficker as anyone who receives money or something of value for the sexual exploitation of another person.³³³ According to the interpretation section of the TIPPEAA³³⁴ a trafficker includes any person or an entity that commits or is in the process of committing, aids, abets, facilitates or acquiesces to an act of trafficking in persons.

1.3 Nature of Voodoo and other Control Mechanisms in the Fight against Human Trafficking in Nigeria

Voodoo rites date back to ancient time and voodoo rites originally had a positive function in the traditional Nigerian communities and were practiced to defend the good.³³⁵ Voodoo which is locally regarded as juju is a traditional religion in West Africa where it has been practised for many years.³³⁶ In general, the purpose of voodoo was to prevent suffering and illness caused by epidemic diseases through purges and vow-

³²⁹ J P Bartkwocki, 'Claims-Making and Typifications of Voodoo as a Deviant Religion: Hex, Lies, and Videotape' [1998] (37)(4) *Journal for the Scientific Study of Religion*, 559-579; J M Murphy. 'Black Religion and "black magic": Prejudice and Projection in Images of African-derived Religions [1990](20(4) *Journal of Religion* 323-37.

³³⁰ L E Nagle and B Owasanoye, 'Fearing the Dark: The Use of Witchcraft to control Human Trafficking Victims and Sustain Vulnerability': EUzukwu, *Body and Belief: Exploration in African Ritology. The Magic of Body Language*, Jaarboek Voor Liturgie-Onderzoek; Roland Pierre, *Caribbean Religion: The Voodoo Case*, Soc. of Religion 25 [1977]; *Vodun, African Spiritual Religious Systems*, Afr. People, <http://www.africanholocaust.net/news_ah/voodoo.htm>accessed 2 February 2024.

³³¹ Farlex, 'The Free Dictionary' < <https://www.thefreedictionary.com>>accessed 2 February, 2024.

³³² TIPPEAA (n 3).

³³³ Amy Joy, '*Human Trafficking 101: Stories, Stats, and Solutions* (Amy Joy Publications, 2021)145.

³³⁴ Trafficking in Persons Act (n 3).

³³⁵ E LIacono, 'Victims, Sex Workers and perpetrators: Gray Areas in the Trafficking of Nigerian Women' [2014] (17) *Trends Organ Crim*, 110-128 <<https://doi.org/10.1007/s12117-014-9212-1>>accessed 2 February 2024.

³³⁶ *ibid*

making during which the presence of the gods was evoked. During the western colonialism and the forced deportation of Africans, the old rituals and the cult of spirits helped the deported people to resist persecution and oppression.³³⁷ With regard to the protective functions of voodoo, it has been observed that each step or element related to traveling abroad for example border control, passports, visas and air tickets are still regarded by Africans as something that belongs to the realm of spiritual empowerment.³³⁸ A voodoo ritual process is therefore considered an essential step before leaving their country of origin to ensure trouble-free travel.³³⁹ Recently, the modern, negative interpretation of voodoo which is evident among Nigerian migrants stems from its current role in international trafficking. Traffickers use voodoo as an element of control over trafficked persons.³⁴⁰ Voodoo basically consists of an oath taking in the presence of a traditional priest, in which victims swears to pay off their debts to the trafficker. The term 'voodoo' is not expressly stated in the provision of the TIPPEAA 2015³⁴¹ but it is implied with the use of words like 'threat', 'force', 'coercion' and 'deception'³⁴², and intimidation under the Criminal code.³⁴³ There are Statues in Nigeria that have provision with respect to voodoo and other control mechanisms and they include Criminal Code Ordinance 1916, Penal Code (Northern States) Federal Provisions Act 1960,(as amended (PCA), Economic and Financial Crimes (Establishment)Act 2004, the Constitution of the Federal Republic of Nigeria 1999,(as amended) CFRN, Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015. The CCA,³⁴⁴ is derived from the Criminal Code Act 1916, PCA and other criminal laws were enacted by Nigerian Parliament from time to time.³⁴⁵ The CCA makes provision for control mechanisms on human trafficking and provides that "anyone who procures a woman or a girl by threats, intimidation, or false pretences is subject to punishment by imprisonment for two years. The same punishment applies to anyone who, with the intent to facilitate unlawful sexual relations in or outside of Nigeria, administers stupefying or overpowering drugs on a woman or a girl".³⁴⁶ With respect to voodoo and other control mechanisms where the trafficker administer voodoo on the victims of human trafficking to exert pressure, the CCA penalises any person who "administers any oath on a woman or girl or performs any fetish ritual in order to enable her to travel out of Nigeria for the purpose of becoming a prostitute or to have unlawful carnal knowledge with any person."³⁴⁷

337 *Ibid* 120.

338 *Ibid.*

339 *Ibid.*

340 *Ibid*,121.

341 TIPPEAA.

342 TIPPEAA, s.82.

343 Criminal Code Act,(as amended),s224.

344 CCA.

345 H F Morris, ["How Nigeria Got Its Criminal Code"](#) [1970] (14)(3). *Journal of African Law* 137–154.

346 CCA,s 224.

347 *Ibid*,s 223(A).

The Penal Code,³⁴⁸ which is applicable to the Northern States of Nigeria contains similar provisions of the Criminal Code on human trafficking which also has control mechanisms on victims of human trafficking with the use of the word ‘force’ ‘induce’, ‘seduce’.³⁴⁹ The relevant provisions of other control mechanisms in the Penal Code is embedded in section 275 which provides that: whoever by any means whatsoever induces a girl under the age of eighteen years to go from any place or to do an act with intent that the girl maybe or knowing, that it is likely that she will be forced or seduced to illicit intercourse with another person shall be punished with imprisonment which may extend to ten years or shall be liable to a fine.

Voodoo and other control mechanisms have link with human trafficking as was evident in *Attorney General of Federation v Samson Ovenseri*,³⁵⁰ Ovenseri was in 2006 accused by NAPTIP of having deceived a girl into traveling to Spain to work in a salon for a woman that needed her service. The accused was arrested after the man, who was taking the victim to Spain on his behalf, was arrested at Seme border by immigration officials. The anti-trafficking agency was able to establish that the victim was actually being taken to that European country for prostitution, but the victim did not cooperate with NAPTIP officials because she had been taken to a shrine to take an oath of secrecy. Ovenseri got a one-year jail term.

The use of voodoo was also evident in *Attorney general of Federation v Franca Edith Asiboja*³⁵¹ Franca Asiboja, was jailed for seven years for trafficking young girls to Burkina Faso for prostitution, it came to light in court that Asiboja had compelled her victims to take oaths of secrecy before a shrine called Ogoje, controlled by an old priestess. For the five months that they prostituted in Ouagadougou, before they were arrested by security agencies and repatriated to Nigeria, each of the girls reportedly paid 500,000 CFA to Asiboja in daily remittances. In order to earn their freedom. When they arrived at Burkina Faso, she received them and introduced them into work as prostitutes. She received and controlled the earnings of the girls and kept a record of their payments to her. The victims could not move freely as they had no travel documents.

The crime of human trafficking are difficult to prosecute in Nigeria as a result of the fact that our law enforcement agencies are yet to understand the notion of voodoo and particularly the mind-set of the victim in order to gain their trust and hope to gather enough evidence.³⁵² The consequences of this oath taking are not just destructive to the trafficked persons, yet it is impediment to the anti-trafficking measures, particularly for law enforcers and policy implementers.³⁵³

³⁴⁸ PCA, s 275.

³⁴⁹ *Ibid*,

³⁵⁰ (2018) LPELR-45266(CA).

³⁵¹ Charge No: B/BIC/05.

³⁵² *Ibid*.

³⁵³ U M Usman and Others, ‘Trafficking Twin Error: Mysterious Madam and Voodoo Victimisation in the Case of Nigeria’ [2018] (8)(1) *Journal of Public Administration and Governance*, 403.

1.4 Legal Mechanisms for Combatting Voodoo and other Control Mechanisms in the Fight against Human Trafficking in United Kingdom

The United Kingdom prohibits all forms of trafficking under the Modern Slavery Act 2015. Authorities have taken significant measures to identify and provide care to trafficked victims who are trafficked for sexual exploitation and have launched aggressive law enforcement efforts against human trafficking.³⁵⁴ The legal mechanisms for combatting human trafficking with respect to voodoo and other control mechanisms in the United Kingdom for the purpose of this paper are the Modern Slavery Act and the use of sentencing guidelines by the courts.

The United Kingdom (UK) is a destination country for men, women, and children primarily from Africa, Asia, and Eastern Europe who are subjected to human trafficking for the purposes of [sexual slavery](#) and [forced labour](#), including [domestic servitude](#).³⁵⁵ United Kingdom ranked as a "[Tier 1](#)" country by the [US Department of State](#), which issues an annual report on [human trafficking](#).³⁵⁶ The most common types of trafficking are: sex trafficking: working as prostitutes, in pornography, phone sex lines, internet chat rooms, escort agencies. Forced labour: working for low pay, or no pay, in poor conditions with threats of punishment.³⁵⁷

According to the provision of the Modern Slavery Act 2015,³⁵⁸ a person commits the offence of human trafficking "if the person arranges or facilitates the travel of another person for the purpose of being exploited". The Modern Slavery Act 2015 provides that, a person commits the offence of human trafficking "if the person arranges or facilitates the travel of another person with a view to being exploited".³⁵⁹ People do not have to be transported across borders for trafficking to take place. It applies to travel within a country.³⁶⁰

- (a) The Modern Slavery Act, 2015, (MSA): The Modern Slavery Act is a globally leading piece of legislation. MSA concerns is that modern slavery and human trafficking should be dealt with in the UK. Whilst not all of the MSA is directly relevant for business, section 54 entitled 'Transparency in supply chains' impacts the corporate sector. The MSA, which came into force on 29th October 2015, requires many businesses with respect to section 54 of MSA to disclose a 'slavery

³⁵⁴ *Ibid*

³⁵⁵ *United States, Department of States 'Trafficking in Persons Report 2012'* <<https://2009-2017.state.gov/j/tip/rls/tiprpt/2012/>> accessed 15 February, 2024.

³⁵⁶ *Ibid.*

³⁵⁷ Metropolitan Police, Human Trafficking <<https://www.metpolice.uk/>> accessed 15 February 2024.

³⁵⁸ MSA, s 2.

³⁵⁹ *Ibid.*

³⁶⁰ J Tyler-Todd and J Dawson, 'Human Trafficking and Modern Day Slavery' <<http://researchfindings.files.parliament.uk/>> accessed 15 February 2024.

and human trafficking statement'.³⁶¹The United Kingdom in 2015, enacted the MSA, which became the first independent law the UK has ever created for anti-trafficking that led to a new Anti-Slavery Commission.³⁶²The MSA breaks new grounds not only in tightening and extending the penalties for human trafficking, but also in broadening the responsibilities of stakeholders including those in the supply chain industry.³⁶³The MSA takes important steps to ensure that slavery, human trafficking, servitude and forced or compulsory labour are eradicated.

(b)

The MSA made provisions for an independent anti-slavery commissioner, the first position of its kind in the world.³⁶⁴ In 2015, the commissioner, Kevin Hyland, published his first Strategic Plan between the year 2015–2017 focused on five important priorities to stimulate the UK government's response to combating modern human trafficking, including enhanced identification and care of victims of human trafficking; driving an improved law enforcement and criminal justice response; promoting international best practice in partnerships; engaging the private sector to develop supply-chain transparency and fight against the menace of human trafficking.³⁶⁵

The MSA in relation to voodoo and other control mechanisms in this paper provides that ³⁶⁶where services are secured by force, threats or deception designed to induce victims of human trafficking amounts to exploitation and it should be frowned at. The MSA provides for penalty on summary conviction is subject to twelve months' imprisonment and / or unlimited fine. On conviction on indictment, the maximum sentence is ten years' imprisonment. However, where the offence involves false imprisonment or kidnapping, it is life imprisonment.³⁶⁷

(b) Sentencing Guidelines:

The first sentencing guidelines for offences under the MSA 2015, including slavery, forced labour, human trafficking or an offence committed to facilitate human trafficking.³⁶⁸ The new guidelines, which apply to England and Wales. In this new

³⁶¹ United Kingdom Home Office, Country Information and Guidance Nigeria: Trafficking of Women

August 2016, Version 1.0, < <https://www.refworld.org/docid/57b710594.html> > accessed 15 February 2024.

³⁶² M Ikeora, 'United Kingdom Anti Trafficking Response: The Context of Destination Country' in C Anker(ed) *Bilateral Cooperation and Human Trafficking: Eradicating Modern Slavery between United Kingdom and Nigeria* (London United Kingdom, Palgrave Macmillan 169).

³⁶³ *Ibid.*

³⁶⁴ The All Party Parliamentary Group in Nigeria, Human Trafficking between Nigeria and UK: Addressing a shared Challenge <<https://www.chathamhouse.org>> accessed 20 February 2024.

³⁶⁵ *Ibid.*

³⁶⁶ MSA, s 3(5).

³⁶⁷ MSA, s 5(1-4).

³⁶⁸ Sentencing Council: 'New Sentencing Guidelines for Modern Slavery Offences Published'

guidelines, judges' and magistrates will give severe penalties of up to 18 years to offenders in a leading role who expect substantial financial advantage and who expose victims to an extremely high risk of death. The penalty in the new guidelines is evident in the United Kingdom, case of a London-based nurse Josephine Iyamu who was jailed for trafficking Nigerian women into Germany to work as prostitutes after subjecting them to "voodoo" rituals. Josephine Iyamu forced the five women to swear on oaths. The women were made to undergo a black magic ritual known as "voodoo", in which they pledged not to run away or inform Police. During the ceremony - performed by a voodoo priest - the women were made to drink blood mixed with worms, eat a chicken heart and had black soot rubbed inside fresh wounds. With zero regard for their safety and wellbeing, Iyamu sent them via dangerous routes to Germany and forced them to work in brothels to fund her own lavish lifestyle, Iyamu was arrested as she flew into London in August after police were tipped off by a brothel owner in Germany, who suspected one of the women was on a fake passport. Britain passed tough anti-slavery legislation in 2015 introducing life sentences for traffickers and allowed British nationals to be tried for human trafficking offences regardless of where they took place. Iyamu, 51, formerly of Bermondsey, was convicted of arranging or facilitating travel for sexual exploitation and perverting the course of justice. She was jailed for 14 years in 2018 at Birmingham Crown Court. Iyamu became the first British national prosecuted for Modern Slavery Act offences after trafficking victims outside the UK. Following an appeal, her sentence was increased to 18 years two months later.³⁶⁹ The case marked the first successful prosecution of a Briton for slavery offences committed outside the country and was a test of the country's tough anti-trafficking laws, passed in 2015 to crack down on the modern human slave trade.

Another interesting case is the case of *R v Anthony Harrison*³⁷⁰ the victims were two minor females from Nigeria who were subjected to "juju" ceremonies to terrify them into obedience, silence and ensure that they pay their "debt". The prosecution enlisted the expertise of an anthropologist with a specific knowledge of Nigeria and witchcraft practices. Evidence given by this witness enabled the jury to better understand the circumstances of the case and why the victims' evidence had been given piecemeal and, was, on the face of it, inconsistent. The use of the expert also assisted the jury to understand the complex relationships between the trafficker and the victims as well as the cultural context which is the voodoo that aids human trafficking. The defendant was convicted of conspiracy to traffic two victims for sexual exploitation and other charges and sentenced to 20 years imprisonment.

<<https://www.sentencingcouncil.org.uk/news/item/new-sentencing-guidelines-for-modern-slavery-offences-published/>>accessed 12 March 2024.

³⁶⁹ Sahara Reporters, 'Human Trafficking: Nigerian 'Voodoo' Politician in United Kingdom Jailed, Ordered to Hand over N100 Million Illicit Earnings' <<https://saharareporters.com/2022/03/24/human-trafficking-nigerian-%E2%80%98voodoo%E2%80%99-politician-uk-jail-ordered-hand-over-n100million>>accessed 14 March 2024.

³⁷⁰ (T20117086), 7 July 2011 (Judgment of the Crown Court, unreported), United Kingdom.

Offenders coerced or intimidated into committing slavery or human trafficking offences or are themselves victims, will have that fact recognised by the courts, which could see them receive comparatively lower sentences, where appropriate.³⁷¹ The United Kingdom had notorious Nigerian human trafficking cases involving voodoo, witchcraft to control victims. One of the cases revolving around “juju”, is *Jumale and Zakaria*³⁷² One defendant told the child that it was part of his culture for a girlfriend to have sex with their boyfriends’ friends and family. They were convicted for their parts in the rape, abuse and prostitution of four British teenagers, who were preyed upon and passed around the men's friends for money.

1.5 Legal Mechanisms for Combatting Voodoo and other Control Mechanisms in the Fight against Human Trafficking in the Netherlands

The legal mechanisms used in the Netherlands to combat human trafficking are the Dutch Criminal code of 1886 and the court to eradicate human trafficking.

(a) Dutch Criminal Code (DCC) 1886: One of the legal mechanisms is the DCC, DCC is the law that used in the fight against human trafficking in Netherlands. There are three provisions of the laws that are relevant to human trafficking, the first provision of the law³⁷³ the DCC specifies what exactly ‘human trafficking’ is under Dutch criminal law and the appropriate punishment also provided for.³⁷⁴ The second provision is Chapter B8/3 (formerly B9) of the Aliens Act implementation guidelines which specifies the right of victims to a reflection period of three months, whereby the victim of human trafficking can decide whether or not to cooperate with police and prosecutor and/or go on with the trial. The right of the victim to a temporary residence permit for the time the trial of the offender(s) lasts. Cooperation with police and prosecutor in the prosecution of the offender(s) is a precondition for the temporary residence permit.³⁷⁵ The right of victims to receive (both in the reflection period and when temporary residence status is obtained): to medical care; to social benefits; to legal assistance; and or shelter. The third is Chapter B9 (formerly B16/7) of those same guidelines which sets out that continued residence (after temporary residence status on the basis of B8/3 has expired) can be requested if the victim has cooperated in the prosecution of an offender, which led to a conviction; if the criminal procedure lasted more than three years; or on the basis of humanitarian circumstances.³⁷⁶ In the DCC, trafficking for sexual purposes³⁷⁷ encompasses all forms of socio economic exploitation of human beings through coercion, deceit, and violence; it also includes provisions for organ trafficking. Under Article 273(a) of the DCC, all human trafficking offences will carry a minimum penalty of six (6) years and, depending upon aggravating circumstances, a maximum

³⁷¹ *Ibid.*

³⁷² UNODC (Vienna), ‘Evidential Issues in Trafficking in Persons Cases: Case Digest; Attorney General’s Reference’ No. 126 of 2014 [2015], EWCA Crim. 128, para. 7.

³⁷³ Art 273 (f).

³⁷⁴ R F Viergever, *Adapting to Survive: Facilitating Recovery after Human Trafficking* (Unpublished PhD Thesis, University of London 2016).

³⁷⁵ *Ibid.*

³⁷⁶ *Ibid.*, 23.

³⁷⁷ DCC, art 273 (a).

penalty of twelve (12) years. In addition, if a human trafficking offence is proved to have resulted in death, the penalty can increase to a maximum of fifteen (15) years³⁷⁸.

(b)The Courts: In the Netherlands, multiple cases have been discovered where traffickers are using voodoo and other control mechanisms to manipulate victims of human trafficking. In 2012, Netherlands, had one of the largest cases known as the Koolvis case that involved over 120 victims.³⁷⁹The Dutch court convicted traffickers who were bringing women from West Africa to Europe for commercial sexual exploitation. Generally, it is common in human trafficking cases for victims to have a fear of testifying against their traffickers, but in this particular case, it was compounded by a fear of breaking a voodoo oath which almost protected the gang of traffickers from a conviction. But for the law enforcement agency who in the effort of doing their work very well and achieving success engaged the help of a local Nigerian priest that they could make the victims feel free of their curse and comfortable enough to talk to the police and help convict their traffickers.³⁸⁰

Also in Netherlands, a Dutch court sentenced a Nigerian-born man accused of leading an international prostitution ring which used voodoo to threaten victims to seven years in jail. Three accomplices were also sentenced to between six months and four years by the court in the northeastern city of Zwolle for their part in luring at least 14 young Nigerian girls to the Netherlands and forcing them into the sex trade. The court sentenced the four accused to between seven years and six months for human trafficking,” a court statement said. Peter Kwame S, 42, lured underage Nigerian girls to the Netherlands by promising them legal work in a shop “where they could earn good money. The two victims were “subjected to voodoo rituals in Nigeria to make them swear an oath that they would not go to the police and to pay back their ‘madams’ about €60,000 in cash.”³⁸¹

A Nigerian victim was told that she could work as a hairdresser in the Netherlands. The victim was told she had a debt of \$35,000 and threatened by means of “juju” that if she did not pay, horrible things would happen to her and her family. She was forced to work as a prostitute. The defendants were convicted of trafficking a Nigerian victim was told that she could work as a hairdresser in the Netherlands. The victim was told she had a debt of \$35,000 and threatened by means of “juju” that if she did not pay, horrible things would happen to her and her family. She was forced to work as a prostitute. The

³⁷⁸ C Braspenning, ‘Human Trafficking in Netherlands; The Protection and Assistance to Victims in Light of Domestic and International Law and Policy’[2006](1)*Intercultural Human rights Law Review*,338,339.

³⁷⁹ M Villemain, West African Voodoo: A Technique for Control by Human Traffickers’<<http://humantraffickingsearch.org/wp-content/uploads/2017/06/West-African-Voodoo-A-technique-for-control-by-human-traffickers.pdf>>accessed 24 March 2024.

³⁸⁰ *Ibid.*

³⁸¹ AgenceFrance- Presse, ‘Four Sentenced in Dutch “Voodoo” Prostitution Case’ (Times Malta, 17 August 2011)<<https://timesofmalta.com/articles/view/Four-sentenced-in-Dutch-voodoo-prostitution-case.380613>>accessed 26 March 2024.

defendants were convicted of trafficking.³⁸² A very interesting case from the Netherlands shows how fear of “juju” threats was tackled by law enforcement in a creative way.³⁸³ The Nigerian victims in this case lied or would not give a statement because they were afraid of the “juju” threats and did not trust the police (they thought the police were corrupt because of their own cultural background). In order to counter this, the police made sure that the victims first talked to a former victim of human trafficking (“hands-on” expert) and a “juju priest”. He helped the victims to get rid of the curse. Only after this would the police question the victim—sometimes in the presence of the “hands-on” expert.

1.6A Comparative Analysis of Combating Voodoo and Other Control Mechanisms in the Fight against Human Trafficking between Nigeria, United Kingdom and Netherlands

Our justice system in Nigeria with regards to arrest, prosecution, investigation and sentencing on human trafficking is still weak compared to what is obtainable in other jurisdictions like the United Kingdom and Netherlands. The weakness of the justice system with respect to combatting voodoo and other control mechanisms is evident in the manner our law enforcement agency particularly the Police prosecute matter of traffickers. The weakness of our law enforcement agencies is not their fault but some of our domestic laws are limiting in nature as not allowing for admission of certain electronic evidence and depositions of witnesses /victims in other countries during trial. Lack of non-existing robust witness protection programmes makes it difficult to assure and secure cooperation of victims/witnesses. The investigation or arrest by the Police on the victims of human trafficking whom voodoo has been administered upon are carried out by local Police officers with little or no expertise in human trafficking, and no knowledge of the status of victim of human trafficking.³⁸⁴ Our law enforcement agencies attitude is often limited to targeting people without papers, in order to transfer them to a detention centre with a view to repatriating them or to issue them with an order to leave the territory.³⁸⁵ There has been no effort at all by the Police on using proactive

³⁸² UNODC (Vienna), Evidential Issues in Trafficking in Persons Cases: Case Digest; Attorney General’s Reference No. 126 of 2014 [2015], EWCA Crim. 128, para. 7; Groningen District Court, 12 December 2000, *ECLI: NL: RBGRO: 2000:AA8975*, 100<
<[³⁸³ *Ibid*, Supreme Court, 4 March 2014, *ECLI: NL: HR: 2014:477*, Netherlands; Dutch National Rapporteur on Trafficking in Human Beings \(2009\). *Trafficking in Human Beings—Seventh Report of the Dutch National Rapporteur*. The Hague: Bureau NRM, 358-367,
<\[³⁸⁴ Myria, Federal Migration Centre, Annual Report trafficking and Smuggling of Human Beings \\(2018\\) <\\[³⁸⁵ *Ibid*.\\]\\(https://www.myria.be/en/publications/annual-report-trafficking-and-smuggling-of-human-beings>accessed 27 March 2024.</p>
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method to counter the voodoo that was administered on the victims of trafficking.³⁸⁶

In Nigeria, it is only the Police and officials of NAPTIP that carry out arrest, investigation, prosecution of traffickers. In both agencies few or no experts in human trafficking such as psychologists, anthropologists and cultural experts who are vast in the area of studying psychology of victim, or experts in culture, tradition that deals with witchcraft which can assist the judge to understand the phenomenon.³⁸⁷ There is also no focus area by our law enforcement agencies as to sexual exploitation, labour exploitation, prostitution, slave dealing, trafficking of organs, trafficking of children which could make them to have firm grip of different aspect of human trafficking. The agencies carry the responsibilities of investigating and prosecuting all manner of offences. The dearth of experts in the Police force and the NAPTIP with regards to anthropologist, cultural experts and local experts impedes effective administration of justice in the sense that it does not give room for real evidence to be before the court to decide on. This is not what is obtainable in Netherlands, in Netherlands, three authorities are in charge of criminal investigations of human trafficking in the Netherlands. These are the Dutch Police force, the Royal Netherlands Military Constabulary and the Inspectorate Social Affairs and Employment (ISZW). In Netherlands, the Dutch Police sees criminal prosecution of traffickers as their main goal, leaving the protection of victims mainly to civil organisations and NGOs and this makes human trafficking to be minimal because all efforts are put toward eradicating the menace completely³⁸⁸ while in Nigeria prosecution, prevention investigation and protection³⁸⁹ of victims are carried out by the police and NAPTIP. In Netherlands, all the three investigative authorities operate under the authority of the public prosecutors Service (PPS) when investigating human trafficking. Under this authority, all three can in principle conduct their own criminal investigations on human trafficking in the form of sexual exploitation and/or labour exploitation, or cooperate with and support one another in a criminal investigation. However, each of these authorities has a focus area and specific legal powers and duties related to their overall responsibilities and objectives.³⁹⁰ The upshot of this is that sexual exploitation is investigated primarily by special units of the Dutch police force, the so-called Aliens Police, Identification and Trafficking in Human Beings Department (AVIM). Labour exploitation is investigated primarily by the ISZW. The Royal Netherlands Military Constabulary (KMar) plays an important role in investigating signals of human trafficking (in both forms) at airports, ports, and the Dutch borders.³⁹¹

In Nigeria no criminal investigation on human trafficking goes hand in hand with criminal financial investigation to get evidence to use in court to facilitate arrest and

386 *Ibid.*

387 *Ibid.*

388 C M Brenda and Others, 'Financing of Trafficking in Human Beings in Netherlands' <<https://repub.eur.nl>> accessed 26 March, 2024.

389 TIPPEAA, s 5.

390 *Ibid.*

391 TIPPEAA, s 5.

prosecution of traffickers which ordinarily should be done or carried out by the Economic and Financial Crimes Commission (EFCC) but in Netherlands every criminal investigation of human trafficking must go hand in hand with a criminal financial investigation that is directed – if possible – not only at the defendant but also at the entire criminal network. The aim of the criminal financial investigation is threefold: i) to support the case in terms of evidence; ii) to enable the confiscation of unlawfully obtained profits; iii) to substantiate a possible claim of damages of the victim

In Nigeria, when lawyers and advocates noticed that the victims of human trafficking are not ready to cooperate with investigation or prosecution during trial. The lawyers do not deem it fit on themselves to go the extra ordinary miles with or without cost to investigate and arrest juju priests in order to establish a physical and spiritual neutralisation of the effects of oaths³⁹² carried out during the voodoo ritual process. But in United Kingdom for instance in the *Tecum* case, where the advocate working with the 19-year-old Maria Choz in 2002 made an extraordinary effort to see a “white witch” who neutralised the magic Jose Tecum used against Maria Choz. At that point, she began to cooperate with the investigators and the government was able to proceed with building its case against her traffickers. In Nigeria, especially the (NAPTIP), an agency established to handle cases of trafficking their effort is only directed when the case has been concluded that is when judgment has been entered but not during the course of investigation and the trial of the case. That is to say most efforts carried out by the agency is during the re-Integration process of the victims, NAPTIP organises oath breaking rituals to ‘cut off ties between the victim and trafficker to erase any effect of the oath taken in the past. These rituals involve contacting (and sometimes compelling) juju priests who conducted the ritual to nullify it and its effects.³⁹³ Contacting the juju priests to nullify the effects of the oath is an afterthought which cannot douse the tension or remove the fear from the victims. This does not in any way curb human trafficking compare to what was done in the two other jurisdictions. NAPTIP also, involve churches and other Christian places of worship (deliverance centres and spiritual homes) to conduct ‘deliverance’ sessions for victims, with the aim of nullifying the effects of the oaths after case has been concluded in court. Here, trafficked persons undergo a period of fasting and praying exercises and ‘spiritual cleansing’ recommended by the church.³⁹⁴ The resulting effects of these ‘oath breaking’ ritual and ‘deliverance’ session is quite contrary, to its intended outcome. It seeks to ‘free’ the victim from the bondage of the oaths but also feeds the society that the oaths taken are efficacious enough that if not broken or ‘fasted and prayed’ on, it could actually come to manifestation.³⁹⁵

³⁹² K Geldenhuys, ‘The Link between Human Trafficking and Witchcraft’ <<https://journals.co.za/doi/10.10520/EJC-16b2496667>> accessed 26 March 2024.

³⁹³ C Olufade, ‘Sustenance of Sex Trafficking in Edo State: The Combined Effect of Oath taking Transnational silence and Migration Imaginaries on Trafficked Women in Edo State’ [Research Report] IFRA- Nigeria Working Paper series 75 IFRA Nigeria 2019 1-26.

³⁹⁴ *Ibid.*

³⁹⁵ *Ibid*

1.7 Lessons for Nigeria

Nigeria has many lessons to learn from the two other jurisdictions. With respect to the Koolvis case in the Netherlands, the game plan of this operation was to seize the criminal chain throughout the recruitment activities in Nigeria, the trafficking to Europe via the Netherlands, and its termination point in an exploitative stage where the women work as prostitutes in Italy or Spain.. Instead of looking at individual cases of victims arriving in the Netherlands, this investigation focused on mapping the entire organisation. In the Netherlands and United Kingdom the law enforcement agencies in those two countries make their efforts during the trial of the cases by enlisting anthropological expert, local priest or cultural experts who come to the court to testify and to show the court that tension and fear can be removed from the mind of the victims to enable the court get their evidences and convict the traffickers. The cultural experts provides information on socio-cultural issues such as kinship, family, marriage, customs, language, religion, witchcraft and so on.

Furthermore, in certain cases the motivation or lack of motivation of the victim to tell the full story can be explained, at least in part, by aspects of his or her culture. The need for expert testimony on these particular topics may vary from country to country, often depending on how familiar the court is with the anthropological and cultural interface relevant to the case .The use of the expert also assisted the jury to understand the complex relationships between the trafficker and the victims as well as the cultural context which is the voodoo that aids human trafficking. In the United Kingdom case ³⁹⁶the defendant was convicted of conspiracy to traffic two victims for sexual exploitation and other charges and sentenced to 20 years imprisonment.

With respect to court sentencing as regards terms of imprisonment by the court, in Nigeria and the other two jurisdictions. It is the position that the terms of imprisonment in Nigeria as regards sentencing is too short and fine is too small too to deter a trafficker or a recidivist trafficker from committing the crime of human trafficking. For instance the provision of the Act which relates to voodoo that covers threat, or use of force or other forms of coercion attracts a term of imprisonment of less than two years and a fine of not less than N250, 000 by the court.³⁹⁷This is evident in *AGF v Sarah okoya*³⁹⁸ where the accused was sentenced to 12 months imprisonment. If we look at the sentence, it is short though the judge in that case must have entered the judgment based on the facts and evidences before it. The term of sentence is not even capable to deter other traffickers from committing the crime of human trafficking compare to what is obtainable in other jurisdiction like United Kingdom where the defendant was sentenced 18 to 20 years of imprisonment.³⁹⁹While in Netherlands under the provision of the Dutch Criminal Code⁴⁰⁰ it provides that all human trafficking offences will carry a minimum penalty of six (6) years and, depending upon aggravating circumstances, a maximum

³⁹⁶ (T20117086), 7 July 2011 (Judgment of the Crown Court, Unreported), United Kingdom

³⁹⁷ TIPPEA 2015,s 13 (1) (2).

³⁹⁸ Suit NO. B/15/15c/2004. (High Court of Edo State, Benin City. Unreported). Judgment delivered on 19 November, 2004

³⁹⁹ (T20117086), 7 July 2011 (Judgement of the Crown Court, unreported), United Kingdom)

⁴⁰⁰ DCC, art 273(a).

penalty of twelve (12) years. In addition, if a human trafficking offence is proved to have resulted in death, the penalty can increase to a maximum of fifteen (15) years. In United Kingdom, the penalty on human tracking carries an imprisonment of twenty years or life imprisonment.⁴⁰¹

1.8 Conclusion and Recommendation

Combatting voodoo and other control mechanisms in the fight against human trafficking is difficult because the victim of human trafficking sees the trafficker as the helper who wants the victim to live a better life. This paper concludes that the use of voodoo and other control mechanisms shall continue to make human trafficking to thrive as business for traffickers if our law enforcement agencies are not proactive by employing local priest, cultural experts, anthropological experts during investigation and trial of the case in court to douse the tension and remove fear from the victims of human trafficking. Using cultural experts in aiding victims of human trafficking can be crucial in addressing the tension experienced by these trafficked victims. Cultural experts play a significant role in understanding the cultural context of victims, which is essential for providing effective support and care. By recognizing the cultural norms, values, and beliefs of the victims, cultural experts can help create a more culturally sensitive and appropriate response to their needs. This approach can help build trust, facilitate communication, and ensure that interventions are respectful and tailored to the specific cultural background of the victims. The involvement of cultural experts can contribute to a more comprehensive and successful approach in assisting victims of human trafficking.

This paper recommends that the government of Nigeria should borrow a leaf from the United Kingdom and the Netherlands where law enforcement agencies make extra - ordinary efforts to employ and bring local priest, anthropological experts and cultural experts to court to assist in dousing the tension of the victims of human trafficking. This paper also recommends that since voodoo is not expressly stated in the Trafficking in Persons Prohibition Enforcement and Administration Act(TIPPEAA) 2015, the Nigerian government should take a step forward again by amending the principal legislation by making voodoo expressive in the Act not impliedly as it is in the TIPPEAA 2015.

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MSA, s 5(a)(b).