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STAKEHOLDERS PERSPECTIVES ON THE HUMAN RIGHTS OF THE TRAFFICKED PERSON IN NIGERIA

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ABSTRACT

The human rights of the trafficked person are supposed to be the centre of all policies in the prevention and protection of trafficked persons. In its efforts to rescue, rehabilitate and reintegrate trafficked persons, Nigeria in 2008 formulated a National Policy on Protection and Assistance to Trafficked Persons in Nigeria (NPPATPN). The policy is aimed to ensure the trafficked persons are protected and assisted with full respect to their human rights. Therefore, this article examines the stakeholders' perspectives whether the human rights of the trafficked person (victims) are protected or not in the cause of implementing the policy. The study provides a qualitative look into the implementation of the policy, by using interview to explore the perspectives of the stakeholders who are involved in the translation of NPPATPN in Nigeria. The findings revealed that trafficked persons were subjected to discriminatory treatment; Shelter is more of detention centre; Poor health facilities; and non-compensation of trafficked person from the proceeds of their labour. Thus, the article concluded that trafficked persons rights are not fully guaranteed while implementing NPPATPN. Thereby this study suggested the need to take into consideration upon the rights of the trafficked person in rehabilitation and reintegration process.

Keywords: human trafficking, human rights, policy, trafficked person

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INTRODUCTION

Human Trafficking is the violation of the fundamental human rights of the trafficked persons, who are subjected to various forms of torture, degradation, forced and compulsory labor which is against the freedom and the dignity of human persons. Nigeria is considered as a source, transit, and destination of human trafficking. Human trafficking posed a serious problem in Nigeria and the country is considered a leading African country in terms of human trafficking as well the country accounts for 13 percent of the global record, (United States Department of States [USDOS] Report, 2013; Duru & Ogbonnaya, 2012; International Labour Organization [ILO] 2012; Ako, 2011; Agbu, 2003). It was also estimated that 40,000 to 50,000 Nigerian women are already caught-up into human trafficking and that over 6 million children are at the risk of being drawn into human trafficking (Akinyinka, 2011).

The Nigerian government is aware of the problem of human trafficking and the challenges of trafficked persons rehabilitation and reintegration. Therefore, in 2003 enacted the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003 (TPPLEAA) as amended in 2005 and 2015. The TPPLEAA established National Agency for Prohibition of Trafficked in Persons and other Related Matters (NAPTIP). The Act

TPPLEAA prohibits human trafficking and prescribed a penalty for human traffickers. The Act focused more on criminalizing human trafficking, and prosecution of human traffickers, with little attention on trafficked person's human rights (TPPLEAA, 2015). Other than TPPLEAA there are other statutes that are relevant in dealing with related human trafficking issues such as Child Right Act 2003, Immigration Act Cap 189, Labour Act Cap 198 Criminal Procedure Code (CPC), and Criminal Procedure Laws (CPL). However, quite several trafficked persons are yet to be protected and assisted, this necessitated the need for National Policy on Protection and Assistance to Trafficked Persons in Nigeria (NPPATPN) that takes the trafficked persons human rights into consideration.

The policy NPPATPN was designed and formulated by NAPTIP and approved by the Federal Executive Council (FEC) in 2008. The philosophy behind the formulation and the adoption of the NPPATPN was based on article 6 of United Nations Trafficking Protocol, section 14 (2) (b) of Nigerian Constitution and Trafficking in Persons (Prohibition) Enforcement and Administration Act (TPPEAA)

respectively. Hence, NPPATPN derived its source from these three legal instruments (See Figure 1).

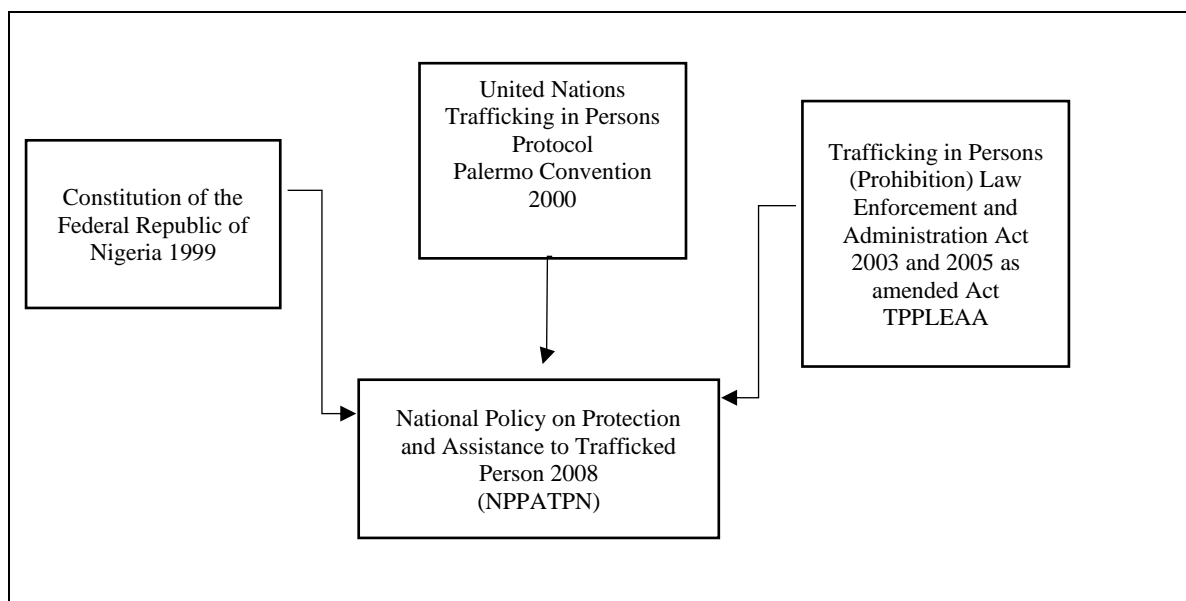


Figure 1: Sources of NPPATPN

These three legal instruments are critical to the development of the NPPATPN. Section 14 (2) (b) of the Constitution of the Federal Republic of Nigeria states that “Security and the welfare of the people shall be the primary purpose of Government”. Article 6 of United Nations Trafficking in Persons Protocol stated: “that the states party shall consider implementing measures to protect and assist the victims of human trafficking”. Similarly, section 4 of TPPEAA states that “The agency shall coordinate the rehabilitation of trafficked person”. Thus, these legal instruments show that protection and advancement of trafficked person’s security, dignity, and welfare is a critical issue of consideration.

LITERATURE REVIEW

Studies related to human trafficking issues around the world shows there was extensive research on human trafficking internationally, most of the studies on human trafficking concentrate in Europe and Asia. These studies tend to focus on nature, characteristic of

human trafficking, sustainable factors of human trafficking, modus operandi of human traffickers, the global incidence of human trafficking and the profit generated from the crime. (Wong & Saat 2002; Sadiq, 2005; Lee, 2005; David 2008; Belser, 2005; Gozdzia, & Collett, 2005; Saat 2009; Blackburn, Taylor & Davis, 2010; Harold, 2012; Wan Ismail 2014; Huda, 2006; Omar & Trebesch, 2010; Farley, 2009; Kin, Minwoo, Park & Hue, 2009; Adepoju 2005; Dottridge 2002; Neske, 2006; Heckmann, 2005; Monzini, 2005; Raymond, 2002; Uddin, 2014). Based on the reviewed literature, it indicated that academic studies on trafficking in persons are limited in Nigeria, despite the country is a leading African country in term of human trafficking. Therefore, this study would add to the existing literature on human trafficking issues in Nigeria with focus NPPATPN.

There are increasing research relating to stakeholders in anti-human trafficking projects. Some of these studies highlights the efforts of security, police, international

organizations, Non-Governmental Organizations, and government agencies in counter human trafficking intervention (Raymond, 2002; Marta & Rima, 2002; Rebecca, 2008; Janssens & Jana, 2009; Fred, 2009; Limanowska & Konrad, 2009; Friesendorf, 2009; Krisztina, 2010; Ekon, 2012) None of the reviewed literature combined the anti-trafficking stakeholders to understand their perception on the implementation of NPPATPN from the human rights perspectives. Therefore, there is need to capture the stakeholders' diverse perspectives on the NPPATPN about the trafficked persons human rights, which has not been given attention in the previous studies. Most of the previous studies on Nigerian human trafficking and policy responses, focussed on Child Rights Act, Penal, Criminal Codes and TPPLEAA (Oloruntimehin, 2002; Agbu, 2003; Sylvester, 2003; Reef, 2005; Adepoju, 2005; Imudia, 2009; Ako, 2011; Shatsari, 2011; Duru & Ogbonnaya, 2012; Okoli & Francis, 2013; Johnson, 2014; Adesina, 2014; Ikeora, 2016). However, no effort was made to examine the National Policy on Protection and Assistance to Trafficked Person in the country. Hence, this article examines the stakeholders' perspectives whether the human rights of the trafficked person (the victims) are protected or not in the cause of implementing the policy, which has not been given much attention in the previous research.

METHODOLOGY

The purpose of the study is to explore and to gain a deeper understanding of the phenomenon under study and therefore, qualitative approach is the most appropriate method to be used (Creswell, 2003; Patton, 2002; Denzin & Lincoln, 2000). In line with this, the approach is suitable for this study, as the research attempt to explore and obtain the

perspectives of stakeholders on NPPATPN from the human rights issues. The informants were purposively selected from Government official, Non-governmental Organizations (NGOs), International Governmental Organizations (IGO) and Trafficked Persons that were knowledgeable on human trafficking issues, experienced and are willing to participate. (See Table 1 for the background of the informants). To this study, 20 informants were approached of which 15 informants (5 Government official, 4 NGOs, 2 IGOs and 4 Trafficked persons) were interviewed. The number (15) of informants in this study was determined by the point of saturation (Guba & Lincoln 1994). Semi-structured with open-ended questions in English and Hausa languages were conducted with 15 informants. Therefore, all the interviews were conducted at the time range between 45 to 90 minutes and the interview took place in various place recommended by the informants. Non-Participatory observation was also employed, It provides researchers with the opportunity to witness events, actions, see, hear and observe the behaviours of the participants as they occur in their natural settings, rather than just depend on Informants' viewpoints (Merriam, 2009). Thus, the researchers observed the physical setting of the shelter, activities and interactions that are taking place in the shelter.

The data analysis started by transcribing both the Hausa and English audio-recorded interview manually. The transcribed Hausa versions were translated into English language and thoroughly verified by professional editors. The researchers followed the analytical procedures proposed by Creswell (2007). Firstly, the researchers transcribed all the interviews. Secondly, each of the transcribed interviews was read, re-read and re-read in its entirety for the purpose of familiarization and preparation for coding.

Thirdly, the researchers reduced the collected data into various themes through the process of coding (Saldana, 2015; Hills, Huberman & Saldana, 2014; Creswell, 2007; Flick, 2006; Berg, 2001; Miles & Huberman, 1984). Series of measures were taken to ensure the research is credible, these include member checking, back translation, method, and source triangulation were also done to help achieve reliability. As for the ethical issues, all the informants were informed about the study and

agreed to participate in the study. In compliance with the ethical principles as recommended by Creswell (2007) anonymity was maintained and codes (pseudonyms) were used throughout this study in describing the identities of the respondents (See Table 1) as below.

Table 1: Informants Codes and Background

No	Code of informant	Organizations	Focus of Organization	Experience	Position	Qualifications
1	GOV1	NAPTIP	Human Trafficking	12	Director	Master
2	GOV2			10	Protection Officer	Bachelor
3	GOV3			8	Director	Bachelor
4	GOV4			8	Protection Officer	Bachelor
5	GOV5			6	Care giver	Diploma
International Governmental Organization/Non-Governmental Organization						
6	IGO1	UNODC	Human Trafficking and Child Protection	10	Project Coordinator	Master
7	IGO2	UNICEF		8	Head Child Protection Unit	Master
8	NGO1	Non-Governmental Organizations	Human Trafficking Issues	12	National Coordinator	Master
9	NGO2			10	National Coordinator	Bachelor
10	NGO3			12	Executive Director	Diploma
11	NGO4			10	Executive Director	Master
		Trafficked Persons		Age	Sex	Length of stay at shelter
12	TP1			22	F	6 months
13	TP2			20	F	7 months
14	TP3			23	F	3 months
15	TP4			25	F	6 months

FINDINGS AND DISCUSSION

The findings are presented based on the research question on how does the stakeholders perceive the implementation of NPPATPN from the victims' human rights perspective? There are four thematic findings which reflected the perceptions of the stakeholders as discussed below.

Lack of Compensation

The issue regarding victims' compensation was raised by the informants, that victims are not adequately or not at all compensated from the proceeds of their exploitation accrued by the traffickers. The issues remain worrisome in the country and there is no clear record that victims of human are directly compensated from the proceed generated by the traffickers, as the result of victims' exploitation. In some cases, the issue is more complex on the non-citizen trafficked into the country, this is because, after criminal trial of their traffickers, the victims are repatriated back to their countries without compensation. In this regard TP1 says:

"I was disappointed and betrayed because the issue of compensation and my other property with the trafficker has not been discussed ...but when I talk about the issue... no one wants to hear that or want to respond on that matter..."

Another informant GOV2 says:

"My experience on victim compensation, there was a case we evaluated and there are ingredients for criminal prosecution of the trafficker but I felt if we prosecute the suspect the victims will served as prosecuting witness and the credit for the conviction goes to the government...it added to the number of conviction... as for the victims no...when the suspect offered to pay compensation, we at the lower level agreed on that...but management

are more concerned on the number of convicted cases rather than victim compensation..."

The views of the informants show that the compensation of victims of human trafficking from the proceed of their labor is not encouraging in the country. The issues of victim's compensation fall within the victim's civil rights and under the new anti-human trafficking act the victims have the rights to institute civil litigation to claim damages and compensation from the traffickers (TPPLEAA, 2015). But the victims lack access to legal counsel that can institute the civil litigation on their behalf. The view expressed by Informant GOV2, revealed that the government is more concerned on prosecution of traffickers using victims as witness, while the issue of compensation is exclusively left for the trafficked person to pursue, as their civil right.

Furthermore, the compensation highlighted in the amended Act, focused more on the forfeited assets of trafficker convicted and the property is within Nigeria. However, the compensation seems to be complex when the property is in other countries as per the transnational trafficking is concerned. Even though the amended Act made a provision for the compensation of victims of external trafficking, whose assets and properties are in another country. But majority of the informants' laments that the challenges and the barriers associated with recovery and the returned of this kind of assets, have made the compensation of victims so difficult. In support of the informants' views Stephenson, Jean, Larissa, and Clive, (2011) identified institutional, legal, operational and communication barriers, as the major obstacle to effective assets recovery, that are domiciled in foreign countries. These barriers mentioned by Stephenson et al (2011) cannot be ignored

in understanding the Nigeria situation of recovering and forfeiting of traffickers' properties and assets abroad for victims' compensation. Thus, based on the informants' views the victims are not fully and adequately compensated or not compensated at all.

Discriminatory treatment of trafficked victims

The NPPATPN emphasized that the trafficked persons should not be subjected to maltreatment, degradation and there should be no criminal investigation against them, based on their immigration status. However, the finding revealed that trafficked persons are subjected to discriminatory treatment, for instance, informant TP1 says:

“When we were arrested on our way to Libya...we were subjected to immigration scrutiny, because we were found with fake passport, according to them...how do I know it's fake? ... Those that gave us the passport were allowed to leave the immigration office, but for us, we were maltreated, abuse and they called us with all sorts of names... prostitutes and so on...”

Informant NGO1 says:

Sometimes we intervened to... less say rescued victims from some immigration officers, who see these victims as criminals violating the immigration laws and must be punished for that...it's really unfortunate that most of these victims become double victims...they suffered at the hands of traffickers and are intimidated by law enforcement agents too ...”

The views expressed by the informants above shows that victims are maltreated on the bases of their immigration status. Despite the policy that trafficked persons should not be maltreated and discriminated but should be

seen as trafficked persons that needs protection and assistance. Similarly, the actions of the implementing agencies (NAPTIP and Immigration) as stated by the informants contravened not only NPPATPN but also Article 2 of UN Trafficking Protocol that states, the protection and assistance with full respect to the human rights of the trafficked person is one of the cardinal objectives of the Protocol of which Nigeria is a signatory. However, the implementing official overlooked this provision of the policies and acted contrary to the dictates of the NPPATPN which states that human rights of the trafficked persons shall be at the centre of all efforts to prevent, protect and assist victims. Similarly, the policy content highlights that victim are not to be considered as violators of immigration act and are not to be subjected to discriminatory treatment on the account of their status as trafficked persons (NPPATPN, 2008).

Shelter is More of Detention Centre

As part of the protective measures, the government provides temporary shelter and accommodation for trafficked persons with the aim of helping the trafficked persons as outlined in the policy (NPPATPN, 2008). The agency (NAPTIP) operates eight shelters throughout the country, in Abuja, Kano, Enugu, Sokoto, Maiduguri, Uyo, Benin and Lagos with the capacity of 50 victims each except Lagos with 120. Based on a visit to the selected government shelters the researchers observed that the government shelters were in secured locations and equipped with security arms. The shelter homes included living rooms, bedrooms, toilets, kitchens, and yards. However, most of the informants maintained that instead of the shelter to be a protective centre that guarantee and protect the rights of the trafficked persons but seems to be the place

of violating their rights. Informant NGO2 says:

The condition of victims in most of the state own shelter is characterized by violating the human rights of victims with regard to their mobility and harsh leaving conditions...they are often restricted from having visitors...this in fact, is the violation of their freedom of association...these restrictions and strike rules and regulations...to me... are contrary to the policy that the government official claimed to observe..."

Another informant TIP1 says:

"For us staying in government shelter, is like leaving in a detention centre, we are controlled, monitored, restricted and the feeling we get was that we are just like prisoners, whose life was totally behind the wall...Actually I want to get out from this place and to regain my freedom, so that I can move freely.

Majority of the informants perceived the government shelter is more of the detention centre with little facility upgrade than victim centre. All the visited shelter operates close shelter, where trafficked persons are not permitted to move out of the shelter home but where necessary must be escorted by the security guard. Their movement outside the building is restricted to hospitals, court, and reunification. This view is in line with the finding of Gallagher and Pearson, (2010) that its common practice in other countries, particularly in developing countries that trafficked persons are incarcerated in either government or private shelter homes without leaving the shelter beyond a trip to court and the shelters sometimes are little more than a prison. The finding shows that the management and the operation of the shelters are not based on the dictates of the NPPATPN and this has created an uncondusive environment for the trafficked person.

Poor Health Facilities at the Shelter

The provision of medical services for trafficked victims is a basic right that has been stipulated and prescribed in the policy. This is also in line with section 17 (3) of Nigerian constitution, Article 16 of the African Charter on Human and Peoples' Rights, Article 25 of the Universal Declaration of Human Right and Article 6 section 3 (C) of the United Nations Trafficking in Persons' Protocol. By the nature of human trafficking, victims are exposed to numerous health risks, such as sexually transmitted infection, HIV/AIDS and other communicable diseases. However, the informants raised a serious concern on health services provided at the shelter. For instance, informant IGO1 says:

"Human trafficking is associated with various health issues such as STD, therefore, medical attention should be the priority at the shelter. Unfortunately, the government shelter lacks adequate health facilities and qualified health personnel to properly examine the trafficked person's health conditions..."

Another informant TP2 added:

"When we were brought to the shelter a lot of us were complaining of malaria and other diseases that some of us were infected with as the result of the condition, we found ourselves... all we were told by the agency's staff was to be patient. It took us almost a week before a woman came and give us pain reliever..."

Similarly, informant GOV4 says:

"My brother! The fact of the matter, we don't have enough medical facilities, not even a qualified nurse...a nurse! Remember we are not talking about a doctor here, just a nurse. Resource for victims' medical services is not always available...sometimes we used trafficked persons' money for their

medication...and to transfer them to the public hospital is also a problem, you know there is no free medical treatment, even at the government hospital you must buy drugs”

The views expressed by the informants above revealed the health issues in the shelter and the challenges the trafficked person faced regarding their health conditions at the shelter. The findings demonstrated the gap that exists between the policy content which states that the trafficked person is entitled to qualitative health service and routine medical check on arrival to the shelter and what is obtainable on the ground. In support of the informant's views Ogbemudia (2010) conducted an empirical study on the health and psychological implication of trafficked persons in the government-run shelter. The findings reveal that the victims suffered from post-traumatic stress, depression, and anxiety and there are no adequate facilities at the studied shelters.

CONCLUSION

The findings revealed that the trafficked persons are not fully and adequately protected and assisted with full respect to their human rights as enshrined in the NPPATPN. The trafficked persons were subjected to discriminatory treatment, lack of compensations from the proceeds of their labour, placed in semi-detention centers, with no adequate health care facilities, the trafficked persons are restricted from moving out of the shelter and the movement is limited to court under security guard. The trafficked persons also have limited freedom of association and visitation. This lack of freedom is contrary to the principle and guidelines of United Nations Human Rights on Human Trafficking states that human rights of trafficked persons shall be at the centre of all efforts to protect, assist, prevent and combat human

trafficking”Furthermore, the study has made a significant contribution to the understanding of NPPATPN in Nigeria based on the knowledge and experience of stakeholders. The findings have significant implication to the government and policymakers, because the study brought to their notice, the obstacles to the effective protection and assistance to trafficked person, so that they can take appropriate measure to address these obstacles.

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