
**Human Smuggling and Trafficking Intersections:
The case of Nigerian female victims in Europe**

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Abstract

Trafficking in human beings is a multi-tiered phenomenon involving the recruitment, transport, relocation, accommodation or reception of individuals being trafficked for exploitation. Even though smuggling and trafficking in persons are recognized as distinct crimes under international law, they are frequently correlated, because in many cases, one is an indispensable part of the other. This is particularly true in the case of Nigerian women and young girls, who initially choose to be smuggled to European countries with the hope of improving their financial and social standing but end up exploited by the same people that they trusted. Human trafficking is a high-risk crime, which threatens and violates vital human rights. Women who are trafficked and coerced to work in the sex industry are particularly vulnerable, as they belong to marginalized social groups, where they live inconspicuous lives, frightened of seeking help. This study will emphasize the social context and cultural norms from which the sexual exploitation of Nigerian female victims of trafficking arises and the key human rights at risk of trafficked women, elucidating their invincible lives. This paper also concludes that trafficked female victims face several challenges throughout their journey in general. They are to be perpetually vulnerable to victimization and human rights violations because authorities worldwide approach this issue to this day as a border control concern, despite the calls from the international community for a human-rights based approach to human trafficking.

“The undersigned hereby declares that this thesis is entirely my own work and it has been submitted to the Department of Balkan, Slavic and Oriental Studies and International and European Studies in partial fulfilment of the requirements for the Degree of Master of Arts in Human Rights and Migration Studies. I declare that I respected the Academic Integrity and Research Ethics and I avoided any action that constitutes plagiarism. I know that plagiarism can be punished with revocation of my master’s degree.

Signature”

A handwritten signature in black ink, appearing to be 'R. J. ...', written on a light yellow rectangular background.

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Introduction

Human trafficking is considered one of the most reprehensible and prosperous contemporary crimes, acknowledged internationally as a form of modern-day slavery. To put into perspective the dimension that this issue has acquired, approximately 24.9 million people globally experience modern-day slavery. More particularly, human trafficking with the purpose of sexual exploitation (around 19% of the victims or 4.8 million people globally) is an extremely profitable business. The profits from commercial sexual exploitation reached \$99 billion according to the International Labour Organisation estimates in 2014. The average yearly earnings produced by a single female victim that is sexually exploited, is approximately \$100,000, which is six times more money produced by a typical trafficking victim! (Human Rights First, 2017)

In trafficking scenarios, human beings are bought and sold, compelled to forced labour or obliged to work in the sex industry, where they find themselves on the receiving end of threats and physical and/or psychological violence. Most victims are apprehensive of contacting the authorities and informing them about their predicaments because they receive threats of retaliation by the trafficking networks. The victims usually lead inconspicuous lives, hiding from authorities in fear of being detained and forced to return to their country of origin because they are perceived as “illegal aliens” who were smuggled into the state by unlawfully crossing borders. By doing so, more often than not, the perpetrators are not charged because key-witnesses are not present in the trials, thus creating a vicious cycle of exploitation.

Research on human trafficking has a long tradition, and a growing body of literature has thoroughly investigated this issue. Due to its’ perplexity, it has been analyzed from multiple distinct perspectives. Some focus on the human rights of individuals involved in trafficking scenarios. Others analyze the topic from a migration control perspective, but traditionally, this issue is examined as an issue of crime control intertwined with the effort to combat international organized crime. However, in the past three decades, sexual exploitation and forced labour of trafficked individuals, particularly regarding female victims, have resulted in a considerable rise in the literature on the topic.

Nigeria is a predominant example of a country interconnected with organized crime and human rights abuses. The Republic is a source, transit and destination country for human trafficking, with the majority of trafficked Nigerians being young women and girls to be sexually exploited. Understanding the urge of Nigerian women to migrate from the country, which results in them being trafficked, is challenging without introducing the socio-economic context within which this phenomenon thrives. The semi-nomadic culture, the financial hardships and the glorification of life in metropolises overseas by other migrants, in conjunction with prejudice against women, the male domination of the Nigerian society and the constant demand for women from “different races” by the sex industry in Europe, have resulted in women dominating the Nigerian migratory flows (Women’s Link Worldwide, 2015, p. 6).

Having examined the literature available on the issue, this thesis's overall objective is two-pronged: (a) present the issue of human trafficking of Nigerian women and girls and (b) explore the most crucial challenges they face, which endanger their well-being and infringe upon the most basic of human rights. With this aim in mind, this paper, divided into six sections, will first present the necessary clarification between smuggling and trafficking in human beings in order to clear up the bemusement concerning the two phenomena (Chapter 1). Next, the legislative framework analyses the international and specialist treaties relative to the smuggling and trafficking of human beings (Chapter 2). In Chapter 3, the human rights framework interconnected with human trafficking is examined, along with the issues arising from the infringement of those rights and how such violations affect women, particularly in trafficking situations. In Chapter 4, the paper concentrates on Nigeria. It explores the background of human smuggling and trafficking within the country, the magnitude of the issue and how the Nigerian society and culture created the perfect ecosystem for human trafficking of women to thrive. This chapter also follows along the journey of trafficked women from beginning to end, meaning, from the process of recruitment up until the arrival to the desired destination, exploring the harsh reality they have to come up against. Chapter 5 outlines the regional and cross-regional actions in Europe, Africa and Nigeria to combat trafficking in human beings. Finally, Chapter 6 reports on the assistance and protection granted to victims returning from Europe.

Chapter 1: Clarifying human smuggling and trafficking

In accordance with the United Nations, human smuggling and trafficking are gaining momentum in criminal activity globally. These phenomena include various crimes, spread across many states, and are responsible for victimizing a large number of populations worldwide (Monde-Anumihe, 2013, p. 1). Human trafficking and smuggling are distinct, widespread international crimes defined under international law. However, they are frequently correlated, as in many cases, one is an indispensable part of the other. This contributes to the confusion that drives countries, judicial bodies and services to adopt insufficient measures to provide aid, protection and even determine the victims of these practices. On top of that, in many cases, these terms are used reciprocally without an apparent distinction (Global Alliance Against Traffic in Women, 2011). Both constitute organized crime offences and are therefore, criminal offences and frowned upon under the Organized Crime Convention and its' Trafficking and Smuggling Protocols, which are the key pieces of legislation addressing these issues under international law.

Nwagbo, Abaneme and Ndubuisi, quoting Kuti-Olaniyi (2004, p. 65), state that the smuggling of migrants *“relates to the facilitated illegal entry into a state in a voluntary capacity through the paid services of a smuggler”*. In contrast, trafficking of human beings indicates the existence of duress or forced movement of individuals in order for them to be exploited, with or without their consent. Through this statement, a relatively clear distinction is presented: the individual being trafficked is a victim, while on the other hand, the smuggled person is considered a client.

1.1 Human Smuggling Explained

In the Protocol against the Smuggling of Migrants by Land, Sea and Air (article 3(a)) pertaining to the definition of human smuggling, it is stated that smuggling of migrants is *“... the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”* Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000). The Protocol was adopted by resolution A/RES/55/25 of 15 November 2000 at the fifty-fifth session of the General Assembly of the United Nations, United Nations, Treaty Series, vol. 2241, p. 507; Doc. A/55/383. The Protocol has 150 States Parties. See https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18&clang=_en (May 24, 2021).

Human smuggling is characterized by an arrangement between two sides, the individual seeking to migrate but cannot do so legally, and a smuggler who will provide the necessary means (for instance, preparing the necessary documents) in exchange for a payment or other benefits. Currently, it is almost impossible for individuals who seek to

migrate not to use human smugglers to facilitate their journey. During this long process, the smugglers tend to leverage the smuggled person and exploit them (Carling, 2006, p. 9).

1.2 Human Trafficking Explained

As mentioned earlier, human trafficking is defined by the fact that there is an element of coercion that generates human rights violations. Trafficking in human beings is a multilevel phenomenon involving the recruitment, transport, relocation, accommodation or reception of individuals being trafficked for exploitation, and liability is present on each part of this journey (Piotrowicz, Conny Rijken and Bärbel Heide Uhl, 2019, p. 14). Customarily, trafficking is correlated with the movement of women and girls for purposes of sexual exploitation (Office of the High Commissioner of Human Rights, 2014). In the UN Trafficking Protocol, trafficking in human beings is defined as:

“...the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.” Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000).

1.3 Similarities, Differences & Correlations

Both human smuggling and trafficking are considered crimes against countries; however, as it is indicated, only trafficking is treated as crime against a person, and this is because the individual who is being smuggled is involved willingly throughout the process. From contacting the smuggler to paying the necessary fees for access to a state thus, making it clear that this is an intentional, calculated and informed decision. Human smuggling is defined by the complicity in infringing laws and regulations regarding migration. As a result, human smuggling is not thought of as a human rights violation (contrary to human trafficking which is considered a human rights violation), although in many cases the individuals being smuggled may be victimized personally or through their families back home. As a result, there are calls to pay the same attention to victims of human smuggling as well as victims of human trafficking (Nwagbo, Abaneme and Ndubuisi, 2018, p. 50).

Overall, there are some distinctive differences between trafficking and smuggling in human beings. First, human trafficking is a crime against individuals to exploit them. Consent is a crucial element when trying to distinguish the differences between these two phenomena. However, it may be challenging to specify situations of smuggling. For instance, on many occasions the person being smuggled may withdraw his consent but may be compelled to continue the journey by the smugglers. The victims of human trafficking are bestowed

benefits and protections due to their vulnerability and human rights abuses. Smuggling of individuals does not constitute a human rights violation, rather than a crime against a country's laws. Another critical difference is the element of transnationality. The smuggling of human beings is transnational, meaning it necessarily includes the transfer of individuals.

In contrast, human trafficking may arise regardless of the individuals being moved within countries or across borders. Apart from that, smuggling and trafficking have a significant difference regarding the movement of the individual. In smuggling cases, the person being smuggled is moved voluntarily, whereas the trafficked victim is usually transported without his/her consent. Furthermore, a crucial aspect is the source of the financial benefit. In cases of human smuggling, the profit comes directly from the payment necessary for the assistance and facilitation of the journey, while in trafficking of human beings, financial benefits come from the exploitation of the victims, like for instance sexual exploitation (IOM, 2017; Global Initiative against Transnational Organized Crime, 2014, p. 23).

Perpetrators of human smuggling and trafficking tend to use the same routes and means of transport and both have specific authority and leverage over their victims. The smuggled individuals tend to be exposed to the possibility of being trafficked at any given moment during the process of being smuggled. As it will be demonstrated later in this research, many people are victimized from the beginning of their venture to the country of destination (A/HRC/32/41, A/HRC/29/38). It is self-evident that the livelihood and safety of people entangled in both smuggling and trafficking may be threatened; thus, it is imperative that these individuals are to be beneficiaries of special protections and benefits.

Chapter 2: Legal framework surrounding human smuggling and trafficking.

International criminal law addresses international crimes and the penal responsibility of the individuals that committed such crimes. However, not too long ago, the problem of migrant smuggling was not part of any legal framework globally (Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2010, p. 22; Gallagher and David, 2014, p. 23).

2.1 The initial face: The Organized Crime Convention

Prior to the United Nations (UN) Convention against Transnational Organized Crime (Organized Crime Convention) and the Protocol against the Smuggling of Migrants by Land, Sea and Air (Migrant Smuggling Protocol), supplementing that Convention, pieces of legislation covering the issue of human smuggling were non-existent. It is evident that except for the United States of America (USA), only a handful of countries showed the necessary concern regarding human smuggling up until the late 1980s. The first appearance of human smuggling as part of many countries' political agenda came at the beginning of the next decade (Gallagher and David, 2014, pp. 23&25).

The International Maritime Organization (IMO) was the first organization, with the support of the USA, to introduce a global policy framework addressing the issue of human smuggling of migrants. Simultaneously, the United States produced and forwarded another resolution to the United Nations Commission on Crime Prevention and Criminal Justice on the "Prevention of Alien Smuggling". This resolution, very similar to the one drafted by the IOM, turned out to be quite popular internationally; thus, it gained much attention from the United Nations in 1993, which was by then concentrating on adopting a resolution against the smuggling of migrants. What is of high importance concerning this effort to combat human smuggling is that in this draft exists a connection between human smuggling and the exploitation of the individuals being smuggled, which later disappeared because a distinction between human smuggling and human trafficking became apparent. The General Assembly recognized that it was crucial to protect the borders and the security of the countries and ensure that the individuals being smuggled are treated with respect and their human rights protected (Gallagher and David, 2014, pp. 30-31).

Gradually, many European countries became more concerned about human smuggling and favored the development of a global regulatory framework. Finally, in 1997, Austria put forward a proposal to establish a legal instrument to tackle the issue of migrant smuggling and take the necessary steps to examine, prosecute and cast out the perpetrators. Italy supported this proposal against the background of the Crime Commission's effort to fight transnational organized crime. Generally, suggestions for an international treaty on transnational organized crime were first introduced in 1994 at the World Ministerial Conference on Organized Transnational Crime, and three years later, the UN General

Assembly created a cross-jurisdictional group of experts to work on a first draft. After that, the General Assembly determined the creation of an inter-state Ad Hoc Committee, which in 2000, completed its work, with some criticism from experts who stated that powerful countries of the west deceived and even coerced other states to agree to some arrangements that were not initially in favor of (Gallagher and David, 2014, pp. 33&35).

The Organized Crime Convention, supplemented by three other Protocols regarding the Smuggling of Migrants, Trafficking in Persons, Especially Women and Children and Trafficking in Firearms, is considered the cornerstone of combating organized crime globally. The Convention and the first two Protocols were introduced in the fall of 2000. The Convention came into effect in 2003, as did the Trafficking Protocol, while the Migrant Smuggling Protocol in 2004. As of January of 2021, the Smuggling Protocol has 112 signatory countries and 150 countries party to the treaty. The Trafficking Protocol has 117 signatory countries and 178 parties to the treaty (treaties.un.org, n.d.). The introduction of both the Smuggling and Trafficking Protocols complementing the Convention reflects the issues concerning border security and sovereignty that many states experienced. The realization that both of these problems were intertwined with organized crime made it more challenging for them to deal with them. The human rights violations of the people concerned are thought to have little to do with adopting these two Protocols and were merely another incentive against the background of greater issues. The legal liabilities of both the Convention and the Protocols vary, with some of their optional provisions. It is essential to point out that the Protocol of Migrant Smuggling has a higher level of accountability than the Protocol of Human Trafficking, which has many non-compulsory provisions (Gallagher and David, 2014, pp. 36&38).

What is striking regarding these pieces of legislation is the unparalleled participation, especially concerning the Trafficking Protocol, that attracted much attention from non-governmental organizations (NGOs) (Gallagher and David, 2014, p. 37). International organizations and agencies were also highly motivated in participating, and mainly: The Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), and the UN Special Rapporteur on Violence against Women, its Causes and Consequences. These stakeholders created an "Inter-Agency Group" so as to guarantee the protection and promotion of human rights of women, children, migrants, asylum-seekers and refugees, with the High Commissioner taking up a remarkably active role (Gallagher, 2001, p. 1002).

2.2 The Migrant Smuggling Protocol

The Protocol against the Smuggling of Migrants by Land, Sea and Air is the primary international agreement addressing human smuggling and introducing a universal regulatory framework regarding this matter. Back in the 1990s, when the world community initiated the first discussions regarding the smuggling of migrants, there was much uncertainty about the notions of human smuggling and trafficking in human beings. The Ad

Hoc Committee's work on the creation of a protocol regarding human trafficking concluded to the realization that there is a differentiation between the two phenomena (Gallagher and David, 2014, pp. 44-45).

The Protocol was designed in order to prevent and tackle the smuggling of human beings, encourage worldwide collaboration and safeguard the rights of the smuggled individuals (A/HRC/32/41). Its primary duty is to criminalize smuggling in human beings when committed deliberately (Gallagher and David, 2014, p. 50). The Protocol enshrines that individuals being smuggled are not accountable for being the "object" of the criminal acts as established by the Protocol, thus stating that there should not be criminalization of the individuals being smuggled (Global Alliance Against Traffic in Women, 2011: 20). Additionally, it outlines the incrimination of certain acts related to this particular crime which may include, for instance, the creation of legal documents in order to facilitate smuggling in human beings or the possession of such documents, the attempt to commit such crimes and instruct others to commit these crimes, among others (Gallagher and David, 2014, p. 50).

In article 6, the notion of aggravated offences is enshrined. According to this article, aggravated offences are those in which the livelihoods of the smuggled individuals are in jeopardy or in humiliating and degrading treatment conditions. The use of inappropriate and hazardous transportation methods such as boats that are incapable of travelling in the open sea, or overflowing vessels, are mere examples of life-threatening conditions individuals being smuggled tend to face (Gallagher and David, 2014, p. 51). The Protocol also emphasizes the prevention and elimination of human smuggling, specifically by sea. Notably, it reaffirms the international law of the sea as enshrined by the UN Convention on the Law of the Sea, and it clearly states in article 7 that the member-states are to be "in accordance with the international law of the sea" when dealing with human smuggling by sea (Gallagher and David, 2014, pp. 55-56). Adding to article 31 of the Organized Crime Convention, the Protocol encompasses the actions necessary for the prevention of smuggling in human beings. It suggests adopting a collective legal framework that concentrates on strengthening law enforcement, especially border control agencies. Both the two Protocols and the Convention, the reinforcement of border controls as prescribed, so as the authorities of the member-states to be able to identify and prevent smuggling in human beings (Gallagher and David, 2014, p. 60).

2.2.1 Can there be human rights in Smuggling?

Given that migrants tend to be regarded as culprits, the public has a propensity to believe that they are not worthy of human rights. However, every human being is entitled to his rights. Thus, the Smuggling Protocol enshrines in article 5(a) a set of rights that individuals being smuggled are deserving of and categorically affirms that they cannot be charged for being smuggled, even though member-states can prosecute them for other crimes (A/55/383; Global Alliance Against Traffic in Women, 2011, p. 22).

Each and every migrant has unquestionable and inherent rights, regardless of their status, encompassed in humanitarian and refugee law and international human rights law. The Smuggling Protocol acutely articulates the full compliance with these legal provisions when a

member-state deals with smuggling issues. Nonetheless, the Smuggling Protocol does not constitute a human rights agreement; thus, the people being smuggled are not perceived as victims since the country's sovereignty is infringed when migrants enter the country illegally, and the state is considered the victim in this situation (Global Alliance Against Traffic in Women, 2011, p. 24). The Smuggling Protocol does encompass some legal provisions that safeguard the smuggled individuals' essential rights and protect them from the victimization interrelated with smuggling. Nevertheless, it genuinely does not provide the thorough protection found in the Trafficking Protocol (Forced Migration Review, 2002, p. 26).

Some of the key human rights of the migrants are also stated in the Organized Crime Convention and include witness protection which is enshrined in article 24, according to which the signatory countries are to administer "*effective protection from potential retaliation or intimidation for witnesses in criminal proceedings.*" In article 25, victim protection against retaliation is affirmed, guaranteeing in paragraphs 2 and 3 that the victims are to be granted "*compensation and restitution*", and have their "*views heard at appropriate stages of the criminal proceedings*" (A/RES/55/25).

The human rights of migrants, as encompassed by the Protocol, are also enshrined by human rights and refugee law. The member-states are obliged to: "*protect migrants in smuggling situations from death, torture or other cruel, inhuman or degrading treatment or punishment*" (article 16(1)), "*protect migrants from violence*" (article 16(2)), "*provide appropriate assistance to persons whose lives or safety are endangered in a smuggling situation*" (article 16(3)), "*provide safe return, preventing refoulement*" (articles 18(5) and 19(1)), "*provide information on consular notification and communication*" (article 16(5)) and "*ensure the safety and humane treatment of the persons on board during boat interdiction*" (article 9(1a)). Member states are also obligated to take care of the specific needs of women and children as stated in article 16(4) and furthermore, acknowledge and tackle the underlying reasons for human smuggling, while simultaneously working on reducing poverty and improving the social conditions that force people to migrate in article 15(3). In article 19(2), the Protocol offers protection against discrimination stating non-discrimination "*shall be interpreted and applied in a way that is not discriminatory to persons [in smuggling situations.]*" Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000).

The right to life, enshrined in the International Covenant on Civil and Political Rights in article 6(1), is essentially reaffirmed in the Protocol in article 16(1). The right to life can also mean providing aid during a crisis which imposes a threat to the well-being of an individual, as the Human Rights Committee has stated. It is further enshrined by the UN Office on Drugs and Crime (2010, p. 66) which points out that public officials (purposely or not) are not to inflict the death of people being smuggled. The right to be free of torture or other cruel, inhuman or degrading treatment or punishment can be found in the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is further re-established by article 16(1) of the Protocol, under which member-states are obliged to undertake the necessary steps to safeguard all people despite their

migration status from such treatment (Global Alliance Against Traffic in Women, 2011, p. 26).

The right of non-refoulement affirmed in the Convention Relating to the Status of Refugees in article 33(1) is reaffirmed in the Protocol, which highlights in article 18(5) “*the return in an orderly manner and with due regard for the safety and dignity*”. The right to have access to agencies that provide information, as enshrined by Article 16(5), is also stated in the Vienna Convention on Consular Relations in article 36, emphasizing that member-states officials are to notify the migrants about their right to be informed by a consular officer. In article 9 of the Smuggling Protocol, it is enshrined that member-state authorities are to “*ensure the safety and humane treatment of the persons on board*”. Article 14(1) specifies that immigration officers of the signatory countries are to be well educated to treat smuggled immigrants humanely and with respect to their rights. Moreover, they have to collaborate with all relative sectors (governmental, non-governmental, civic society) to qualify for their roles (Global Alliance Against Traffic in Women, 2011, p. 27).

2.3 The Trafficking Protocol

Trafficking in minors was the driving force that made Argentina the first country internationally to push an agenda regarding human trafficking. This was mainly attributed to the fact that there was a block in the progress of a protocol regarding child pornography and prostitution by the Convention on the Rights of the Child (CRC) that Argentina was in favor of. The United States quickly became interested in the development of a protocol addressing the issue of trafficking by establishing a comprehensive, international policy framework, mainly because the President of the USA was working on fighting human trafficking, particularly among women and underaged girls (Gallagher, 2018, p. 24; Gallagher and David, 2014, p. 67).

The purposes of the Trafficking Protocol (or Palermo Protocol as it is known), as defined by article 2, are threefold:

- ❖ “*to prevent and combat trafficking in persons, paying particular attention to women and children*”;
- ❖ “*to protect and assist the victims of such trafficking, with full respect for their human rights*”;
- ❖ “*to promote cooperation among States Parties in order to meet those objectives.*”

The member-states to the Protocol are obliged to undertake certain actions against human trafficking. The core provisions include: the criminalization of trafficking in human beings and “*to impose penalties that take into account the grave nature of that offence*” (article 5), “*to protect, to the extent possible under domestic law, the privacy and identity of victims of trafficking in persons; and to consider the provision of a range of social services to enable their recovery from trauma caused by their experiences*” (article 6), “*to ensure that the legal system contains measures that offer victims the possibility of obtaining*

compensation” (article 6), “to consider allowing victims to remain in their territory, whether permanently or temporarily, taking into account humanitarian and compassionate factors” (article 7), “to accept the return of any victims of trafficking who are their nationals, or who had permanent residence in their territory at the time of entry to the receiving State. When returning a victim, due regard must be taken of their safety, with the return preferably being voluntary” (article 8), “to establish policies, programmes, and other measures to prevent and combat trafficking and to protect victims of trafficking from re-victimisation” (article 9), “to provide and/or strengthen training for officials in the recognition and prevention of trafficking, including human rights awareness training” (article 10), “to strengthen such border controls as might be necessary to prevent trafficking, without prejudice to other international obligations allowing the free movement of people” (article 11) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000).

The obligation of the member-states to criminalize trafficking when carried out purposely, as enshrined in article 5, is an essential and obligatory part of the Protocol. The Protocol requires the penalization of the attempt to conduct human trafficking, the involvement in such a crime and the obstruction of justice in an effort to facilitate trafficking in human beings (Gallagher, 2018, p. 26). The member-states also have the obligation to provide protection and assistance to victims of human trafficking. In particular, the member-states are to safeguard the identity and privacy of the individual, as stated in article 6, provide victims with the necessary information regarding the legalities surrounding their cases and judicial procedure, and aid them in presenting their views in a court of law. Member-states are also compelled to try to support the victims when they return to their country of origin, and finally, try to guarantee that victims are able to access compensation. Member-states have to make sure that victims of human trafficking can access psychological and physical support. There is a particular provision concerning the housing of the individuals as well as medical and material support. Training, educational and employment opportunities are also enshrined in the Protocol. However, in cases that a member-state does not provide any of these provisions to a victim of trafficking, it is not in violation of the Convention because the signatory parties retain the right to not provide such aid to victims if they are reluctant to cooperate with criminal investigation authorities (Gallagher, 2018, pp. 26-28; A/55/383).

The issue of the status of the victims of human trafficking in the country of destination caused much-heated debate during negotiations with the Inter-Agency Group and NGOs calling for the inclusion of a provision for the victim of human trafficking to remain in the host country (even momentarily), but it was never really examined by the delegations. The reason for that is that they firmly believed that this provision would enable illicit migration. Despite that, the countries understood that there was a need for a trafficked individual to stay in the receiving state on humanitarian grounds in order to safeguard them from further exploitation in the hands of their former traffickers. As far as the return process is concerned, member-states are obliged to ensure that the repatriation of the victims is conducted with respect to the safety of the individuals and their legal status as victims of human trafficking (A/55/383; Gallagher, 2018, p. 28).

In article 31 of the Organized Crime Convention, there is an extensive record of measures to be adopted by the signatory countries in order to avert organized crime. In the Trafficking Protocol, further provisions are complementing those of the Organized Crime Convention. In general, member-states are to introduce programs, policies and other such measures to prevent human trafficking from occurring. These measures might consist of awareness-raising campaigns or economic and social actions against trafficking with the collaboration of organizations involved with trafficking and the civic society. An important part of this is the establishment of a relevant legal framework to hinder the demand for utilization of human beings, especially females and youngsters. However, this effort demands the active participation and cooperation between member-states; thus, it is enshrined by the Protocol that signatory countries are to exchange information and work together in the return process, against the background of more robust border management and law-enforcement policies (Gallagher, 2018, p. 29).

The criticism received by the Trafficking Protocol regarding its' primary focus on the sovereignty of the countries produced the introduction of one of the most notable regional treaties regarding human trafficking on a European level. The Council of Europe (CoE) introduced the Convention on Action against Trafficking in Human Beings, which was adopted in 2005 and came into force in 2008. The Convention's main aim was to establish much more outstanding obligations than the Palermo Protocol to European states, especially with reference to the victims' protection. The distinction between the CoE Convention and the Trafficking Protocol can be found in article 1 that declares the purposes of the Convention, which are threefold:

- ❖ *“to prevent and combat trafficking in human beings while guaranteeing gender equality;”*
- ❖ *“to protect the human rights of victims of trafficking in human beings, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution;”*
- ❖ *“to promote international cooperation on action against trafficking in human beings.”* (CETS 1907).

It is made clear from the beginning that the CoE Convention does not put sole emphasis on the state's sovereignty and border management, for which the Palermo Protocol has attracted much controversy. Contrarily, in the CoE Convention, both the protection of the individual being trafficked and the country's sovereignty is encompassed. Types of victimization of individuals being trafficked recognized by the Convention (at the very least) are: slavery, forced labour, organ harvesting and sexual exploitation. Notably, in article 5(3), the Convention obliges the signatory countries to adopt a “Human Rights-based approach” and “a child-sensitive approach” when applying these measures (Piotrowicz, 2018, pp. 41-42). The Convention recognizes all forms of human trafficking, whether it is international or internal, intertwined with international organized crime or not. Its application is supervised by the Group of Experts on Action against Trafficking in Human Beings (GRETA) (Szczerba, 2018, p. 154). Another important provision of the CoE Convention is that it obliges member-

states in article 26 not to charge victims of human trafficking for their participation in illegal practices that they were forced to take part in, which is not explicitly stated in the Palermo Protocol (Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2010).

2.5 International & regional specialist treaties relative to human trafficking

Concerns, particularly about trafficking in human beings, has contributed to the existence of provisions against this phenomenon in different Conventions. One notable instance is the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which in article 6 establishes the obligation of the member-states to adopt all measure necessary to eliminate any type of trafficking against women and especially prostitution. In addition, the Convention on the Rights of the Child of 1989, addressed the concerns of the international community regarding the exploitation of children and thus, the Convention prohibits trafficking in children in all circumstances and grants protection for children who have been victims (OHCHR Research and Right to Development Division Rule of Law, Equality and Non-Discrimination Branch, 2014).

Due to the fact that trafficking is related to forced labour and slavery, main treaties linking trafficking with slavery are: the 1926 Convention on Slavery and the 1956 Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Practices Similar to Slavery (because many people being trafficked are enslaved and forced to work as servants, particularly in the Middle East) (Schuyler, 2008). Furthermore, exploitation of adolescence as a result of trafficking has resulted in the prominence of conventions by the International Labour Organization (ILO) such as the Convention Concerning Forced and Compulsory Labour (1930), the Convention Concerning the Abolition of Forced Labour (1957) and the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) which acknowledges trafficking among the most horrendous types of child labour. Some human rights-based treaties forbid certain practices that are interrelated with this phenomenon like for instance, discrimination (on racial, gender, ethnic or disability grounds), exploitation of women to work in the sex industry, torture or inhumane treatment, slavery or forced labour. Other human rights treaties are established in order to safeguard the rights intertwined with the phenomenon such as the right to education, the right of opportunity to gain a living through work freely chosen or accepted, the right to a fair trial or the right to a remedy (Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2010).

Overall, some of the key human rights treaties addressing trafficking in human beings are:

- ❖ The 1951 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others¹;
- ❖ The 1951 Convention Relating to the Status of Refugees (Refugee Convention) and the 1967 Refugee Protocol;
- ❖ The 1966 International Covenant on Civil and Political Rights and its Optional Protocol;
- ❖ The 1966 International Covenant on Economic, Social and Cultural Rights and its 2008 Optional Protocol;
- ❖ The 1966 International Convention on the Elimination of All Forms of Racial Discrimination and its 1999 Optional Protocol;
- ❖ The 1984 Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and its 2002 Optional Protocol
- ❖ The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention).

On a regional level, human rights treaties not only reassert, but in many cases broaden the rights as established by international conventions. In the particular context of this thesis, key human rights agreements interrelated with trafficking of individuals from Africa to Europe are:

- ❖ The 1950 European Convention for the Protection of Fundamental Rights and Fundamental Freedoms (European Convention on Human Rights);
- ❖ The 1961 European Social Charter;
- ❖ The 1981 African Charter on Human and Peoples' Rights (African Charter);
- ❖ The 1990 African Charter on the Rights and Welfare of the Child;
- ❖ The 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

2.6 International law & soft law against human trafficking

International customary law, which is “*evidence of a general practice accepted as law*” (International Court of Justice, Article 38(1b)), is of high importance regarding the issue of human trafficking, mainly because not all countries are signatory parties to the relevant agreements; thus, the acknowledgement of a principle as part of international law elevates and provides it with a certain validity. “Soft law” is another element of considerable importance. Resolutions, declarations, guidelines, recommendations or reports are an essential part of the legislative standards surrounding human trafficking. For instance, human rights law does not encompass protection for the rights of victims of crimes. However, in the resolution of the UN General Assembly “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985” it is affirmed explicitly that victims of human

¹The Convention, even though it encompasses provisions regarding trafficking and prostitution, has not been well-received. Only 25 countries have ratified, far less than the Trafficking Protocol. This is partly attributable to the fact that the Convention applies to uncoerced prostitution as well (UN Treaty Collections, n.d.; Bantekas and Nash, 2007).

trafficking should be classified as such, in spite of the status of the offenders or their association with the victims. It is also emphasised that the victims are out to be respectfully and befittingly treated and have the right to access justice and remedies. Especially regarding human trafficking, the 2002 UN Trafficking Principles and Guidelines and the Guidelines on the Protection of the Rights of Child Victims of Trafficking introduced by UNICEF is such a document. Principle 7 of the 2002 UN Trafficking Principles and Guidelines outlines that a trafficked individual should not be brought to justice for crimes that were committed while they were victimised. Such crimes might include infringements of immigration regulations that were violated as an outcome of the overall trafficking procedure (Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2010). Furthermore, General Recommendation No. 38 of the CEDAW, illustrates that the Recommended Principles and Guidelines on Human Rights and Human Trafficking provide a vital legislative framework for the adoption of a human rights-based approach in any effort against trafficking (CEDAW/C/GC/3).

The Committee provides further recommendations to member-states, in their effort to suppress trafficking in women and girls, especially with the purpose of sexual exploitation. The Committee intends through its recommendations to illuminate the requirement of the member states (under article 21 of the CEDAW) to fight discrimination against females. In particular, the Committee urges member-states to respect and protect the human rights as enshrined in the CEDAW and highlights their obligation to prevent, inspect and prosecute crimes that constitute trafficking against female victims and provide them with appropriate redress in order to protect them from re-victimization. As the victims acquire a special status, they have the right to be provided with special aid and safety by the member-state in the form of accessible, high-quality and gender and age appropriate services and justice mechanisms such as legal aid or psychological support, compensation or restitution among others (CEDAW/C/GC/3).

The Special Rapporteur on Trafficking in persons, especially women and children, also provides recommendations towards governmental authorities in their efforts to combat human trafficking. On the latest report, the Special Rapporteur urges governments to collaborate in their approach against trafficking with due diligence requirements to respect the human rights of the victims. With respect to international law, governments are to exercise due diligence to combat human trafficking, inspect and prosecute offenders. Apart from that, as a means to ensure social inclusion of the victims, governments are to aid and safeguard them in order to prevent revictimization. Moreover, the Special Rapporteur expressed the need to adopt a human-rights approach to trafficking, and all actions to fight trafficking to not affect the human rights and dignity of those involved in trafficking situations (A/HRC/44/45).

Chapter 3: Human rights infringements of trafficked individuals, particularly women & underage girls.

According to the UN High Commissioner of Human Rights (2010), the human rights of trafficked individuals are to be of high importance in any endeavour to fight trafficking in human beings and aid the individuals being trafficked. However, authorities worldwide still approach this issue with the states' sovereignty in mind, which is evident by the Smuggling and Trafficking Protocols examined in the previous chapter. Individuals who cross borders illegally are regarded as criminals, and only those that are victims of trafficking, are treated humanely. However, it is not unusual for them to be penalized for misdemeanours by authorities and then face return to their country of origin (Global Alliance Against Traffic in Women, 2011, p. 28).

3.1 Enjoyment of human rights by trafficked persons

International human rights law strictly forbids the different practices intertwined with the phenomenon. It forbids slavery and forced servitude, torture or inhuman treatment and discrimination on racial and gender grounds. For instance, forced labour, whose interpretation by the ILO's Forced Labour Convention of 1930, is "*all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [herself] voluntarily*" (C029) is forbidden. Debt bondage, the phenomenon of a person putting himself in debt to repay a fee, is directly linked with trafficking of migrants and a commonality in cases of Nigerian women being trafficked is also strictly forbidden. However, even though in the past decade a general census has arisen which recognizes trafficking in human beings as a serious violation of human rights, as it has already been mentioned, solely two of the most significant human rights agreements has an explicit and unambiguous reference to the prohibition of trafficking: The Convention on the Rights of the Child (CRC) (article 35) and the Convention on the Elimination of All Forms of Discrimination against Women (article 6) (No.36, 2014, p. 5).

As stated in the second chapter of this thesis, numerous manifestations are deriving from international and regional agreements, resolutions, reports and jurisdictions that affirm the realisation by the international community that trafficking consists a severe human rights infringement. One of the most notable instances is one of the European Court of Human Rights judgments. In the case of *Rantsev v. Cyprus and Russia*, judgment of 7 January 2010, §§ 277-278, the Court had to conclude whether the European Convention on Human Rights in article 4 (prohibition of slavery, servitude and forced or compulsory labour) can be interpreted to include trafficking as a form of slavery. The Court acknowledged that "*like slavery, trafficking in human beings, by its very nature and aim of exploitation, was based on the exercise of powers attaching to the right of ownership; it treated human beings as commodities to be bought and sold and put to forced labour;*", thus, trafficking does in-fact fall within the scope of article 4.

Apart from that, the Universal Declaration of Human Rights of 1948 (217 A (III)) enshrines that all human beings are *“born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the instrument, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status”*. Hence, trafficked individuals are free to enjoy their human rights as they are universal and indivisible. Even in cases when the person is outside of the country of origin, international law confirms that victims of trafficking cannot be discriminated because they are non-citizens. The Human Rights Committee in General Comment No. 15 (1986) affirms that *“Aliens... have an inherent right to life, protected by law, and may not be arbitrarily deprived of life. They may not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; nor may they be held in slavery or servitude. Aliens have the full right to liberty and security of the person. If lawfully deprived of their liberty, they shall be treated with humanity and with respect for the inherent dignity of their person. Aliens may not be imprisoned for failure to fulfil a contractual obligation. They have the right to liberty of movement and free choice of residence; they shall be free to leave the country. Aliens shall be equal before the courts and tribunals, and shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of any criminal charge or of rights and obligations in a suit at law. Aliens shall not be subject to retrospective penal legislation, and are entitled to recognition before the law. They may not be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence. They have the right to freedom of thought, conscience and religion, and the right to hold opinions and to express them. Aliens receive the benefit of the right of peaceful assembly and of freedom of association. They may marry when at marriageable age. Their children are entitled to those measures of protection required by their status as minors. In those cases where aliens constitute a minority within the meaning of article 27, they shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion and to use their own language. Aliens are entitled to equal protection by the law. There shall be no discrimination between aliens and citizens in the application of these rights. These rights of aliens may be qualified only by such limitations as may be lawfully imposed under the Covenant.”*

In addition, international human rights law outlines that some groups of people need extra protection either due to their vulnerability or the prejudice against them. Both women and children belong in such groups and, in cases of trafficking, are particularly susceptible aims for traffickers. Underaged girls and women are victimised with numerous intentions such as sexual exploitation, involuntary servitude and mendicancy. Furthermore, females tend to experience gender-based abuses due to being trafficked, like, for instance, sex assault or forced pregnancies (No.36, 2014, pp. 6-7).

Children are, in general, more prone to be involved in trafficking in human beings—their particular vulnerability to victimisation demands for them to be treated differently from adults. Therefore, international human rights law grants them extra protections and requires governments to be more accountable and guarantee their safety and

prosperity on all occasions. This is enshrined explicitly in article 3 of the Convention on the Rights of the Child, which establishes that “*the best interests of the child shall be a primary consideration*”. Consequently, state authorities cannot prioritise other concerns (for example, illegal immigration) above the best interests of the child who is a victim of trafficking even if the child is a non-citizen (United Nations, Treaty Series, vol. 1577, p. 3). Some of the key human rights applicable in situations of trafficking of minors are:

- ❖ Protection of children from abduction, sale or trafficking as encompassed in the CRC (article 35), the Convention on Worst Forms of Child Labour (article 3 (a)), the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography of 2001 (A/RES/54/263) and the African Charter on the Rights and Welfare of the Child, in article 29 (CAB/LEG/24.9/49 (1990));
- ❖ Protection of children from other forms of exploitation, as affirmed in the CRC in article 36 (United Nations, Treaty Series, vol. 1577, p. 3). and the Convention on Worst Forms of Child Labour (CAB/LEG/24.9/49 (1990));
- ❖ Protection of children from sexual exploitation and sexual abuse as affirmed in CRC in article 34 (United Nations, Treaty Series, vol. 1577, p. 3), the Optional Protocol on the Sale of children, Child Prostitution and Child Pornography (A/RES/54/263) and the African Charter on the Rights and Welfare of the Child in articles 15, 16 and 27 (CAB/LEG/24.9/49 (1990));
- ❖ The best interests of the child to be the primary consideration in all actions concerning children, except from the CRC as quoted earlier and in article 4 of the African Charter on the Rights and Welfare of the Child (CAB/LEG/24.9/49 (1990));
- ❖ The right of children to protection from all forms of discrimination irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political, or other opinion, national, ethnic or social origin, property, disability, birth or other status, affirmed in the CRC in article 2 (United Nations, Treaty Series, vol. 1577, p. 3) and in article 3 of the African Charter on the Rights and Welfare of the Child (CAB/LEG/24.9/49 (1990));
- ❖ Prohibition on the illicit transfer and non-return of children abroad, enshrined in article 11 of the CRC (United Nations, Treaty Series, vol. 1577, p. 3);
- ❖ Protection of children from economic exploitation and from performing hazardous or harmful work enshrined in article 32 of the CRC (United Nations, Treaty Series, vol. 1577, p. 3); the African Charter on the Rights and Welfare of the Child in article 15(CAB/LEG/24.9/49 (1990)) and

Convention for the Elimination of the Worst Forms of Child Labour in article 3 (d) (C182).

Apart from this set of human rights and protections, there are two crucial obligations regarding underage victims of human trafficking. First, the Obligation to criminalize the sale of children, child prostitution and child pornography, affirmed in the Optional Protocol on the sale of children (article 3) and the Worst Forms of Child Labour Convention (article 3 (a) and (b)). The second is the Obligation to promote physical and psychological recovery and social integration of child victims, which can be found in article 39 of the CRC (Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2010).

3.2 Key human rights of women and underage girls at risk in trafficking situations

In general, many human rights infringements occur throughout the multi-layered trafficking cycle. Human rights and freedoms that are intertwined with trafficking in human beings are as follows:

- ❖ The right to life.
- ❖ The right to liberty and security.
- ❖ The prohibition of discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status
- ❖ The right not to be submitted to slavery, servitude, forced labor or bonded labour.
- ❖ The right not to be subjected to torture and/or cruel, inhuman, degrading treatment or punishment.
- ❖ The right to be free from gendered violence.
- ❖ The right to the highest attainable standard of physical and mental health.
- ❖ The right to freedom of movement.
- ❖ The right to freedom of association.
- ❖ The right to just and favorable conditions of work.
- ❖ The right to an adequate standard of living.
- ❖ The right to social security.
- ❖ The right of children to special protection.
- ❖ The right to be protected from non-refoulement.

- ❖ The right to seek asylum.
- ❖ The right to an effective remedy. (Laboratory to Combat Human Trafficking, 2018)

Trafficking of women and young girls can be analysed through different lenses, from sexual violence to forced labour or compulsory marriages, each and every one of them highlighting the extreme and inhuman character of the infringements of their fundamental human rights such as the right to life, the right to liberty and security or the freedom of movement hence, as Morehouse and Springerlink (2009, p. 13) have commented, trafficking in “*a threat to the democratic way of life and the basic rule of law*”. Even though men and women alike become victims of trafficking in human beings, it is evident by the literature that women are disproportionately trafficked compared to men. For instance, the United Nations Office on Drugs and Crime in the Global Report on Trafficking in Persons for 2020 (2021, pp. 31-33) underlined that 46% of victims of human trafficking in 2018 were adult women and 19% young girls. Essentially, for every ten victims of trafficking worldwide, 5 are adult females and two young girls. The majority of these victims were exploited with the purpose of being commercially sexually exploited (77% of adult women and 72% of young girls). This, by all means, does not undermine the fact that men and young boys are trafficked and their human rights violated. However, there is a specific particularity regarding the victimization of females of all ages.

Szczerba (2018, p. 157), quoting professor Bistra Netkova explains that women’s human rights infringed during trafficking situations can be broken down into three phases: the pre-trafficking phase, the trafficking phase and the post-trafficking phase, throughout which human rights violations exist. In the first phase, there is a violation of the prohibition of discrimination by governments, policies and societies. During the second phase, the infringements of the fundamental human rights of women derive first from the traffickers that exploit them and simultaneously from the government authorities that were unable or unwilling to counter the issue of human trafficking. In the last phase, governmental officials further infringe the human rights of women and, in particular, the right to privacy or the right to liberty and security of person and freedom of movement in the cases that the victims are detained. The Laboratory to Combat Human Trafficking (2018) further supports this claim, stating that victims are repeatedly subject to severe infringements of their basic human rights from authorities.

It is crucial to recognize that discrimination on gender grounds against females consists one of the fundamental reasons for trafficking in women. Violence and prejudice against women can establish and further exacerbate the susceptibility of women to become victims to trafficking and experience its’ gender-based consequences, which include: sexual assault, sexually transmitted diseases or forced pregnancies. Therefore, human trafficking does not only generate human rights infringements; it is also a by-product of existing human rights violations (Blokhuys, 2008, p. 42).

Gender-based discrimination against women and girls is strictly forbidden in article 2 of the UDHR (217 A (III)), article 2 of the Convention on the Elimination of All

Forms of Discrimination against Women (United Nations, Treaty Series, vol. 1249, p. 13), article 2 of the CRC (United Nations, Treaty Series, vol. 1577, p. 3) in articles 2(2), 3 and 7 of the ICESCR (United Nations, Treaty Series, vol. 993, p. 3), articles 2 (1), 3 and 26 of the ICCPR (United Nations, Treaty Series, vol. 999, p. 171), the European Convention on Human Rights (ETS 5) in article 14 and the African Charter on Human and Peoples Rights, in articles 2 and 18 (30) (CAB/LEG/67/3 rev. 5, 21 ILM 58 (1982)). Gender-based violence is prohibited under the Committee on the Elimination of Discrimination against Women's in General Recommendation No. 19 (11th Session), the Vienna Declaration and Programme of Action in part I, para. 18 and part II, para. 38 (A/CONF.157/23) and the Protocol on the Rights of Women in Africa (Maputo Protocol) in articles 3 (4) and 4.

Female victims of trafficking that are forced to work as sex workers in order to repay their debts to the traffickers that exploit them experience another important violation: the prohibition on exploitation for prostitution enshrined by the Convention on the Elimination of All Forms of Discrimination against Women (article 6) and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949 (article 1). Furthermore, it is conflicting with articles 3 and 6 of the Universal Declaration of Human Rights. Trafficking for sexual exploitation is constitutionally both cruel and damaging to women. Apart from that, women who are forced to work as prostitutes experience the harmful consequences of prostitution, which consist of physical and mental abuse apart from sexual harassment (Fondation Scelles, 2016).

It is relatively common in extreme cases of trafficking in women to exist a violation of one of the most basic human rights, the right to life. As it will be shown later in this dissertation, many women victims of trafficking lose their lives at their hands of the traffickers or other individuals. The right to life is established in article 3 of the UDHR (217 A (III)), the European Convention on Human Rights in article 2 (ETS 5) and the ICCPR in article 6 (United Nations, Treaty Series, vol. 999, p. 171). Intertwined with the right to life is the right to health, and in cases of women, sexual and reproductive rights are of high importance. The physical and psychological health of the women who find themselves in trafficking situations is in a constant state of distress, with many survivors experiencing health issues in the aftermath. Sexual and reproductive health, in particular, is vital for their good health and prosperity (CCPR/C/79/Add.110), as numerous trafficked women are exposed to sexually transmitted diseases (mainly HIV), forced pregnancies or abortions. Apart from that, currently, the COVID-19 pandemic has made victims of trafficking more vulnerable to contracting the virus, and the fact that their predicament prevents them from being able to receive medical treatment reinforces the infringement to their right to health (Trafficking in Persons during COVID-19, n.d., p. 2).

The right to liberty and security of a person, as enshrined in article 9 of the ICCPR, is essential in the discussion surrounding the human rights of trafficked individuals, because by definition, the victims are deprived of their physical freedom. The core principle of this right is that everyone can decide how to live their lives, which a victim cannot possibly do when she finds herself in trafficking scenarios. The women's liberty is in jeopardy, as they are treated like property by their traffickers (Szczerba 2018, p. 157). The violation of this

right is interrelated with the prohibition of torture and inhuman or degrading treatment or punishment, as women tend to suffer in such situations. Therefore, another violation of a basic right arises (Gajic Velijanowski and Stewar, 2007, p. 339). The right to freedom of movement and the prohibition on arbitrary detention also occurs in other aspects of trafficking situations. These rights are intertwined with the prohibition of detention of victims by law enforcement agencies. Freedom of movement is a crucial right enshrined in important human rights agreements. However, in the context of human trafficking, only a single reference can be found in the Trafficking Principles and Guidelines, which in Principle 3 it affirms that the unlawful detention of trafficked victims constitutes an infringement of their right to freedom of movement (Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2010).

Another important right that is at stake in trafficking situations where the victims are females is the right to marry with free and full consent. This right is applicable in circumstances in which young girls are trafficked in order to participate in forced marriages. Forced marriages as a form of trafficking stem from the fact that they are usually conducted under pressure through threats or coercion. Also, at least one of the individuals who take part does so involuntarily, therefore constituting trafficking (Teekah and Sheehan, 2019). According to human rights law, a woman is free to choose whom, when and whether to marry. The woman's consent is crucial and necessary for the marriage to take place; otherwise, it constitutes an apparent infringement of her human rights. The UDHR enshrines the right to marry in article 16 (2) (217 A (III)), the ICCPR in article 23 (United Nations, Treaty Series, vol. 999, p. 171), ICESCR in article 10, (United Nations, Treaty Series, vol. 993, p. 3) the Convention on the Elimination of All Forms of Discrimination against Women, in article 16 (1b) (United Nations, Treaty Series, vol. 1249, p. 13), the Protocol on the Rights of Women in Africa, on article 6 (a) and the Supplementary Convention on the Abolition of Slavery of 1957 in article 1(c) (United Nations, Treaty Series, vol. 266, p. 3). Especially regarding the marriage of underaged girls, it is considered a violation of the provisions as encompassed by the Convention on the Rights of the Child (International Justice Resource Center, 2014).

Infringements of fundamental human rights of Nigerian female victims have resulted in court cases in both domestic and regional courts throughout Europe. Most recently, in April 2021, the European Court of Human Rights held that in the case of *A.I. v. Italy* (no. 70896/17) there was a violation of article 8 (right to respect for family life) of the European Convention on Human Rights, adding to the long list of possible human rights violations in trafficking scenarios. The applicant is a Nigerian woman, a refugee and victim of human trafficking residing in Rome. The victim's parental authority was suspended by the Italian authorities. Initially the victim was given weekly visits, but soon the youth court handling the case held that both of her children had been abandoned and were qualified for adoption. The ECHR, stated that the Italian youth court did not take into consideration the importance of a family life, when it ordered the termination of contact between the mother and her children. Additionally, the Court stated that the Italian authorities did not consider her susceptible predicament as a victim of human trafficking when assessing her ability to take care of her

children, underlying that in such cases authorities are to show more attentiveness and provide enhanced protections (European Court of Human Rights, 2021).

The case *L. E. v Greece*, Application No. 71545/12 (21 January 2016), is indicative of the quintessential trafficking situation of a Nigerian female victim of trafficking which will be analysed in more detail in the next chapter. The applicant is a Nigerian woman who was compelled to work as a prostitute in Greece. She arrived in the country in the summer of 2004 with her trafficker with the promise to work in bars and repay her debt. Her trafficker, however, confiscated her passport and made her work as a prostitute for two years until she was able to escape. She began her efforts to be recognized as a victim of human trafficking in November 2006 while detained and waiting for her expulsion from the country; however, the prosecutor at the Athens Criminal Court rejected her complaint. She filed for re-examination the following year, and a month later, the order for her expulsion was suspended. In August 2007, criminal proceedings against her perpetrators were brought forward. However, until 2009 the Greek authorities could not find her trafficker and his partner. In 2012, the court finally delivered a judgment against the two individuals accused of human trafficking and exploitation and for L.E. to be recognized as a victim. The victim lodged an application with the European Court of Human Right the same year. The Court held that apart from the violation of article 4 of the European Convention of Human Rights (prohibition of slavery and forced labour), there were also violations on articles 6, paragraph 1 (right to a fair hearing within a reasonable time) and 13 (right to an effective remedy). This is attributed to the fact that the victim had to wait a long period after notifying state authorities regarding her predicament before the judicial authorities granted her the victim status and other imperfections in the overall process, especially regarding delays by the country's procedural obligation (MON, 2016).

Many other cases of Nigerian female victims of sexual exploitation and forced labour due to trafficking thus far did not reach the European Court of Human Rights. For instance, in the *Sahel* case (25 May 2012) "The Court of Assizes in L'Aquila" in Italy provided a ruling in support of 17 Nigerian women who were forced into prostitution and severely exploited. The judgment quoting recital 13 and article 17 of Directive 2011/36/EU, regarding the compensation of victims of trafficking, ordered a 50,000€ compensation for each woman (SRD.03, 2012). A similar situation occurred, in the case *O.O.O. and others v. Commissioner of Police for the Metropolis* (20 May 2011), regarding four Nigerian women who were trafficked in the United Kingdom as children. They were compelled into forced labour and experienced physical and emotional abuse. The Queen's Bench Division, ordered a £5,000 compensation from the Metropolitan Police Service in London because they did not properly investigate allegations of slavery (SRD.03, 2013).

Chapter 4: What is it about Nigeria?

Nigeria is distinguished by its vast size and divergence, as it has a population of approximately 210 million as of July 2020 (worldometer, 2021) and nearly 250-400 distinct ethnicities, with more than 400 native languages. There are two predominant religions, Christianity (mainly in the south with 40% of the population being Christians) and Muslimism (mainly in northern Nigeria, with more than half of the country's population being Muslims). However, there are important religious traditions that are durable within the country tied to the old religions that are actively and publicly practised to this day, such as magic rituals called "*juju*". Nigeria is also characterized by a persistent financial crisis and deep-seated social inequalities, poverty, and corruption. The country is thought of as one of the most corrupt states globally (Carling, 2006, pp. 13-18).

4.1 History of smuggling & trafficking in the region

Nobody can be certain when human trafficking of female victims was established. However, scholars are convinced that it is very eminent in Nigeria. Emigration from Nigeria is not a new phenomenon. In the 1990s, after the petroleum boom of the 1970s, the country's economy started to disintegrate, and the prolonged military administration worsened the situation. The Federal Office of Statistics (FOS) pointed out that international sanctions were put in place due to such acute human rights infringements. As a result, civil discomfort, racial conflicts, adolescent transgression, and human rights violations (especially against the female population and minors) arose. In the 1980s, the first women from Nigeria started travelling to Italy to earn money by being small traders in the garment industry. These women quickly realised that Italians were willing to pay them in exchange for sex; hence sex trafficking began through these women that would travel back to Nigeria to recruit others. In 1999, FOS stated that mass migration began in Nigeria. In 2001, however, a new tendency arose with traffickers recruiting young girls to work as prostitutes (Akor, 2001; Hynes et al., 2018, p. 34).

The increase of Nigerians, who fell in despair and chose to migrate to Europe, resulted in more stringent immigration laws. Many Nigerians were prepared to risk their lives in order to reach their desired country. Naturally, this raised concerns about an increase in human smuggling and trafficking trends (Carling, 2006, p. 21; Monde-Anumihe, 2013, p. 5). According to IOM data from 2016, more than 20% of the individuals who reached the Italian shores via the route from Libya were from Nigeria, with approximately 3,000 people dying or going missing during the journey (Hynes et al., 2018, p. 25).

Trafficked individuals from Nigeria are primarily recruited in the countryside, with female victims being compelled to work as slaves in households or the sex industry. These victims usually derive from the Edo State in Southern Nigeria, particularly from its' capital, Benin City and are enslaved into working as prostitutes in Italy. Nigerian female victims from other parts of the country are forced to work in the sex industry in other parts of Europe

as well, which are: Spain, Germany, Belgium, the Netherlands, France, Scotland, Turkey, Denmark, Norway, Finland, Sweden, Ireland, Switzerland, Russia, the Czech Republic, Slovakia and Greece. According to the European Union Agency of Law Enforcement Cooperation (EUROPOL), the Nigerian organized crime constitutes one of the most outstanding issues the police of European authorities have to address (Monde-Anumihe, 2013, p. 4).

4.2 Size of the phenomenon

In general, the exact figures of individuals trafficked from Africa cannot be determined. This is partly attributed to the smugglers' ability to avoid authorities, and law enforcement agencies and the little emphasis certain local governments put on preventing and combating human trafficking. The former UN Special Rapporteur on human trafficking has stated that the problem of trafficking in human beings in the continent is vast, with Africa being a significant source of trafficked victims globally (Fleshman, 2009). In particular, trafficking in human beings with the intention of sexual exploitation and abuse is one of the most beneficial infringements of human rights. Globally, it is evaluated that approximately 40,000,000 people are subjected to human trafficking. Female victims overwhelmingly dominate this population (71%), and Nigeria is considered one of the states with the most victims of human trafficking (Ciupková, 2020).

However, even the overall figure of Nigerian victims of trafficking outside of the country cannot be determined. Due to the country's population and the narrative that exists, Nigeria is constantly and unquestionably included among the countries with the most victims of trafficking in human beings abroad, especially in Europe, with Nigerian victims detected in 34 countries in 2018. As stated by the former Nigerian Permanent Representative to the UN, in 2016, approximately 602,000 people tried to cross the Sahara and reach European shores. In the same year, 21% of the overall migratory population was of Nigerian origin, which was curbed the following year to 15.5% due to the joint efforts by the European Union and Italy to reduce the number of sea arrivals from Libya. In 2016, as reported by the International Labor Organization (ILO), nearly 11,000 females arrived in Italy through the Mediterranean, a substantial augmentation from two years earlier (1,454 women) (Pathfinders Justice Initiative, 2019).

According to the ILO (2017), globally, there were 4,800,000 victims of commercial sexual exploitation in 2016 alone, the striking majority of which (99%) were women and young girls. The latest reports from UNODC indicated that 50% of the victims of trafficking universally were oppressed with the purpose of sexual exploitation and 38% for forced labour (Global Report on Trafficking in Persons 2020, 2021 p. 33). Africa is considered one of the countries with the highest number of victims of modern-day slavery, with the Global Slavery Index of 2018 enlightening that from the 40,300,000 individuals being subjected to modern-day slavery globally, 71% were female victims. The same report indicated that Nigeria classified 32nd among 165 states regarding their population of victims subjected to modern-day slavery (Pathfinders Justice Initiative, 2019).

It is rather challenging to assess the figure of Nigerian women trafficked to Europe for the sex industry, although reports have stressed out that the figures are substantial. However, some emphasized that the number of female victims of trafficking in Europe cannot be calculated since there are no secure and trustworthy data in the region (UNODC, 2014, p. 45; Plambech, 2014, pp. 27-28). Based on some reports, approximately 10,000 sex workers from Nigeria live and actively work in Italy, mainly in Lombardy, Piedmont and Veneto (Global Initiative against Transnational Organized Crime, 2014, p. 16). Indeed, Italy and Spain are the two European countries with the most Nigerian female victims forced to work as prostitutes. However, Nigerian female victims also reach states in Eastern, Central and Northern Europe (Pongou, 2010, p. 12). Most Nigerian women who came forward and informed authorities about their experiences were in France, the Netherlands and the United Kingdom (Eurostat, 2015). Recently, it has become quite difficult for trafficking networks to move Nigerian women to European countries and have opted to sexually exploit victims to border states, as well as, the Middle East and particularly Dubai (EASO, 2021, p. 15).

As the United States Department of State (2015) has indicated in its report, Nigeria is a “...source, transit, and destination country for women and children subjected to forced labour and sex trafficking”. Even though this research will concentrate on human trafficking experiences across borders, I am inclined to point out that it also occurs within Nigeria. Trafficking within the state is linked with the slave trade and forced labour, begging on the streets, organ harvesting and prostitution. This clarification is essential since trafficking inside the Nigerian borders is frequently the initial phase of trafficking across the country’s borders (Cherti, Pannington and Grant, 2013, p. 24). Furthermore, despite of the fact that Europe is the leading destination of human smuggling and trafficking for Nigerians, trafficking for prostitution is also predominant in other parts of the world and in particular, North and Western Africa, the Middle East and Central Asia (United States Department of State, 2015; Cherti, Pannington and Grant, 2013, p. 24).

4.3 Human trafficking and the Nigerian society

The sexual, cultural norms and the roles between genders are contrasting within Nigeria, depending on the different regions of the country. For instance, in the territory near the Niger Delta (where most of the victims of trafficking derive from), it is common for females to be sexually active often from a very young age. In other parts of the country, polygamy is an acceptable practice. It is considered ordinary for married men to have sexual intercourse out of wedlock (Omorodion, 1993). In some regions, it is socially acceptable for young females to have sexual relations with older males in exchange for benefits, money and presents (Bamgbose, 2002).

According to Carling (2006, p. 30), for a low-income Nigerian family, a daughter migrating to Europe is a chance to escape from economic distress. It has been proved that many Nigerian families were able to better their financial status and be thought of as more esteemed than others due to trafficking. Many do not have another way to reach European countries but to ask for the help of traffickers. It is suggested that females who managed to

live in Europe were considered local heroines, with Nigerians feeling proud for their achievements (The Economist, 2004). The society of Benin City, in particular, has been redefined by the remittances coming from Italy, with Nigerians building new homes or buying new vehicles, not hiding where the money derives from. Some authors have alleged that presently, as a result of such practices, a new trend has arisen with individuals from Benin City and elsewhere in the country, seeking to make money quickly, which aids the growth of trafficking (Carling, 2006, p. 30). It is peculiar that women who manage to return to Nigeria with a fortune do not receive critical societal attitudes. On the contrary, they have a better social and economic standing and importance within their family and society. This, however, is not the reality of victims of trafficking who return to Nigeria without having succeeded in becoming rich. They are marginalized and even stigmatized by their community if they have medical issues (EASO, 2019).

The decision to migrate one Nigerian woman might make must be first analysed through a societal lens. First, within the local community, there is a strong constrain to emigrate. As only a few are able to do so, it is almost impossible to dismiss or withstand the pressure not to do so. In addition, among Nigerians, there is a deep devotion to family and its' values; thus, adults (and mainly women) feel obliged to provide for their relatives, both old and young. Most of the victims are the eldest daughters and have a strong sense of responsibility to help their families financially, and their inability to do that in their country of origin is a contributing factor in the decision to emigrate. In some instances, the relatives are the ones putting pressure on the woman to migrate, but in others, the woman is the one that wants to move, with her relatives trying to make her reconsider or stop her from leaving (Carling, 2006, p. 31; The Economist, 2004). As stated by a teenage victim of trafficking who managed to escape and return to her family, her parent told her, *"You don't want to work for me – other girls travel for three months and buy cars for their parents"* (The Economist, 2004).

However, there is a changing trend regarding emigration in recent years. Recently, many victims have come forward and shared their experiences from Europe. Apart from that, Nigerians' widespread concern regarding the poor reputation their state had acquired across Europe has also contributed to this. On top of that, experiencing much criticism from human rights activists and civil societies globally, Nigeria has started to take specific measures to fight human trafficking. One of the critical steps to spread awareness regarding the dangers of human trafficking and change the narrative was creating the National Agency for the Prohibition of Trafficking in Persons (NAPTIP). (Carling, 2006, pp. 31-32).

4.4 Causes of human smuggling & trafficking in women

The root causes of smuggling and trafficking in human beings are complicated and interdependent. There are quite a few different perspectives of what forces Nigerian women to migrate and cause them to fall victims to trafficking. Akor, quoting Pearson, states that there are primarily two factors culpable for the predominance of trafficking amongst females, called "Push and Pull". Pearson suggests that the factors include, on the one hand, the harsh

environment of the country these women live in, which is defined by high rates of unemployment, scarce job opportunities and poverty, and on the other the high demand for trafficking of the wealthy, westerns countries (Akor, 2011). This narrative is also supported by the EASO (2015, p. 12), adding that in the case of Nigeria, illiteracy, violence, discrimination against women and the eagerness to help their families financially are intertwined with the factors that Pearson suggests. In addition, there are also some “Facilitating factors” that create the perfect ecosystem for trafficking to develop and flourish. Lack of social awareness surrounding trafficking, ineffective policing and inadequate cooperation among interested parties make matters worse (Hynes, et al., 2018, p. 33). Others indicate that female victims of trafficking decide to migrate so as to work in the sex industry, knowing that it is a very profitable business (EASO, 2015, p. 12). For Scripraphai and Scripraphai (1997), human smuggling and trafficking are considered a by-product of international labour migration. They claim that individuals tend to migrate impermanently to better their financial conditions in their country of origin. As far as women are concerned, they stressed that female migrants who cannot find employment tend to work as prostitutes as a last resort.

Many causes push women of all ages to migrate and then fall victim to human trafficking. The exceeding determinants are financial hardship, corruption, lawlessness, violence resulting from misgovernment and maladministration of resources. All these are forces of emigration. Corruption, in particular, is a vital component in assisting emigration from Nigeria to Europe, which provides the constant flow of individuals wishing to migrate and undermines the state’s law and order. Thus, it decreases and even halts the country’s development by sabotaging its democratic institutions (Monde-Anumihe, 2013, p. 5). Poverty is a crucial factor in the decision to migrate. The economic hardships may make struggling families more liable to traffickers who claim to be able to provide better living conditions and economic opportunities to their children, not realizing their hidden agenda. Some scholars support the view that human trafficking is an infamous method of survival that low-income families adapt to in order to cope with economic distress. In contrast, others suggest that many parents would do everything they could to better their financial standing, even give up their daughter to traffickers to become a prostitute (Akor, 2011).

Quoting Nye, Akor (2011) suggested that the family size can be a decisive factor, analysing that children from large families tend to feel overlooked and untended; thus, they have the impulse to find comfort outside of the family unit, which makes them more prone to be deceived by traffickers. This is also supported by IOM’s report adding that the ineffectiveness or the absence of social security and welfare enhances the problem (Hynes et al., 2018, p. 22). Research conducted in the United Kingdom and Nigeria in 2012 has indicated that trafficked individuals were characterised by a dramatic event in their early lives, such as the death of their parents, which resulted in them not being taken care of. Their lack of financial support, illiteracy and exposure to violence made them easy targets for traffickers (Cherti, Pannington and Grant, 2013, p. 5).

UNICEF stresses that vulnerability is an essential factor among women and girls, which makes them prone to be victimized by traffickers. Specifically, in Africa,

circumstances of gender discrimination, abuse and insecurity, intertwined with cultural and social bigotry as well as gender-based violence are components that enhance their vulnerability. Some of the victims are fleeing from abusive or arranged marriages. Frequently, traditional and cultural norms such as the commonality of women not holding posts of responsibility and typically remaining illiterate and unqualified are factors that contribute to the decision to migrate, as young females are not only in search of opportunities to better their financial status but also acquire independence and improve their quality of life (Unicef and Innocenti Research Center, 2005; Fleshman, 2009).

One of the many indicative instances regarding the causes that force women to become victims of human trafficking is the story of a 17-year-old girl from Nigeria found by Italian authorities half-conscious, working in the streets as a prostitute. At first, she claimed she was an adult; however, soon, the law-enforcement agents found out that she was actually 17. In her statement, she told the police about her journey to reach Italy by sea. She was promised a position as a hairdresser, but as soon as she arrived, she was compelled to work in the sex industry to repay her debt to her trafficker (Di Giacomo, 2017).

4.5 Profiles of female victims

Back in the 1980s, the Nigerian female victims were primarily married or divorced in look for employment so as to provide financial assistance to their families. More up to date research has indicated that currently, the female victims of trafficking are among the 17-28 years age group, with the majority being 18-20 years of age (EASO, 2015, p. 15; Kastner, 2010, p. 20). In 2016 alone, almost 26,000 unaccompanied minors arrived in Italy. According to Federico Soda, the Director of the IOM Coordination Office for the Mediterranean, the majority of them were adolescents, making them the most defenceless, particularly the young female victims of human trafficking who are in the worst of predicaments (Di Giacomo, 2017).

The victims are usually illiterate, having graduated from primary or secondary schools (Plambech, 2014, p. 54). There is a growth in the employment of underage girls by traffickers in recent years, and the reasons for that are twofold. Firstly, adults are relatively more informed regarding the dangers surrounding human trafficking (UNICRI, 2010, p. 40). Secondly, there is a high demand for virgin girls by the sex industry to avoid sexually transmitted diseases and mainly, HIV. Furthermore, the victims tend to originate from large families living in poverty (Chert, Pannington and Grant, 2013; Plambech, 2014, p. 54; Braimah, 2013, pp. 20-21), although contrastingly, Kastner (2010) indicated that the victims she met as part of her research belonged to lower-middle-class families. As reported by EASO (2019), the vast majority of the female victims being trafficked in Europe to work in the sex industry originate from the tribes of Edo, Yoruba, Igbo and other tribes around the Niger Delta. In 2003, the UN Interregional Crime and Justice Research Institute, in its report, commented that “virtually every Benin family has one member or the other involved in trafficking either as a victim, sponsor, madam or trafficker.” (Pathfinders Justice Initiative, 2019).

The UNICRI (2010, pp. 41-42) has highlighted that it is pretty common for smugglers to falsely state that the women are older to demonstrate their consent during the journey to Europe. Once they reach the country of destination, traffickers tend to state that the women being trafficked are younger than they are so as to lure more clients. Nevertheless, it is also frequent for the victims themselves to adjust their age according to the occasion. For instance, once they have escaped from their traffickers and are under the protection of social services, some might lie, saying they are underaged so as to receive more protections and benefits.

4. 6 Facilitating of human smuggling and trafficking from Nigeria to Europe

4.6.1 Methods of recruitment

It has been discovered that, in many cases, young Nigerian girls are the ones seeking the individuals who are involved with the emigration business. However, members of their family or even close friends can be the ones to do that. Usually, the contacts are young men who have relatives (mainly women, but it can also be men) residing in Europe, that are “*madams*” and are responsible for the arrangements necessary for the journey to Europe. However, there are cases where two madams exist. One in Nigeria and one in Europe, who are closely associated and, in many instances, related. It is relatively easy for a woman to find information and get in touch with a sponsor to facilitate her journey. Occasionally, there may be another individual’s involvement, a sponsor who subsidizes the trip, although the madam usually covers the costs. Apart from these individuals, there is also a spiritual leader called “*ohen*”, the smugglers called “*trolleys*”, and an associate of the madam in Europe called “*madam’s black boy*”. People involved in the process of recruitment are also family members, former trafficking victims and Christian pastors. They are predominantly women, and find new victims to recruit in the streets or through the use of social media and WhatsApp. For women seeking to establish ties with the smuggling networks themselves, the process is relatively easy. For instance, in the capital of the Edo State, two nightclubs are infamous for the smuggling services they provide, fittingly called “Spain” and “Italy”, and depending on the desired destination, women can find the information they need. (Carling, 2006, pp. 26-27; EASO, 2019; EASO, 2015, p. 22; EASO, 2021, p. 31).

The recruitment process occurs in a comfortable setting, usually the victim’s house, place of work or the neighbourhood they live. According to an analysis, 72% of the women indicated that they were recruited by a family friend, 22% by a family acquaintance, 17% by a close friend of a family friend, 18% by their bosses, 15% by a relative or a companion and just 28% of them were recruited by people they did not know. These strangers are typically people who had migrated and returned to Nigeria with a certain financial standing. They investigate the cities for women looking to migrate, assure them that they can help them find employment or earn an education, and then contact their parents, ensuring them that they would help their daughters find work as maids, babysitters or aestheticians. Since having a child working abroad elevates the status of the family within their community, parents tend to

give their consent, even push their daughter to emigrate (Cherti., M. et al., 2013, p. 5, 39; Women's Link Worldwide, 2015, p. 11; EASO, 2015, p. 23).

4.6.2 Emigration pact & payment

When the decision to migrate is final, the means of transport and funding are to be decided. Smuggling and illegal entry are the only option for women wishing to emigrate, as visas are extremely difficult to be granted to Nigerians. The country is considered a "risk country" as it has multiple applications for asylum and illegal migrants. Besides, the financial and social reality of the state restricts Nigerians from being granted a visa on the basis of limited resources (Carling, 2006, p. 22).

The sponsors are usually the ones who are in charge of paying the fees for the journey and the settlement. If the woman's family is unable to pay back the fees, the women tend to put themselves into debt, thinking they would pay back their sponsors through the money they will earn in Europe (EASO, 2015, p. 23). The legal papers necessary can cost up to \$3,000, while some traffickers charge up to \$10,000 for the journey. The average trafficked woman ends up owing from \$40,000 to \$100,000, and for a woman working in the sex industry, this amount of money is payable within one to three years of work. Most victims do not comprehend the hefty fees they have to pay because they cannot fathom the currencies in Europe, and they initially believe that the fees are to be paid off in Nigerian currency (Carling, 2006, p. 28).

Before a woman is to travel to Europe, she is taken to a shrine, where a contract is made between herself and the madam. The spiritual leader, the "*ohen*" who conducts these traditional rituals, is some type of judge. These rituals are part of the ancient religion in western Africa, called "*juju*" in their native tongue, more commonly known as "voodoo" in the western world. These rituals are of significant importance in human trafficking. Interestingly, "*juju*" is deeply rooted in Nigerian society, despite religion, educational background and social rank. In western Africa, the use of the "*ohen*" is widely common, especially in sealing financial transactions. These priests are public figures within the society and provide spiritual services. It is notable that from the 1980s onwards, there has been a rejuvenation of "*ohens*" who work specifically with the trafficking networks. Bardaa (2015, p. 267) emphasises that the rituals are considered unethical but simultaneously genuine and, thus, widely applied. According to Nwogu, ritual oaths are used to finalise a deal, bidding both the woman and her madam to the agreement with supernatural retaliation in case of breach of contract. The oaths are conducted by creating a box that contains body material from the woman and her madam (usually pieces of hair, nails, teeth and even the victim's underwear). In addition, some "magical" items are added in the box, mainly: animal blood, palm oil, herbs, water, alcohol and kola nuts, among other things (EASO, 2015, p. 27; Carling, 2006, pp. 15-16, 28; Baarda, 2015, p. 259). The ritual also involves a sacrifice of an animal, while the woman being trafficked can be made to consume organic materials, or to be scarred in a specific way (van Dijk, 2001). These oaths are conducted for various reasons, including but not limited to: luring more customers for the women, protecting them against sexually

transmitted diseases, and frightening the victims with imminent threats of demise or lunacy in case the woman violates the contract. Then, another contract is signed by the victim, her trafficker and a lawyer employed by the trafficker called a “Friendly Agreement” (Women’s Consortium of Nigeria, 2015).

The traffickers use these oaths as a form of coercion and abuse in cases where the victims are not cooperating once they arrive in Europe and come to understand the reality of their choices. The victims have to deal with physical abuse and additional rituals. They consider these rituals as dark magic, in some cases distinct from the rituals they conducted back in Nigeria; thus, they fear the consequences they will face if they do not comply. The traffickers themselves also trust in these rituals. The Italian authorities have discovered through listening to phone conversations between madams in Italy and Nigeria that one may ask the other to conduct such rituals for protection against the police (Carling, 2006, p. 29). For authorities that fight trafficking in human beings, the rituals are thought of as a form of coercion against the victims, which is used as part of the evidence against the perpetrators (Baarda, 2015, p. 260). As stated by Kleemans and Smit (2014, p. 6), the “*juju*” ritual is the key characteristic that differentiates the method of operation of the Nigerian human trafficking network from other networks. Europol (2018, pp.12-13) has indicated that Nigerian trafficking networks are well-organized and adaptable as they have managed to use to their advantage legal immigration channels and mechanisms in Europe and to acclimate and withstand pressure by law enforcement agencies. As Europol highlighted “*Once one cell is dismantled by law enforcement, the rest can continue to operate and can easily re-establish any losses.*”

Generally, the bond that is created through these rituals is quite forceful for the victims. On the one hand, they are fearful that breaking the oath may cause them mental and physical harm. On the other, they are worried about the shame themselves as well as their people will face; as in this contract, the victims do not represent only themselves but also their Nigerian society. As a victim in Italy put it: “*You are tied to them, you are tied to this oath, you are obliged to respect it. And there are those who, I don’t know how to explain it, those who command you because this oath exists. They must command you, control you, and you are obliged to respect it*”. (Prina, 2003, p. 28).

However, recently the traditional religious ruler of Benin City put a curse on human trafficking, all the “*juju*” priests who perform these oaths, and invalidated all previous oaths. This has contributed in “*ohens*” not conducting these oaths, and trafficked women in Europe showing more inclination to escape from their traffickers. In addition, many victims seemed more willing to collaborate with authorities in Europe and Nigeria to convict the perpetrators (EASO, 2021, p. 35).

Several of the women trafficked in their testimonies indicated that they decided to migrate assuming that they would find legitimate employment but were compelled to work in the sex industry. This is partly true, as it has been proved that the first women who arrived in Italy back in the 1990s were either threatened or deceived into working as prostitutes. Since then, however, it is common knowledge that the majority of the Nigerian women who move

to Europe work in the sex industry, and thus, Nigerian women in Italy have disputed this claim stating that whoever said that they did not know what is happening in Europe, is lying (Prina, 2003, p. 22). Carling (2006, p. 30) supports that the victims (although aware of the reality) have such a strong will for a better life that they are willing to trust in the traffickers' promises, follow them and hold out hope that they are true to their word. According to him, it is difficult to distinguish who is actually being deceived, pretending to be deceived or is deceiving themselves.

Even if most victims know that they are to work in the sex industry once they arrive in Europe, they are not aware of the hardships they will have to face. For instance, they will have to work on the streets, they will be under the rigorous authority of their traffickers, and it will take years to repay their debts fully. Interviews of Nigerian female victims residing in Italy have highlighted the dreadful reality these women have to face, as they are obliged to have sexual intercourse with numerous men daily (from 4 to 12 clients within a day). Thus, frequently, they are deceived regarding their living conditions and restrictions of their liberties. Furthermore, they are usually deprived of their legal documents and phone numbers of their loved ones and friends to enhance their vulnerability to their traffickers and not be able to escape (Agbu, 2003, p. 7; Carling 2006, p. 30).

What is of great importance in the case of Nigeria is that women dominate this network. In particular, the high demand for new prostitutes requires a constant flow of victims. The madams who have the most important role within this network are the ones who feed the system. These women, who were initially prostituting themselves, recruit and usually finance the journey of the new women. The likelihood of becoming a madam in the future and gaining a better financial status helps the women withstand the suffering they are forced to deal with. Subsequently, the victims become perpetrators in an endless circle (Baarda, 2015, p. 258).

4.6.3 The journey

According to EASO (2015, p. 24), there seem to exist two patterns regarding travelling from Nigeria to Europe. Many of the women wishing to migrate, facilitate their journey with the aid of their family or via small loans. However, as it has already been analyzed, a second pattern which consists of travelling being made possible through sponsors, is prevailing. As stated by the Danish Immigration Service, the traffickers tend to move the victims to Lagos, and from there, another trafficker moves the women to the next destination, in a process that can last up to 2 years. It has also been highlighted that some women buy information from traffickers regarding the journey and go on travelling on their own. In such cases, the time to reach Europe is prolonged, and the women are even more in danger. Apart from that, in many of the transit countries, where women are waiting for the chance to leave for Europe, there are migrant "camps" where women are forced to live for years until they can move. These camps have hazardous conditions for females, as in several cases, they have to prostitute in order to be able to survive from hunger (Skilbrei and Tveit, 2007, p. 28).

In the rare cases where Nigerians are using air routes to reach Europe, they do not travel directly from their country to their place of destination. On the contrary, traffickers

prefer to first fly to another state, less “attractive” not to raise suspensions. Therefore, a common route is for the woman to move from Nigeria to Ghana, and then reach by plane a European country and then travel to Italy by train. In addition, a second pattern is to fly from Russia to Turkey or a country in Eastern Europe, and from there, the individuals move to the favoured destination illegally (Carling, 2006, p. 34).

As stated by Reitano, Adal and Shaw (2014, p. 11), the Central African path to Europe is “controlled” by Nigerians, with a widespread existence of packages from \$10,000 to \$40,000 for a chance to reach European countries. Those who cannot acquire the whole package have to travel north to Kano State and then Agadez. From there, they unite with people from other countries of West Africa so as to reach Libya. Generally, the most common paths to Europe for Nigerians are:

- ❖ from Nigeria to the United Kingdom;
- ❖ from Nigeria to the Sahel Sahara Desert to Libya and then Italy;
- ❖ from Nigeria to the Sahel Desert, to Libya and then Greece;
- ❖ from Nigeria to the Sahel Desert, to Morocco and then Spain;
- ❖ from Benin City to Kano, then Agadez in Libya and then Europe;
- ❖ From Nigeria to Niger, then from Libya to a country in Europe and then Russia.

Nonetheless, it has been indicated by numerous sources the smuggling paths are constantly shifting because they are dependent on various issues that might arise, the situation in transit countries or different circumstances during the journey (Hynes et al., 2018, pp. 26-27). EASO has highlighted that the journey from Nigeria to the favored European destination in recent years has been hindered due to the socio-political developments in many countries (particularly in Libya, as the madams that operate there find it difficult to successfully monitor the victims) and the measures put in place by Italian authorities to reduce the influx of migrants (EASO, 2021, pp. 25-27).

The risk of a woman being subjected to human trafficking during the journey is relatively high, especially for prostitution. Female victims, who are recruited to work as prostitutes in Europe, find themselves being trafficked along the smuggling routes. For starters, it is common for smugglers to compel the victims to have intercourse with law enforcement agents so as to make it easier to cross national borders. Furthermore, traffickers capitalize on migrant women who are short of funds by giving them money in exchange for sex. Thus, it is evident that even women who disagreed with being trafficked initially end up being victimized along the smuggling routes to Europe (Reitano, Adal and Shaw, 2014, p. 16). Many victims are also forced to work as buggers in the streets by their traffickers. This is particularly common in Morocco. Apart from that, women who are travelling from Nigeria with their traffickers are staying in “connection houses” during the journey where they are sexually abused. In other instances, the traffickers force them to start working as prostitutes from the initial phase of the journey in different transit states. As a result, a new issue arises: pregnancy. Many of the women become pregnant before they arrive in Europe. Many victims have reported that they were raped, with the consent of their traffickers, to become pregnant so that the Italian authorities would not deport them once they reached European shores. This

puts the victims in an even worse situation than before. They have to care for their child and simultaneously raise money to send to their families back in Nigeria, thereby prolonging the exploitation by the traffickers because it would take them longer to repay their debts (EASO, 2015, p. 33). Apart from that, in 2020, in the Netherlands there was much concern about the existence of a baby trafficking network as numerous pregnant Nigerian asylum seekers had disappeared from reception centres. In addition, in Italy drug trafficking networks are forcing Nigerian female victims who are pregnant to become ‘drug mules’ as they are not very suspicious (EASO, 2021, p. 21).

Once the victims arrive in Europe, their personal belongings are seized from them, and they are obliged by their traffickers to work as prostitutes to pay back their debts that vary between \$30,000 and \$50,000 US Dollars. For an average victim of human trafficking, the period of reimbursement is approximately 3 to 5 years. This colossal burden drives the younger victims to have unprotected sex with as many as 12 different clients per day. However, the cruelty does not cease there. It is relatively common for madams to eliminate the contract with a victim of human trafficking to their advantage by informing the authorities that the woman resides in Europe illegally. This tends to happen when the woman contracts a sexually transmitted disease or is close to full repayment of her fees. Apart from that, the women have to endure physical violence which results in bodily harm and even death, either by their traffickers or the madams. It is indicative that from 1994 to 1998, as many as 116 Nigerian forced into prostitution were found dead in Italy, murdered by one of their customers or their perpetrators (Women’s Consortium of Nigeria, 2015).

Chapter 5: Regional & cross regional initiatives of combating the issue

In combating trafficking in human beings, significant stakeholders have come forward and acquired a very active role in the effort to address and eradicate human trafficking and its' consequences. The European Union, the Economic Community of West African States and the UN Office on Drugs and Crime, have contributed to governments' efforts in Africa to deal with human trafficking and provide the necessary support and help to its victims. This is particularly true in the case of Nigeria, as the country has received multifaceted aid from these bodies.

5.1 Anti-trafficking initiatives in Europe and Africa

Within the European Union, human trafficking is recognized as a serious and problematic issue. This is evident in articles 79 and 83 of the Treaty of European Union, emphasising the need to tackle human trafficking, especially regarding females and children. Furthermore, the Charter of Fundamental Rights of the European Union explicitly acknowledges trafficking in human beings as an illegal activity in article 5(3), while article 5(1) and (2) prohibit slavery, servitude and forced labour. The EU also introduced the 2002 Framework Decision on Combating Trafficking in Human Beings (which received much criticism regarding victim protection and the absence of an anti-prejudice provision) and, of course, the Council of Europe Convention Against Trafficking in Human Beings which was presented in subchapter 2.4. Apart from that, EU Directives are crucial in addressing the issue of trafficking in human beings under the umbrella of international crimes (as an example: Directive 2011/95/EU which provides the requirements necessary for individuals from non-EU countries to be granted international protection, subsidiary protection or the refugee status). However, Directive 2011/36/EU offers an extensive framework precisely regarding the issue of human trafficking by establishing binding legislation against human trafficking and the obligation to indict the perpetrators efficiently on a human-rights based approach (Szczerba 2018, pp. 155-156; Ikeroa, 2018, p. 80). The European Conference on Preventing and Combating Trafficking in Human Beings introduced the 2002 Brussels Declaration on Preventing and Combating Trafficking in Human Beings and the Organization for Security and Co-operation in Europe's Action Plan to Combat Trafficking in Human Beings of 2003, which are legal instruments of high importance in the effort to combat human trafficking (Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2010).

Unlike the EU, the African Union (AU) has not established an anti-trafficking legal regime especially focused on trafficking in human beings. In article 4(2) (para. g) of the Protocol to the African Charter on Human and People's Rights, on the Rights of Women in Africa, it is affirmed that as part of the right to life, integrity and security of an individual, the signatory countries are to adopt the necessary and effective means to prevent and criminalize

trafficking in human beings and bring to justice those who are involved in this activity, so as to safeguard the well-being of women. Generally, it is widely embraced that the EU has played an influential role in adapting migration and trafficking policies in Africa. The ECOWAS (Economic Community of West African States) has taken on a more active role than the AU in the effort to encourage anti-trafficking sentiment in western Africa. However, some argue that the 1979 Protocol on Free Movement of Persons and the Right of Residence and Establishment has stimulated the phenomenon as it enables free movement of smugglers and traffickers through the region. However, the ECOWAS 2002 Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children, adopted by the European Union and African States in 2006 was introduced in order to reinforce the legal framework against trafficking, and in particular regarding women and children, who were subjected to sexual exploitation. In this regard, the ECOWAS put forward the Convention on Extradition and the Convention on Mutual Assistance in Criminal Matters to strengthen the collaboration among countries on their efforts against trafficking in human beings. The Convention on Extradition was not well-received by member-states, with many not signing or ratifying it. Its primary provision targeted the issue of perpetrators escaping from one country to another to find shelter so as not to be prosecuted (Abebe, 2017, p. 5&17; Ikeroa, 2018, pp. 81-82). Similarly, a Multilateral Cooperation Agreement to Combat Trafficking in Persons, especially Women and Children, in West and Central Africa was established by the ECOWAS and the Economic Community of Central African States (EECAS). Furthermore, the Declaration on the Fight against Trafficking in Persons was introduced by ECOWAS in 2001 to contribute to the region's effort to address human trafficking (Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2010).

The UN Office on Drugs and Crime is the major international body that deals with the issue of trafficking in Persons and Smuggling of Migrants. Throughout the years, UNODC has worked with Nigeria to tackle the issue of human trafficking within the country as it is evident that there is indeed a severe problem of trafficking in human beings in West and Central Africa. In an effort to enhance global collaboration between Africa and Europe in the fight against trafficking in human beings, in 2018, the UNODC began working with the Nigerian Federal Ministry of Justice through the PROMIS project. This is a collective initiative between UNODC and the Office of the United Nations High Commissioner for Human Rights, which focuses on establishing a human rights-based approach to the smuggling of migrants. Through this program, prosecutors from Nigeria travel to Italy and Spain, where they are liaison magistrates, instituting communication and cooperation between governments to provide judicial assistance and promote quick information exchange, in compliance with the Organized Crime Convention and the Trafficking Protocol (unodc.org, 2020). This initiative was first introduced in February 2018 with funding from Italy and the Netherlands (unodc.org, 2018). In the summer of 2020, four new initiatives were introduced by UNODC in collaboration with IOM, the Nigerian government and ARK with the aid of Swiss and Canadian authorities. Three of the four projects with the financial assistance of Canada were established to reinforce the information and intelligence gathering and the examination capacity of the Nigerian Immigration Service and the NAPTIP. The fourth initiative, which Switzerland supports, will aim to advance the Nigerian regulatory

framework in reference to trafficking in human beings by drafting a new-fangled National Action Plan against Trafficking in Persons for the years 2021-2025 (unodc.org, 2020).

5.2 Anti-trafficking efforts by the Nigerian Government

The realisation that combating human trafficking on a global level requires the active collaboration of those involved in the source countries has driven destination states to seek to join forces with Nigeria and, by doing so, understanding and addressing the underlying causes for human trafficking. In order to do so, Nigeria ratified international legal documents addressing the issue, and in particular, the Organised Crime Convention and its Protocols (Ikeroa, 2018, p. 137). It has also ratified international pieces of legislation relating to trafficking, per example: The Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the CEDAW and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, among others. On a regional level, it has ratified the African Charter on Human and People's Rights, its Protocol on the Rights of Women in Africa and the African Charter on the Rights and Welfare of the Child. However, the country has not ratified the Protocol of 2014 to the Forced Labour Convention, 1930; the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203); and the Domestic Workers Convention, 2011 (No. 189). Trafficking of women was criminalised on a national level through a criminal act in 1904 and penal legislation in 1960. Both, however, do not address the problem thoroughly, which resulted in many forms of trafficking not being mentioned. This is attributed to the fact that the legal documents concentrated on domestic and global trafficking with the purpose of enslavement and prostitution. The criminal code, penalizes number of actions that might constitute trafficking and criminalizes the "juju" oaths. The penal code clearly states that trafficking against women is a crime with distinct provisions depending on the victim's age. However, it solely forbids the trafficking of women into Nigeria, and not trafficking of women from the country to other states (UNESCO Intersectoral Programme: Poverty Education, 2006 ; A/HRC/41/46/Add.1).

Nigeria is part of the ECOWAS, a member of the Interim Plan of Action to combat trafficking in human beings and the Ouagadougou Action Plan. Furthermore, the country cooperates with other countries regarding the issue of human trafficking. For instance, the Nigerian government has signed an agreement with the Benin Republic to enhance collaboration, safeguard victims of trafficking, facilitate their repatriation and efficiently identify and indict the perpetrators. The realisation of the problematic issue of Nigerians being smuggled and trafficked in Europe has paved the way for Nigeria to work with receiving countries of the EU, most notably the United Kingdom and Italy, with which Nigeria signed a Memorandum of Understanding in 2004 and a Memorandum of Agreement in 2000, respectively. The Memorandum of Understanding with the UK was made to deport perpetrators from the UK and bring them to Nigeria to be brought before a court of law and be prosecuted. The Memorandum of Agreement with Italy provided a comprehensive

regulatory framework for readmission of irregular immigrants (particularly females) from Italy to Nigeria. As stated in the Memorandum, the European country would provide the necessary technical education to the Nigerian police force on the issue, as well as aid Nigerian female victims of trafficking returning from Italy, with the psychological and health-related issues deriving from sexually transmitted diseases (UNESCO Intersectoral Programme: Poverty Education, 2006).

Generally, despite its actions to effectively eradicate trafficking in human beings, the Nigerian government was not able to do so. The country educated public officials on how to deal with the phenomenon efficiently, worked with international organizations and non-governmental organizations to tackle trafficking in critical regions, used state-of-the-art technology to assist their efforts and even brought to justice public officials involved in human trafficking but with little success. According to the report of 2020 regarding human trafficking in the country, as conducted by the US Department of State, Nigeria's efforts to tackle the issue were not enhanced when compared to the earlier report because a lower number of traffickers were prosecuted, and there is still much controversy regarding the existence of human trafficking within the Nigerian military. As a result, the country is on the Tier 2 Watch list, which is essentially a ranking of governments in reference to their efforts to address and tackle trafficking in human beings. The fact that Nigeria did not comply with the Trafficking Victims Protection Act but is still trying to do so made the country eligible for the Tier 2 Watch list of the ranking system (United States Department of State, 2020). Apart for that, the Special Rapporteur on trafficking in persons, especially women and children on Nigeria stated that the legislative framework is not strongly enforced or correctly implemented attributing it to scarce resources and lack of proper training of the public officials (A/HRC/41/46/Add.1).

5.3 NAPTIP and its' role in tackling human trafficking

Nigeria introduced the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (NAPTIP) in 2003 as part of the country's efforts to strengthen its' response action against trafficking in human beings, which was amended in 2005 and replaced in 2015 in order to provide a more comprehensive legal framework. Legal documents with components relating to human trafficking did exist (as examples: the Nigerian Constitution of 1990 or the Immigration Act of 1990) (Ikeroa, 2018, p. 137) but, before this legislation, there was not a specific legal instrument dealing with the issue of trafficking in human beings. The wife of the former vice-president of the country initiated the creation of a committee to create legislation regarding the issue of human trafficking (NAPTIP, n.d.). The improved NAPTIP Act of 2015 introduced the establishment of an agency called "National Agency for Prohibition of Traffic in Persons and Other Related Matters", also known as NAPTIP. The agency would be in charge of the appropriate implementation of domestic, regional and universal legal standards and take the necessary actions to safeguard and support the victims of human trafficking along with witnesses. In addition, it would regulate the collaboration among the parties concerned, adequately and effectively investigate cases of trafficking for every purpose (this includes inter alia to forced

servitude, smuggling of immigrants, prostitution, organ harvesting and child labour), bring to justice traffickers and encourage intercontinental collaboration and coordination. Part of its priorities is to stimulate the fight of Nigerians against slavery by promoting social consciousness regarding the issue (Ikeroa, 2018, p. 143; Ibenegbu, 2017).

In 2012, Frontex and the Nigerian authorities, the Nigerian Immigration Service, the Police force and NAPTIP agreed upon a contract dealing with border control and data interchange through which forced repatriation takes place (Frontext, 2012). As of 2009, the agency initiated a National Plan of Action from 2009 to 2012, with a four-pronged strategy focusing on Prevention, Protection, Prosecution and Partnership. From 2012 to 2017, a Strategy Plan was established which concentrated on combating human trafficking through reinforcing the police, broadening social awareness on the issue, extending the protection and aid for victims as well as enhancing cooperation among state, regional and intercontinental stake-holders and bettering organizational progress (EASO, 2015, p. 18). In November 2020, NAPTIP, in collaboration with UNODC, after receiving financial support from Switzerland (which is already mentioned earlier in subchapter 5.2), initiated the drafting of a new National Action Plan to address and fight trafficking in human beings. The new plan's overall aim is that with the assistance of UNODC, the effectiveness of NAPTIP's work will be improved by distinguishing and providing the resources needed to carry out the plan and establish the necessary mechanisms to supervise and assess its implementation (unodc.org, n.d.).

Chapter 6: Assistance and protection to female victims of trafficking. Is it enough?

As it has already been stated in subchapter 4.3, there are different attitudes towards women who return from Europe back to Nigeria, depending on their status when they arrive. Women who were obliged to return home by European state authorities, participated as witnesses in court cases relating to human trafficking or were not able to repay their debts entirely, are generally not well received by their local communities. However, this is not the case for every returnee.

6.1 The return to Nigeria & societal attitudes regarding returnees.

EASO (2015, p. 36) noted that prostitution is considered inappropriate by Nigerians; therefore, women who return to their homes without a fortune or because they were deported are marginalized by their local societies and disregarded by their families. Those, however, that manage to return wealthy are generally well-received. The distinction in attitudes towards the victims of trafficking acts as a decisive catalyst in their decision-making process early on their journey. Many of them, knowing full-well the patterns of behaviour back in their communities, are reluctant to return to their country. Victims of trafficking who were not able to pay back their traffickers or did not manage to collect wealth, while in Europe, very rarely decide to return to their country of origin. Some choose not to do so, not to disappoint their relatives that depend on the money they send from Europe or because they fear the repercussions they will have to face if they infringe the contracts with their traffickers. Apart from that, they have little confidence in the ability of the Nigerian government to safeguard them against traffickers effectively or to provide them with the means necessary for their survival (Women's Link Worldwide, 2015, p. 60).

In general, trafficked women who are forced into prostitution in Europe and are discovered by authorities are handled with either of these two methods. In the first scenario, they might be officially recognised as victims and choose to be returned to Nigeria willingly through a program by IOM that deals with repatriations of individuals in general, not strictly victims of human trafficking. In the second scenario, they might be acknowledged as undocumented migrants and forcibly returned to Nigeria through the EU Joint Return Program, which is an initiative to enable safe returns of migrants to their country of origin with respect to their human rights and the principle of non-refoulement (Migration Joint Initiative, n.d.). However, most Nigerian women are not granted the status of victim of trafficking and are obliged to return to Nigeria without any support (for instance, financial compensation until the process of reintegration is completed). Furthermore, the country's government and the agencies involved with the issue are not informed about their repatriation because they are not considered victims but "undocumented aliens" (Plambech, 2014, p. 385; EASO, 2015, p. 37). Once women returning from Europe reach Nigeria and cannot be identified as victims of trafficking, they are interviewed by law enforcement agencies. This

process usually takes longer than necessary, with women being treated as criminals and given no information concerning why they are detained for so long. In many such cases, they are deliberately detained so as their families would have to pay off the police to set them free (Women's Link Worldwide, 2015, p. 60; Skillbrei and Tveit, 2007, pp. 53-54). Therefore, there is another fear among these women, the fear of being purposely detained.

Nigerian women who come back from Europe and have managed to collect a substantial amount of wealth disclose the fact that their wealth derives from working as prostitutes so much so that, particularly in Edo State, it has progressively become tolerable (and even respectable) to become wealthy through such unlawful activities. For instance, when the women come to Nigeria on vacation or return permanently, the local community acts as if they do not know how the woman managed to become so rich. As a rule, stories portraying the detrimental consequences of trafficking are not widespread in Benin City. The women who migrated to Europe are supposed to provide for their families, and there are not many questions asked about the source of their wealth (EASO, 2015, p. 38; Edbrup, 2012). They are treated with respect, and their families acknowledge that they support them financially, so Nigerian women tend to feel this need to appease their family members. As Osezua discovered (2013, pp. 14&30), illiterate Nigerian women consider trafficking and prostitution empowering because, through this practice, they can elevate their financial status and social rank within their societies.

On the other hand, women that come back without the necessary wealth are mistreated, and if they have contracted a sexually transmitted disease or face some other type of health issue, their reputation is tarnished. Ironically, these women are deemed morally corrupt and rapacious by Nigerians who claim that they could have chosen a different occupation (EASO, 2015, p. 39). Criticism is constant within the family unit, with the mothers of the victims openly showing their discontent towards their daughters (Edbrup, 2012). Family support is crucial in situations of trafficked Nigerian women. This narrative is evident even among the well-educated population (EASO, 2015, p. 39). Within the Nigerian society, family structure is of high importance. Many believe that these women cannot successfully fend for themselves without a social network around them (Skillbrei and Tveit, 2007, p. 58). In some situations, the victims' families push them once again into such circles of exploitation. At the same time, in other incidents, the relatives receive threats or are assaulted by traffickers with the intent to repeat such actions against the victims (Cherti M. et al., 2013, p. 41&73). Apart from all that, the victims also have to deal with a psychological burden when they are returned to Nigeria. This is especially true when the victims come back to Nigeria extremely poor and without paying off their debts. The fact that there are scarcely any employment opportunities in their regions causes them extra strain and anxiety. Moreover, the women tend to face physical abuse, with many of them being raped and assaulted in order to be robbed because criminals are aware that recognized victims of trafficking get compensation until they manage to reintegrate (EASO, 2015, p. 40).

6.2 Evaluation of the support provided to victims of trafficking

The assistance and protection provided to Nigerian female victims of trafficking is a joint effort of international intergovernmental organizations, non-governmental organizations, and national agencies like NAPTIP, an essential proponent in Nigeria's effort to aid victims of human trafficking. In particular, NAPTIP has established shelters that house women returning from Europe. These shelters are scattered throughout different regions of the country and can be found in cities such as Lagos and Benin City (Women's Link Worldwide, 2015, p. 63).

In line with the country's legislation, NAPTIP is responsible for aiding individuals who have fallen victims to different crimes, including human trafficking under the 2015 Anti-trafficking law and the 2015 Violence Against Persons Prohibition Act. This has contributed to the struggle of the Agency to give adequate, specialized care to victims of human trafficking. Women living in these shelters are provided with psychological support, health care and legal counselling. In instances where the victims face extreme issues, and special care is required, they can be treated in hospitals that work with NAPTIP. However, the period that the victims can stay in these shelters is short-term (according to some estimates from 2 to 6 weeks), and in addition to this, they cannot exit the facilities without a member of NAPTIP accompanying them. This produced much concern for the Special Rapporteur, that stated that the fact that the shelters are closed, violates the freedom of movement of the women. Furthermore, it produces further limitations as it restricts access to healthcare and education. If the women need to stay longer in such shelters, they are transported to other such accommodations provided by NGOs that NAPTIP works with (United States Department of State, 2015; EASO, 2015, p. 43; A/HRC/41/46/Add.1). As of 2020, the Agency operates ten facilities exclusively for individuals who have experienced human trafficking, which are able to shelter only up to 334 victims. The Agency continues to move victims who need further support after the designated six-week period to shelters run by other NGOs. (United States Department of State, 2020).

According to recent reports, the Agency was capable of aiding more than a thousand victims of trafficking in human beings and moved 71 victims to shelters of other NGOs in 2020. Overall, the Agency managed to identify and safeguard more victims of human trafficking than the Nigerian authorities (181 recognized victims of trafficking for forced labour and more than 600 possible victims) and provided aid in the form of health assistance, legal counselling, psychological support and various courses to kick start their new lives. Underaged individuals were not being taken care of by NAPTIP but by the Nigerian foster care system in order to attend schools because the Agency's shelters are closed. The individuals residing there cannot go out on their own as part of their reintegration process and guarantee their safety (United States Department of State, 2020). However, the Agency has been facing many hardships the past year. In a recent interview NAPTIP's Director-General, Mrs Julie Okah-Donli stated that the COVID-19 pandemic hindered the Agency's ability to identify and offer victims of trafficking aid. According to Mrs Okah-Donli, the country's financial support towards the Agency has been curbed as the state's resources are relocated

on addressing the pandemic. Apart from that, she urged shareholders to guarantee that the victims continue to access health services and welfare benefits despite the pandemic (NAN, 2020). This, however, is a global trend as the UNODC claimed, authorities worldwide are relocating funds and resources to deal with the pandemic, whereas identifying and aiding victims of trafficking increasingly becomes less paramount and effective (Trafficking in Persons during COVID-19, n.d., p. 3).

Apart from NAPTIP's shelters and those shelters established by NGOs working with the Agency, other NGOs have also created such shelters (United States Department of State, 2020). More or less, these establishments cannot provide aid and support to multiple women simultaneously. Apart from that, they are unable to offer vocational education or courses to better the lives of the victims in the long term. The psychological support offered is hardly enough to help the victims effectively, and essentially, these facilities are not entirely safe (EASO, 2015, p. 43).

One of the most important aspects of reintegration is the reunification of the victims with their families. This is being done under the umbrella of NAPTIP and different NGOs. As it has already been mentioned in this particular work, the relationship between the victims and their families might be quite controversial for numerous reasons, such as the fact that many were trafficked with the consent of their parents. Thus, in many cases, the organizations working with victims of trafficking face difficulties in this endeavour as families are unwilling to welcome home their daughters. According to some, in such circumstances, the effort to reunify the women with their families might endanger their overall rehabilitation, as they might face physical or emotional abuse within the family unit once the reintegration process is initiated. In such cases, it is difficult for reunifications to work, and some have suggested that the best policy would be to move these women to different regions of the country, away from their relatives, to secure their well-being (Cherti M. et al. 2013, p. 73; EASO, 2015, p. 44). The process of reintegration also involves compensation for the victims provided by the Nigerian authorities. This compensation package is estimated at around 660 to 880 euros, not nearly enough for women to lead an adequate way of life (Women's Link Worldwide, 2015, p. 65). Plambech (2014, p. 393) clarifies that this package usually goes into buying the necessary supplies for the women to start their own business and not cover their everyday needs. Apart from that, some women have complained that the process of granting them the compensation package was long overdue, and they had to work as prostitutes to survive, which Plambech was not able to clarify.

The safety of the women's physical health is, of course, at risk when they have returned and are trying to reintegrate within their communities. Many of the female victims questioned by Skillbrei and Tveit (2007, pp. 57-58) have stated that they had to deal with abuse and acts of retaliation. For the most part, women who had not managed to pay back their traffickers were particularly vulnerable to such actions. Furthermore, the victims who choose not to press charges against their abusers are usually not in danger, while those who do so have to face cruel consequences. Some disagree with this opinion, arguing that traffickers typically do not chase after the victims within Nigeria because by doing so, they

would expose themselves to authorities and face incarceration. This is more likely to happen in Europe rather than in their country of origin. However, what is generally accepted is that women are prone to revictimization. This is particularly true in situations that the women are closely linked with their traffickers and still owe them money (Cherti M. et al. 2013, p. 71).

The Nigerian police force is thought to be able to provide adequate protection to women who have returned to their communities from the traffickers. Despite that, there has been much concern regarding the issue of corruption among the country's police forces, which has resulted in many instances of traffickers paying off officers to avert being prosecuted and detained. Some victims have indicated that Nigerian officers even encouraged victims to pay off their debts rather than provide them with protection. Apart from that, NAPTIP has also received much criticism from certain NGOs that claimed in 2007 that not all victims of human trafficking deserving of protection from NAPTIP were able to receive it because there were far too many victims, and therefore, numerous women were supplanted (Baye, 2012, pp. 33-34; EASO, 2015, p. 46).

It is indicative that the protection and assistance provided to the female victims of human trafficking in Nigeria is far from adequate and very insufficient. This undoubtedly contributes to the mass returns of Nigerian women to Europe. Some of the victims initially try to reintegrate and start over; however, they are soon discouraged by their predicaments (Skillbrei and Tveit, 2007, p. 59). Others are compelled to do so after receiving threats from their former traffickers or relatives (EASO, 2015, p. 46).

6.3 Recommendations

Trafficking is a multifaced and complicated issue. This intricacy defines the difficulty of combating trafficking in human beings because dealing with this phenomenon solely through a social lance, for example, does not tackle the factors that make individuals, and females in particular, vulnerable to be prejudiced or victimized. According to UNESCO, the prevention of human trafficking requires a prolonged period of reflection and the necessary interventions in three stages. First, by preventing the phenomenon before it occurs, second by restricting to the extent possible the total amount of cases and finally, controlling their harmful implications. Primarily, it is essential that every piece of legislation relating to trafficking in human beings, which Nigeria has ratified, is implemented appropriately and international legal instruments concerning the protection of human rights are ratified. (UNESCO Intersectoral Programme: Poverty Education, 2006). The Special Rapporteur also encouraged in her report the country to ratify, without delay, the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203) and the Domestic Workers Convention, 2011 (No. 189) and ensure universal ratification and enforcement of the Federal Child Rights Act across all states (A/HRC/41/46/Add.1).

The Nigerian policy framework surrounding trafficking in human beings is severely inefficient to fight trafficking. According to the Special Rapporteur, it mainly targets the

prosecution of the perpetrators, rather than preventing trafficking and safeguarding the victims. Apart from the need to introduce new policies that effectively create employment opportunities for the most vulnerable and discriminated civilians and the need to provide adequate financial backing to agencies like NAPTIP and other organizations to aid and protect the victims of trafficking that return from Europe, a witness protection program must be introduced and implemented so as to female victims feel safe when choosing to press charges against their traffickers in Nigeria. the Agency's role should, in addition, be reassessed, particularly in reference to its' closed shelter approach. This is out to be done in order to aid and care for the victims through a victim-based approach. The Special Rapporteur suggested the strengthening of the capacity of the Agency by providing adequate resources, in order for NAPTIP to successfully implement its role and programs (UNESCO Intersectoral Programme: Poverty Education, 2006; A/HRC/41/46/Add.1).

Regarding the protection provided to victims, the Special Rapporteur in her report, suggests the Nigerian government to adopt a victims-based and human rights-centred approach to combating trafficking. By doing so, the authorities should also guarantee that victims receive appropriate aid, and in particular healthcare and housing. In reference to the reintegration process, the Special Rapporteur recommends that the Nigerian government should ensure that all returnees have access to the available reintegration programmes, despite of the fact that they might not be returning from Europe under the EU-IOM Joint Initiative (meaning not being recognized as official victims of trafficking back in Europe). Moreover, these reintegration programmes are to be improved in order to better accommodate to the needs of the victims and be more maintainable. In addition, the government is to provide stable and valuable employment opportunities to the recovering victims that can help them with their social reintegration (A/HRC/41/46/Add.1).

Furthermore, the improvement and strengthening of the cooperation among different agencies and organizations involved in the protection of victims of human trafficking is necessary, as is also the creation of a strategic plan to provide trustworthy information and fight human trafficking through the collaboration of numerous institutions. The Special Rapporteur underlined the need for better cooperation of NAPTIP with other state mechanisms and departments that deal with trafficking scenarios, such as the Federal Ministry of Women and Social Affairs. However, the Nigerian government should also act on an international and regional level by ensuring that the state's embassies worldwide can promptly identify and aid Nigerian victims of trafficking overseas by facilitating travelling and providing identification documents at no cost. Raising awareness of the issue should be part of Nigeria's policy changes on a national level. Nigerian authorities are to cooperate with stakeholders to bring attention to the damaging consequences of human trafficking, from the sexually transmitted diseases to the psychological toll the victims experience in fear of infringing the religious rituals. Most notably, the local community is to be adequately educated regarding the social status of women to make sure that they are treated with respect and not discriminated against. By doing so, the probability of being victimized and exploited by trafficking networks will be lessened (UNESCO Intersectoral Programme: Poverty Education, 2006; United States Department of State, 2020).

Conclusion

At the moment, human rights concerns regarding trafficked women are rapidly gaining attention. As it is demonstrated in this paper, the aid provided to these women from a legislative and policy standpoint is inadequate. Trafficking in human beings constitutes presently one of the most horrendous transnational organized crimes. It infringes upon fundamental human rights and is a crime against humanity. However, human trafficking is still approached by governments and authorities as a border control concern and therefore, key legislative frameworks, as per example the Trafficking Protocol, focus on fighting trafficking as part of the international agenda against organized crime. Indeed, other provisions have guaranteed the protection of the human rights of people involved in trafficking scenarios. Nonetheless, the most basic rights of victims of trafficking continue to be violated by traffickers and authorities worldwide.

It is crucial to recognize that discrimination on gender grounds is one of the fundamental reasons for trafficking in women. In addition, it is one of the first human rights infringements that they experience. Specifically, Nigerian women have little chance of earning an education, finding employment and acquiring important political or governmental positions. Living in a male-dominated, poverty-stricken society provides them with scarce opportunities to improve their living standards. Then, throughout their journey, there are multiple human rights infringements. They are deprived of their right to life, liberty and security of a person, as they are held captives by their perpetrators. Since they cannot move without their trafficker's consent or escape from their captivity, another violation arises, the infringement of the right to freedom of movement. Apart from that, they experience physical and mental assaults, which violate the prohibition of torture and inhuman treatment or punishment. When they are forced into prostitution to repay their debts, they experience a form of slavery and forced labour, particularly debt bondage. The right to life is violated when traffickers or customers kill the victims while their right to health is constantly at risk. In cases of underage victims, a commonality in the case of Nigeria, there are further violations as children enjoy additional protection due to their vulnerability.

Women are particularly susceptible to trafficking and therefore dominate the figures and statistics. Especially in the case of Nigeria, this particularity can be attributed to gender discrimination, poverty and lack of educational and employment prospects. International, regional and national institutions responsible for the prevention and obliteration of trafficking in human beings are to introduce a victim-based approach to deal with human trafficking. Certainly, there is more than can be done in order to aid the women trapped in commercial sexual exploitation and safeguard their fundamental human rights. These women will forever remain vulnerable to prejudice and human rights violations, as long as they continue to be given fewer opportunities than men, treated as illegal migration threats and disregarded by governmental authorities once they have aided investigations and forcibly returned to Nigeria where they cannot access sufficient and adequate help.

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