

Human Trafficking as a Quintessence of 21st Century Slavery

Chigozie Nnebedum

Human Trafficking as a Quintessence of 21st Century Slavery

The Vulnerability of Nigerians in Austria

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Dedication

This work is dedicated to the family of Nnebedum
and
all who fight human/women trafficking

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List of abbreviations

| | |
|-----------------|---|
| ATC | Anti-Human Trafficking Cyprus |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| COE | Council of Europe |
| CRC | Convention on the Rights of the Child |
| BBGM | Berliner Bündnis Gegen Menschenhandel (Deutsch) |
| BMEIA | (BMeiA) Bundesministerium für europäische und internationale Angelegenheiten (Deutsch) Federal Ministry of European and International Affairs |
| BNRM | Dutch National Rapporteur |
| ECHR | European Convention on Human Rights |
| ECCAS | Economic Community of Central African States |
| ECOWAS | Economic Council of West African States |
| EEA | European Economic Area |
| EMN | European Migration Network |
| EU | European Union |
| EUROPOL | European Law Enforcement Organisation |
| GDP | Gross Domestic Product |
| GFN | Global Freedom Network |
| GNP | Gross National Product |
| GPAT | Global Programme against Trafficking in Human Beings |
| GRETA | Group of Experts on Action against Trafficking in Human Beings |
| HDR | Human Development Report |
| HTOR | Human Trafficking for Organ Removal |
| IBF | Interventionsstelle für Betroffene des Frauenhandels (Deutsch) |
| IDP | Internally Displaced Persons |
| ILO | International Labour Organisation |
| IMF | International Monetary Fund |
| INTERPOL | International Criminal Police Organisation |
| IOM | International Organisation for Migration |
| LEFÖ | Lateinamerikanische Exilierte Frauen in Österreich (Deutsch) |
| MOMR | Monthly Oil Market Report |
| NAG | Niederlassungs- und Aufenthaltsgesetz (Deutsch) (Settlement and Resident Act) |

| | |
|----------------|---|
| NAPTIP | National Agency for the Prohibition of Trafficking in Persons |
| NGO | Non-governmental organisation |
| NIIA | Nigerian Institute of International Affairs |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| OIC | Organisation of the Islamic Conference |
| OPEC | Organisation of Petroleum Exporting Countries |
| OSCE | Organisation for Security and Cooperation in Europe |
| StGB | Strafgesetzbuch (Deutsch) Criminal Code |
| TF-MH | Task Force Menschenhandel (Deutsch) Task Force on Human Trafficking |
| TIP | Trafficking in Person |
| UDHR | Universal Declaration of Human Rights |
| UN | United Nations |
| UNDP | United Nations Development Programme |
| UNHCHR | United Nations High Commissioner for Human Rights |
| UNHCR | United Nations High Commissioner for Refugees |
| UNICRI | United Nations Interregional Crime and Justice Research Institute |
| UNO | United Nations Organisation |
| UNODC | United Nations Office on Drugs and Crime |
| UNPC | United Nations Population Commission |
| UN.GIFT | United Nations Global Fight against Trafficking |
| USAID | United States Aid Agency |
| WASC | West African School Certificate Examination |
| WHO | World Health Organisation |
| WOTCLEF | Women Trafficking and Child Labour Eradication Foundation |

Abstract (Deutsch)

Menschen- und Frauenhandel (MFH) kann als „moderne Sklaverei“ bezeichnet werden, die in ihrer Komplexität und Dynamik in der Ausbeutung der Opfer endet und Gewinne für einen einzelnen oder eine Gruppe abwirft. Als eines des am schnellsten wachsenden internationalen Kriminalgeschäfts hinter dem illegalen Drogen- und Waffenhandel (Human Right Watch 2001) konzentriert sich Menschenhandel auf Frauen und Kinder, deren Verletzlichkeit in der Gesellschaft sie zur leichten Beute für Ausnützung macht. Die mehrheitlich gehandelten Personen sind Frauen, die dann in der Sexindustrie landen.

Die Konvention (United Nations- Palermo Protocol 2000) gegen transnationales organisiertes Verbrechen enthält in ihrer Definition von Menschenhandel grundlegende Aussagen, die das Verbrechen folgendermaßen beschreiben: „Der Akt der Rekrutierung kann Verstecken und Transport des Opfers einschließen; die verwendeten Mittel müssen verbunden sein mit Gewalt oder Drohung gegen das Opfer. Der Zweck ist immer Ausbeutung.“ (UN Trafficking Protocol 2000, art. 3a) Diese Ausbeutung zeigt sich in zwei Formen – in Zwangsarbeit und in Form von Prostitution. Das einzige Ziel ist, aus diesem Verbrechen Kapital zu schlagen bei vergleichsweise geringem Risiko. Es gibt viele, die selbst Nutznießer des MFH sind – die AnwerberInnen, die SchleuserInnen, die ZuhälterInnen und die Freier.

MFH kann sich in einem bestimmten Land und auch darüber hinaus ereignen. In den meisten Fällen werden Menschen von weniger entwickelten in besser entwickelte Regionen geschickt. So werden Frauen und Mädchen alljährlich von Ländern z.B. Nigeria nach Europa und Amerika gehandelt. Nigeria ist eines der vielgestaltigen Länder der Welt und liegt in Westafrika. Trotz seiner reichen Ölreserven hat es sich zu wenig in die Weltwirtschaft integriert und zählt zu den ärmsten Ländern der Welt, was die sozialen Indikatoren anbelangt (UNDP Poverty Index 2013).

Es gibt Unklarheiten in den Grundursachen für Menschenhandel. Aber diese Grundursachen können zurückgeführt werden auf soziale/ wirtschaftliche Ungleichheit, Globalisierung, politische Instabilität und Gier der Menschenhändler.

Dieses Verbrechen ist eine umfassende Bedrohung und sollte als Herausforderung für VerantwortungsträgerInnen auf den unterschiedlichen Ebenen gesehen werden. Lösungen sollten in Richtung einer konsequenten Anwendung internationalen Rechts, dessen nationaler Verankerung, aber vor allem in Richtung des „Empowerments“ der betroffenen Gruppen und der nationalen und internationalen Zivilgesellschaft ‚konzipiert‘ werden.

Die Leitthese ist, dass der Weg zur Lösung dieses Problems aufmerksam machen sollte auf die internationalen Menschenrechte und die nationale Adaption dieser Gesetze. MFH ist ein wichtiges Thema innerhalb der Menschenrechtsdiskussion, deren institutionelle und juristische Verankerung im internationalen und nationalen Recht sehr unvollkommen ist.

Das Menschenrechtsmodell sieht gehandelte Personen nicht nur als Opfer eines Verbrechens an, sondern auch als Opfer eines Verbrechens in einem fremden Staat, was ihre Verletzbarkeit erhöht. Der Menschenrechtsansatz sieht die Opfer nicht als kriminell an, und daher verdienen sie eher Hilfe und Schutz als Verfolgung und Strafe. Sie sollten durch die Tatsache, dass sie Opfer sind, **entkriminalisiert** und die Händler verfolgt werden (Smith & Mattar 2004; Ivan Yuko 2009).

Es bleibt unberücksichtigt, dass durch die Fortdauer der strengen Grenzkontrollen der Pool weiterer möglicher illegaler MigrantInnen ansteigen wird (Pak-Hung 2011) und viele werden Opfer von MenschenhändlerInnen werden. Wenn man den Ursachen illegaler Migration in den Herkunftsländern nicht beikommt, dann kann man daraus folgern, dass auch repressive Maßnahmen Menschen nicht daran hindern können, ihre Lebenssituation durch Migration zu verbessern (Pak-Hung 2011). Diese Arbeit soll dazu beitragen, das Wesen der Aktivitäten im Bereich des internationalen Menschenhandels besser zu erkennen und zu verstehen, und einen neuen Weg auf der Ebene internationaler Zusammenarbeit zu suchen und zu fördern, der die Ursachen von internationalem Menschenhandel bekämpft.

Abstract (English)

Human trafficking can be termed ‘a modern day slavery’ which in its complexity and dynamism ends up in the exploitation of the victims for the personal gains of a person or group of persons. Being one of the fastest growing international criminal business activities, and ranking behind illicit drug (substance abuse) and arms deals (Human Right Watch 2001), human trafficking focuses more on women and children. This is often because their vulnerability in society renders them easy prey to exploitation. A majority of the victims, especially women, end up in the sex industries.

The Convention against Transnational Organized Crime (United Nations – Palermo Protocol 2000) gives what stands as a working definition of human trafficking, presenting the basic elements that should characterize the crime. These elements include the fact that the act of recruitment can include harbouring and transportation of the victim; the means must involve force or threat of force; the purpose will be exploitation (The Trafficking Protocol 2000, art. 3a). The exploitation in question takes two forms: it can be through forced labour or forced prostitution. In either case, the sole aim is to make money through the crime. The chain of beneficiaries of the crime of human trafficking includes the recruiters, the smugglers, the traffickers and the customers.

Human trafficking can happen within a country or across the borders. In most cases people are transported from the so-called underdeveloped to supposedly developed regions. As a result, women and girls are smuggled yearly from underdeveloped countries, for example Nigeria, to Europe and America. Nigeria is one of the multiform countries in the world and is situated in the western part of Africa. Despite Nigeria’s rich oil reserves and production, the country has little to show for it in terms of economic advancement and, therefore, is, as far as development index is concerned, one of the poorest countries in the world (UNDP Poverty Index 2013).

There are variations in the root causes of trafficking. These are sometimes dependent on regional and cultural backgrounds. However some root causes are traceable to social/economic inequality, negative effects of globalization, political instability, and the greed of the traffickers.

The crime of human trafficking is one that poses an extensive threat to the global community and should be seen as a challenge by all stakeholders at different levels. Conceptions of measures towards combating the crime should be in the direction of applying the international rights which anchor in the national laws

to the victims. Above all, the empowerment of the group that is usually affected should be considered and planned by the national and international bodies. The road towards a solution to this problem should point to the international human right laws and to the national adaptations and implementation of them. Human trafficking should remain a very important theme within the human rights discussions. However, the institutional and judicial adaptation of these rights within the international and national legal systems has shown a lot of flaws.

The human right model, as a measure towards fighting human trafficking, provides that a victim should not be seen as a criminal but as a victim of a crime which increases his or her vulnerability in a foreign land. The human right measure considers the victims of human trafficking as victims whose conditions demand help and protection, and not as criminals who should be prosecuted and punished. They should, for the very fact that they are victims, be decriminalized, and the traffickers should be prosecuted and punished (Smith & Mattar 2004; Ivan-Yuko 2009).

It should be noted that with the introduction and execution of strict border controls, the number of illegal migrants will increase (Pak-Hung 2011). Often the prospective illegal migrants fall victim to human traffickers. If the causes of illegal migration in the countries of origin are not addressed, for instance the reduction of the socio-economic and developmental inequalities in the world in general, then one may expect that not even the strictest repressive measures would stop the desperation that often leads people to seek to migrate at all cost in the bid to better their lives (Pak-Hung 2011). This work is a contribution towards a better understanding of the nature of the international crime of human trafficking. It is an impulse towards finding a new way at the international levels, and encouraging cooperation among nations in the fight against international human trafficking and its root causes.

Part I

1 General Introduction and Concept of the Work

1.1 Statement of Problem

Human trafficking can be termed ‘a modern day slavery’ which in its complexity and dynamism ends up in the exploitation of the victims for the personal gains of a person or group of persons or, in some cases, of some businesses (Aronowitz 2001, p. 172). As contrasted with the old slavery method where the victims are taken against their wish, either through kidnapping or forceful abduction, human trafficking involves a recruiting method that is based on false promises and deceit. The victims of human trafficking are caught up in the modern day migration web because, as Louise Shelley puts it, “...all too often those who pay smugglers become victims of trafficking along the way or on arrival.” (Shelley 2010, p. 4). People migrate constantly for different purposes. Most victims of human trafficking migrate to escape from threats to their existence which are considered in this work as factors that render them vulnerable to human traffickers (see chapter 3). On the other hand, some are forced to migrate as a result of prejudice to their gender. As they migrate, they use all available means to transport themselves, and to stay in their destination countries, they battle all sorts of obstacles which sometimes render them vulnerable to human traffickers (Shelley 2010; Huland 2012). Human Trafficking is not a new phenomenon but rather a problem which makes one ask whether we are living in the 21st century or not. The United Nations High Commissioner for Refugees (UNHCR), which is an Agency of the United Nations (UN) for Refugees, writes:

The issue of trafficking has attracted substantial attention in recent years, but it is not a modern phenomenon. Numerous legal instruments dating from the late nineteenth century onwards have sought to address various forms and manifestations of trafficking. These instruments remain in force and are relevant to the contemporary understanding of trafficking and how best to combat it. (UNHCR 2006: HCR/GIP/06/07, par. 2.).

The Convention against Transnational Organized Crime gives a working definition of human trafficking which contains the basic elements that should characterize the crime. These are: the act of recruitment: this may include – harbouring and transportation of victims; the means – which must involve force or threat of force; the purpose – which will be exploitation (see chapters 2.2 & 2.3). The exploitation in question takes two forms: it can be through forced labour or forced prostitution. In either case, the sole aim is to make money through trafficking

in human beings. The business of human trafficking is a high-profit one and has low risks. The profit from the activities of human trafficking is not only outrageous but also increasing. It is estimated that the profit which trafficking in human beings brings every year worldwide is about \$7 to \$10 billion dollars as reported by the International Organization for Migration (IOM): "The International Organization for Migration estimates that profits of 7\$ billion were made from trafficking in persons in 1997." (Kyle & Koslowski eds., in Shelley 2010, p. 7). According to the International Labour Organisation, this amount has increased in subsequent years, to about \$32 billion (UNODC Report on Trafficking in Persons, online version).¹ In order to maximize their profits, those who are engaged in the business of human trafficking can use their victims many times. The chain of beneficiaries of the crime of human trafficking includes the recruiters, the smugglers / traffickers, the agents and the customers. This crime is a challenge to the global community, and many countries have tried to criminalize it in order to fight it without success. The reasons for the failure could be based on the fact that the root causes are neglected. Furthermore, the penalty for the crime is borne mostly by the victims who are often migrants without official documentation (Guggenheimer et al. 2009, p. 74).

There are variations in the root causes of trafficking. These are sometimes dependent on regional and cultural backgrounds. However, some root causes can be traced to social/economic inequality, negative effect of globalization, political instability, and greed of the traffickers. Globalization brings better means of transportation and communication. People become aware of the disparities in economic and social systems across the globe. The desire to take advantage of the opportunities in other countries is strengthened. Criminals take advantage of this desire, and trafficking in human beings booms.

As one of the fastest growing international criminal business activities, and ranking behind illicit drug and arms deals (UNODC, Global Report on Trafficking in Persons 2012, online version)², human trafficking focuses on women and children whose vulnerability in the society makes them easy prey to human traffickers. The International Labour Organisation (ILO) estimates that around 20,9 Million people are victims of forced labour in the world, and this number includes the victims of human trafficking (UNODC, Global Report on Trafficking

1 http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf. Preface. Accessed on 27. November 2014.

2 http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf. Preface. Accessed on 27. November 2014.

in Persons 2012, online version).³ While seeking to better their lives and perhaps those of their dependents, many victims fall prey to the traffickers who use them as goods to make a profit for themselves and other criminal groups. Trafficked persons are usually women and they end up in the sex industries (Wharton 2010). Louise Shelley making a reference to ILO's report writes:

ILO estimated that 2.5 million are victims of human trafficking, of which about two-thirds are women and children trafficked into commercial sexual exploitation. But at least one-third are also trafficked for other forms of economic exploitation. These victims are more often men and boys. (Shelley 2010, p. 5).⁴

People are being moved from underdeveloped regions to more developed ones. In view of this, women and girls (boys and men) are smuggled from developing countries (e.g. Nigeria) to Europe and America and are sold as sex slaves.

In order to achieve success in the identification and protection of victims of human trafficking, there is a need for law enforcement agents and Non-Governmental Agencies (NGOs) to make conscious efforts in utilizing the anti-trafficking strategies and measures developed by policy makers. Such success does not depend on the number of officials that are engaged in the activity but on the application of effective plans based on human rights. This work recognizes some steps towards achieving this goal (see chapter 7.). The whole process begins with understanding human trafficking as a crime before setting out impulses for measures to combat it. The general instructions and declarations on handling the cases of human trafficking globally are of great importance, whereby it is to be noted that trafficking in human beings is not only a criminal offence but also an abuse of human rights.

Motivation for the Research

The focal motivation for this work is to examine the factors which render Nigerian women, men and children vulnerable to human trafficking within the main stream of the migration process.⁵ This is because human trafficking may

3 Ibid.

4 See also ILO Report "A Global Alliance against Forced Labour," Global Report on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. Geneva 2005, Part 1. par.60; UNODC, Global Report on Trafficking in Persons 2012. In: http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf. Executive Summary. Accessed on 27. November 2014.

5 The focal point of research in this work is women and children. Men are referred to where necessary.

not happen unless people migrate – nationally or internationally. This crime is a menace in the increasingly globalized world and should be seen as a challenge to all countries (Pak-Hung 2011). The solution to the problem of human trafficking should be geared towards the adaptation of the international laws which are anchored on the national laws, and the creation of policies to protect the victims of human trafficking and fight the crime. This adaptation should also include the ‘empowerment’ and ‘rehabilitation’ of those affected. In the treatment of the victims, reference should be made to the provisions of the Universal Declaration of Human Rights (UDHR) and the respect of those rights as far as the individual victims are concerned.

Some of the governments of the world have commissioned several studies to boost their knowledge of the crime of human trafficking and to keep up to date with the information on it for the purpose of enforcement of preventive and protective measures or for the persecution of the offenders (Protection Project 2002, Raymond & Hughes 2001, Berliner Bündnis Gegen Menschenhandel 2010 [BBGM], Österreichischer Bericht zur Bekämpfung des Menschenhandels 2009–2011 [TF-MH]). There are data collected and published by IOM on the subject of human trafficking and some literature written on the subject. While this work will focus on those documents that are related to human trafficking within Austria with regard to Nigeria, it will not be limited to them; hence references will be made to other countries when necessary.

1.1.1 Nigeria is affected by the Problem of Human Trafficking

Nigeria is one of the multiform countries in the world and is situated in the western part of Africa. Nigeria has 36 States and a capital Territory. The country has more than 250 ethnic groups, a rich deposit of natural mineral resources and a dwindling economy.

Figure 1



(<http://maps-africa.blogspot.co.at/2012/05/map-of-africa-political-pictures.html>. Accessed on 20. June 2014)

Figure 2: Map of Nigeria with the capital city Abuja in the middle⁶



Nigeria, as a country, got her independence from England in 1960. Nigeria operates a Federal Democratic System of government. The country shares international borders with the following countries: Chad, Cameroon, Niger and Benin. Ranking 32 in the world in terms of landmass, Nigeria has, according to the 2009 estimates, a population of about 140 million (Berie et al. eds. 2014) out of which about 67.98% are living under the poverty line of less than two dollars per day (UNDP Poverty Index, online version).⁷ Kara writes: “Nigeria is one of the poorest countries in the world, with a per capita income of 1,154 Dollar runaway

6 http://images.google.at/images?ndsp=20&um=1&hl=de&lr=&rlz=1G1GGLQ_DEAT295&q=map+of+nigeria&start=180&sa=N. Accessed on 20. June 2014.

7 In: <http://hdr.undp.org/en/content/table-6-multidimensional-poverty-index-mpi>. Accessed on 27. November 2014.

inflation, and a massive debt load to the IMF that drains government coffers at the expense of social services.” (Kara 2009, p. 90.). The age structure of the population whereby the majority are youths has its implication on employment, education and provision of the necessary social services. The rise in the demand for these amenities without a corresponding increase in the resources for providing them is one of the reasons (for other reasons see chapter 3) for the migration of the people and their vulnerability to human trafficking (Kara 2009).

Nigeria is positioned as the most populous country in Africa with over 140 million people.⁸ Der Neue Fischer Weltalmanach 2014 reports that Nigeria’s population at the last census is 140,431,790 Million people (Berie et al. eds. 2013, p. 332; see also National Population Commission Abuja Nigeria 2006 census). This number places Nigeria at a lime light in the world. Owing to the impact of globalization and developmental/post developmental tendencies, the country shares in the knowledge of many opportunities to advance in development. Unfortunately, globalization and developmental efforts have, unprecedentedly, accelerated the crime of human trafficking in the country. This is due to the advanced communication technology and the inter-connectedness between countries. Through globalization the world becomes closer and a global community is formed. As globalization tends to promote and foster a better human family, people become more interconnected with one another, and information and ideas flow. The differences in the wages are noticeable, and people who want to migrate still find it difficult to do so because of strict immigration laws in destination countries. The demand for legal migration for qualified workers could be said to be the catalyst for illegal migration of labourers which includes the smuggling of human beings. This has many consequences, one of which is trafficking in human beings. The opportunity of trafficking women in Austria becomes readily available to the traffickers back home in Nigeria through advanced technology in communication.

Nigeria earns a lot from her oil but has very little to show for that in terms of development and poverty alleviation. Nigeria’s economy depends to a great extent on the petroleum sector. Nigeria is said to have the 8th largest oil reserve in the world by the Organisation of Petroleum Exporting Countries (OPEC) and is placed between Libya and Qatar (Opec Share of World Crude Oil Reserves 2013).⁹ She is ranked in 2012 in the OPEC Monthly Oil Market Report (MOMR) as the 7th largest producer of petroleum products in the world (see

8 The exact number is questionable due to the different figures available. But for the purpose of this work the figure of ‘Der Neue Fischer Weltalmanach 2014’ is used.

9 See: http://www.opec.org/opec_web/en/data_graphs/330.htm. Accessed on 27. November 2014.

Rachovich 2013, online version). Despite her rich oil reserves, her integration into the global economy has been below her potential and she counts among the poorest in the world in terms of the Human Development Report (HDR) (Human Development Index Trend 1980–2013).¹⁰ To receive a higher rating, Nigeria needs to invest in social, human and physical infrastructure. These are necessary for sustained long-term development. Corruption of the officials at the highest governmental levels has continued to weigh down the operational system in the country, and this goes a long way to affect the overall life of the citizens (Orjiako 1981). Mismanagement of government funds leads to a total breakdown of the economy. Breakdown of law brings about insecurity. The Nigerian economy lags behind in the world and that affects the social standard within the country. Variations in economic and social status act as factors in the exacerbation of the crime of human trafficking in Nigeria. Parents who are poor and cannot afford to cater for their children send them to relatives or friends for sponsorship. Many parents, on the other hand, accept payments and hire their children out for domestic work in the urban cities. Some parents do this to make money; others do it to give the children better opportunities (Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo 2006). Mostly these children end up in the hands of the traffickers. Some of the Nigerian victims of human trafficking in Austria confirmed that they were trafficked as teenagers.¹¹

Though the main concern of the fight against human trafficking in Nigeria is centred on international human trafficking; there are cases of trafficking within the country for the purpose of both sexual and labour exploitations. Such local traffickings are being reported in the dailies; for example, it was reported that “Anambra State Ministry of Women Affairs has closed down Umunna Street Motherless Babies’ Home, Onitsha, in Onitsha South Local Government Area of the state for alleged involvement in the use of the home as a transit point for child trafficking.” (Okonkwo in Vanguard 2014, p. 7).¹² According to the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) in Nigeria, a large number of Nigerian men and women (with a majority being women and girls) are trafficked across to Europe for labour and sex related exploitations every year

10 See: <http://hdr.undp.org/en/content/table-2-human-development-index-trends-1980-2013>. Accessed on 27. November 2014.

11 This information was deduced from the interview conducted by the author of this work in Austria in the course of the research for this dissertation between November and December 2013.

12 Saturday Vanguard is a national newspaper in Nigeria. Anambra is a state in the south eastern part of Nigeria.

(NAPTIP Report 2008). Many of these migrant Nigerians who are victims of human trafficking are found in Austria. In 2005, the Dutch National Rapporteur (BNRM) presented a comprehensive report on human trafficking in Europe and reported that “one fourth are from Africa, especially Nigeria” (cf. Kutnick et al. 2007, p. 14).¹³ A majority of these victims from Nigeria are from the Edo region of the country. Siddharth Kara writes: “Up to 80 percent of Nigeria sex trafficking victims... belong to a single ethnic group, the Edo, who live in the mid-southern region of Nigeria where inter ethnic conflict over oil towns continues to rage.” (Kara 2009, p. 90.). It is pertinent to ask the question: what is the factor that contributed to 80% of the Nigeria victims of human trafficking coming from a single ethnic group -Edo and Delta States? (Kara *ibid*; see chapters 2.7 & 2.7.1).

Based on the interviews conducted by the author with some of the victims of human trafficking in Austria, it is difficult to generalise about human trafficking. Some victims give themselves willingly to the traffickers while some get stocked in the migration route and find themselves at the mercy of the traffickers. The vulnerability of women to cultural and traditional dictations in the Nigerian society renders them easy prey to human traffickers. Most of the Nigerian women victims in Austria were smuggled into the country. The smugglers use many techniques to control them, which include: confiscation of documents; constant changing of accommodation (to keep them disoriented); clustering them together to reduce costs; threats with police arrest; threat to families back at home with violence and administering of oath (Shelley 2010).

A failed implementation of adequate strategies in organising the nation's resources very well has led to ineffective human resource development, low standard of education, poor agricultural advancement, political instability and corruption at all levels. The results of such failed strategies are: under/unemployment; social and economic inequalities; and conflict. This is so obvious that at the least opportunity an average Nigerian who is caught within this quagmire will want to migrate.

1.1.2 Nigeria as ‘Origin’ and ‘Transit’ Land of Human Trafficking

Nigeria is a source country for human trafficking because it generates the victims. Nigerian women, girls, men and boys are trafficked for the purpose of exploitation (Shelley 2010). There are lots of them in Austria as will be discussed

13 This is an account presented by the team in a working paper – Methodologies for global and national estimation of human trafficking victims: current and future approaches, by Bruce Kutnick, Patrick Belser and Gergana Danailova-Trainor. International Labour Office Geneva, February 2007.

later in this work. As a transit country, women and girls, men and boys are trafficked trans-nationally between Nigeria and other bordering countries for the same purpose of exploitation. A lot of boys and girls from neighbouring countries come into Nigeria as victims. It has been indicated that Nigeria is a trafficking route in the region of West Africa. She serves a dual purpose of originating and transporting the victims to Europe and other parts of the world (Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo, 2006). A primary source country for young boys and girls trafficked to work in the granite quarries in Nigeria is the Republic of Benin (Nwogu 2008).¹⁴ There are also victims who are trafficked internally for domestic labour. Mostly these are girls who are paid to be nannies or housemaids. They are also vulnerable to sexual abuse and may be transported abroad for further prostitution and exploitation (Nwogu 2008). Sometimes these girls or boys are sent freely by their parents, owing to poverty and desperation, to their acquaintances to live with them with the hope that they will have a brighter future:

It is believed that the child who has now found a new home in this well-to-do family will perform some domestic chores in exchange for food and education. This is almost like a cultural practice accepted by all as a means of giving the child a brighter future which the parents may find difficult to give. It is another way of emancipation from rural life and poverty to urban life and contentment. But unfortunately this 'culture' has been transformed purely as a business and so can be a sort of crime. (Nnebedum 2010, p. 145).

In some cases the traffickers seek out those desperate families and demand for the children in exchange of monthly remittances for jobs that do not exist (Kara 2009).

Nigeria is a major source of migrants for European countries (Kara 2009; Shelley 2010). With her population which is over 140 million (Berie et al. eds. 2014, p. 332), a dwindling economy and history of corruption, she is also a land of transit for migrants travelling out of the African continent. "The victims trafficked abroad from Nigeria are transported through the land borders in Lagos, Ogun, Akwa Ibom, Cross River, Borno and Yobe States into West African sub-region." (Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo 2006, p. 30). Although many Nigerians are trafficked to other parts of the world, the main concern of this work focuses on, but is not limited to, those whose route is Austria. As much as possible, the Austrian Ministry of Internal

14 It is estimated that over 12 million children are engaged in child labour in Nigeria alone. Most of these are victims of human trafficking. See: "Nigeria: human trafficking and migration", by Victoria Ijeoma Nwogu. In: www.wildaf-ao.org/eng/IMG/doc/Olateru-Olagbegi_ENG.doc. Accessed on 19.04.2008.

Affairs tries to keep records of all the migrations within the territory of Austria as far as the data available can provide.¹⁵

1.2 Aims and Objectives

The aims and objectives of this study can be classified into four categories in accordance with the whole structure of the work thus:

- Informative
- Exploratory
- Solution seeking
- Recommendatory

The following are the concrete deducible aims and objectives following the above mentioned classification as outlined by the author:

- To expose those fundamental factors that render people vulnerable to trafficking with the goal of fighting them. This gears toward solidifying the claim that globalization, poverty, social and economic inequalities both in and outside Nigeria and “divergences in the levels of public governance, technology and capital endowments” (Pak-Hunk 2011, p. 3) are root causes of human trafficking in Nigeria. (Informative aim).
- To prove that the suppressive approaches of some countries (e.g. Austria) and the strict immigration laws will not stop human trafficking but rather will worsen the plight of the victims because the smugglers and their agents will utilize that to exploit the victims more.
- To make proposals that setting up a scheme across nations, bilateral and multi-lateral, that can aid in trade liberalization; basic standard of living for all; equity in the allocation of labour efficiency; generation meaningful wealth across the nations; social and economic fairness, will help in solving the problem.
- To promote the following strategies: empowerment of vulnerable people; reduction of the differences in development amongst nations in the world; and emphasising the need for a just and fair social distribution of the basic human needs.
- To promote the observation of the Universal Declaration of Human Rights and the Trafficking Protocol by all.

15 See Illegale Migration/Jahresberichte des Bundeskriminalamtes. In: www.bmi.gv.at/.../jahresbericht_schlepper_2009.pdf. Accessed on 20. April 2014. This Federal Republic of Austria publishes this report every year.

1.3 Research Questions

The questions which this research is set to tackle, first of all, hinge on the motivation and presentation of the problems of this work. Each year hundreds of Nigerian men and women are being smuggled or trafficked across to Europe and America. Some of them find themselves in Austria. This dissertation is set to answer the following questions:

1. What is human trafficking and what are the root causes?¹⁶
2. How are the victims treated in Austria? Is the treatment in conformity with the dictations of the fundamental human rights declaration?
3. What are the necessary measures to be taken so as to treat the victims with respect to their fundamental human rights, and to fight human trafficking?

These research questions, as far as empirical analysis is concerned, are handled with focus on human trafficking as it pertains to Nigeria, but references are made to other countries where this is necessary. The research questions are kept in focus throughout the dissertation because the problem of human trafficking in its entirety, that is, from its root causes to the possible solution will be analysed.

1.4 Methodological Plan

The main methodological framework in this research is qualitative in nature. The author chooses the qualitative research method because of the need to gain in-depth knowledge of the crime of human trafficking through the use of subjective information that would be acquired through literature and document analysis, as well as through semi-structured interviews. In this method, the viewpoints of the victims of human trafficking are the focus of interest (cf. Scheiber 2014, online version).¹⁷ The qualitative research method is being used because of the sensitive nature of the topic and because of the need to gain the trust of the victims whose narrative reports are needed to fill the gap that may be left out by literature analysis. Such narrative reports are based on everyday experience of the interviewee and qualitative research method is suitable for an analysis of everyday

16 To understand the whole problem of human trafficking, one has to discuss the structural themes that are involved in the whole discourse, such as immigration, poverty, gender inequality, globalisation, racism, cultural prejudices, family situation, education and method of operations of the smugglers and their agents.

17 See: Scheiber, P. 2014. "Qualitative versus Quantitative Forschung". In: <https://studielektor.de/tipps/qualitative-forschung/qualitative-quantitative-forschung.html>. Accessed on 27. November 2014.

experience. “Qualitative Forschung hat eine starke Orientierung am Alltagsgeschehen und/oder am Alltagswissen der Untersuchten” (Flick et al. 2005, p. 23). Given the nature of the crime of human trafficking which is dynamic, and the varying behaviour of the victims (see chapters 2.4 & 2.5.1), the qualitative method is applied owing to its openness to flexibility. This flexibility is made possible because of “nicht standardisierte Daten, wie z.B. offene Interviews, Dokumente und Beobachtung” (Bacher & Horwath 2011, online version, p. 4) that it applies. In order to tackle the above research questions and arrive at the aim of this research various methodologies are applied as strategies. Several empirical studies have been carried out in the area of migration, emigration and immigration and these indicate the correlation between different types of fluctuations in the migration process. In this research literature and document analyses were made and interviews were conducted. These are major factors in the arrangement of data for the postulation of hypothesis and theories.

1.4.1 Literature and Document Analysis.

The use of relevant literature is a very important method in this research. Documents and literature analyses are applied in the course of the research. Through document and literature analyses, the basic points in this work are demonstrated, and the responses to the three research questions (cf. Chapter 1.3.) are given. Through the analysis of forced migration on the basis of the forced migration theory from Stephen Castles (Castles 2003); the critique of globalization from Gustavo Estava (Estava 2006), and women trafficking discourse (Nautz & Sauer 2008; Huland 2012), a response to the question of the causes of human trafficking is given. However, the research questions are examined with the help of historical analyses of migration, slavery, and human trafficking (Nautz & Sauer 2008). An analysis of much of the literature on women and gender issues with emphasis on human- and women trafficking is made in the work. Annette Huland examines women trafficking as violation of the human right and researches on the causes of this menace in human history. She analyses the bipolar nature of the exclusion mechanism and points out the influence gender discrimination has on the fight against human trafficking (Huland 2012).

In the issue of human trafficking, the data are usually unreliable and incomplete owing to overlapping factors; for instance, the agencies involved in migration affairs do vary in their accounts; the victims involved usually speak on the condition of anonymity and so verification of facts is difficult. The demographic information on gender, age, and location are usually limited. To come closer to an accurate assessment, journals, records and relevant written materials are necessary.

With regard to document analysis, there are many works, journals, and reports on the subject of human trafficking. These serve as a basis for the document analyses and most of them are assignments given by the governments, whereas others are mission jobs done by NGOs. These are used as a basis for the document analyses in this work. Through the document analyses, the answers to the research questions Nos. 2 and 3 are given. Many governments have given assignments to scholars and paid for studies in the area of gaining more knowledge of the measures to be used in the effort to prevent and protect people from the menace of human traffickers. These measures are also in the direction of the proper prosecution of offenders and correct treatment of the victims (Protection Project 2002; Raymond & Hughes 2001; Berliner Bündnis Gegen Menschenhandel 2010 [BBGM]; Österreichischer Bericht zur Bekämpfung des Menschenhandels 2009–2011 [TF-MH]). The protocol of the United Nations Organization (UNO) on the fight against human trafficking contains the internationally accepted definition of human trafficking. An analysis of the document of the United Nations Office on Drug and Crime (UNODC) and on Global Initiative against Human Trafficking (UN.GIFT 2008) is made in this work. The aim of the UN.GIFT is to mobilize and encourage countries and NGOs towards fighting human trafficking. The European Conference on Preventing and Combating Trafficking in Human Beings declared in its 19 point agenda its rejection of the crime of human trafficking and enjoins all the stakeholders to use the declaration, which is in conformity with the universal human rights, as a yard stick for their fights against the crime of human trafficking (Brussels Declaration on Preventing and Combating Trafficking in Human Beings 2002). Information was taken from the reports on the campaign and fight against human trafficking of the Austrian ministry for European and International Affairs (*Bundesministerium für europäische und internationale Angelegenheiten*) 2009–2011. (TF-MH 2009–2011). The reason for the assessment of this document in this work is the fact that “because of its geographical location at the centre of Europe, Austria is affected by human trafficking both as a transit country and target destination. According to estimates, the most frequent phenomena of human trafficking in Austria include sexual exploitation, slave-like situations of domestic servants and child trafficking.” (TF-MH 2009–2011, 2nd Report, p. 2).

The document and literature analyses are applied first and foremost as the primary sources of the work whereas the interviews are the secondary sources.

1.4.2 Narrative Interviews

Owing to the nature of the topic which is empirical, the research design involves an interview. The narrative interviews conducted in this work are intended to breach the information gap created in the literature analyses and to elucidate certain points clearly. The work makes more use of a semi-structured interview in which the history of the informants' life in Nigeria and journey to Austria is interpreted while describing the phenomenon (Kvale 2005, p. 9).

In the conduction of the interviews, the quality is set to be close to the real life of the informants (biographical interviews). Visitations to many migrant Nigerians in Austria were made by the author, during which victims of exploitation and human trafficking were detected. According to plan, the method of transcription was used to transcribe the taped spoken interviews into written documents. This is not an original representation of the interview, but a useful information avenue for the purpose of presenting the real situation of the victims (Kvale 2005). Using a digital voice recorder, re-contextualised interviews were transcribed excluding gestures and other visual variables. The interviewees requested to remain anonymous.

1.5 Theoretical Concept

1.5.1 Human Rights Model Theory

In the 19th century, there is rapid development in the area of human right as well as in the area of abolition of slavery and fight for the social and political rights of women. These developments set the focus on the social and economic rights and are recognised internationally. The human rights law presents the states with what their obligations should be and demands that they observe them. For example, everyone has the same right of protection through the law and a right to the basic necessities in life as contained in the Universal Declaration of Human Rights (UDHR 1948).

The human rights model is usually seen in works on migration and trafficking – related topics. It helps in the study of the human trafficking issues in the sense that it presents and establishes the abuse of the fundamental human rights as promulgated by the United Nations General Assembly Resolution, 217 A (111) of 10th December 1948 (UDHR 1948). When human beings are smuggled or trafficked for whatever purpose, there is an infringement on human rights of the person(s). When those vulnerable factors which act as catalysts for the crime of human trafficking to be carried out are present, then there is an infringement of human rights. The human rights of the victims are to be recognised while dealing

with them. (Ivana-Yuko 2009). It is very essential that the criminal model theory which is proposed by Elisabeth Ivana-Yuko be adopted by the international community because the act of trafficking violates not only the domestic laws, but also the international ones. The link between trafficking and prostitution requires a criminal response; and trafficking often occurs in connection with other criminal activities (Ivana-Yuko 2009; Bruch 2007)

The human rights model theory views the victims as not being criminals and so deserving of assistance and protection rather than prosecution and punishment (Mattar 2006; Ivana Yuko 2009). “Those who breach criminal laws are seen as criminals and are deserving of punishment” (Ivana Yuko 2009, p. 23). Even though the victims of human trafficking are, or may be, illegal migrants in the foreign land, as it were, by the very fact of being victims, they are to be decriminalised and the traffickers are to be prosecuted (Smith & Mattar 2004; Ivan Yuko 2009). In treating the victims of human trafficking in accordance with the dictations of the fundamental human rights declarations, the complexity of many countries can be analysed. Countries should see it as their obligation to fight this crime and to identify the victims, knowing full well that they (victims), because of their situation and migration status, will not come forward to make their cases known. The human rights model informs the countries affected that they, as well as the traffickers, owe the victims some respect to their fundamental human rights and countries should enable them to have a share in the socio-economic rights available to other citizens (Bruch 2004; Piotrowicz 2007; Ivana-Yuko 2009).

The initial treatment of the subject of human trafficking has been focusing on the criminal aspect of it. But human trafficking could and should also be seen as a violation of human rights. The adoption of the human rights model helps to shape a country's approach to the crime of human trafficking. This goes in the direction of helping the victims through assistance and preventing the crime through the prosecution of the offenders and not the victims.

1.5.1.1 Historical Emergence of Human Rights

There are two theories concerning the origin of the concept of human rights (Freeman 2002). The first theory maintains that human rights have their roots in the different religions, philosophies and cultures of the world; while the second one maintains that human rights have their roots in the Western culture and from there they spread universally to other parts of the world (Freeman 2002).

The ancient record of the world's first known charter on human rights is the one written on a baked clay which is referred to as the Cyrus Cylinder. In 539 B.C. Cyrus the Great, King of Persia conquered Babylon and set all the slaves

free. He established the right to equal treatment for all and gave people the right to choose their religion. These were written on the Cylinder (Kuhrt 1983). Documents on individual rights which are seen as the precursors to today's human rights declarations appeared after that. For example, The Magna Carta (1215), The English Bill of Rights (1689), French Declaration on the Rights of Man and Citizen (1789) and the United States Constitution and Bill of Rights (1791) (cf. Flowers 2014). The emergence of the modern human rights laws is a result of the French and American Revolutions which occurred towards the end of the 18th Century. The effect of these revolutions was the declaration of the laws which give all the citizens certain individual rights and protect their freedom against arbitrary interference from the State. (Scott 1993).

The League of Nations was established after the First World War. That laid the foundation for the establishment of the United Nations with an emphasis on human rights. The role of the United Nations in the adoption of the international human rights laws is treated in detail in this work (see Chapter 7). The international human rights law was developed at the end of the Second World War and it declares that every person, irrespective of whether he/she is within or outside his/her homeland, has a certain right which must be respected (Scott 1993).

1.5.1.2 *Discourse on Human Rights Protection (Annette Huland)*

The human rights model theory plays an important role in the work of Annette Huland. Historically, the idea of human rights was aimed at regulating the relationship between the State and the citizens. The State has, according to human rights declaration, an obligation towards the individual persons and is obliged, in accordance with the current understanding of the human rights declaration, to provide the victims with reasonable protection and guarantee them access to their rights. “*Die Menschenrechte der betroffenen Frau [muss] jederzeit in den Mittelpunkt staatlicher Bemühungen gestellt werden.*” (Huland 2012, p. 213).¹⁸ In her dissertation, Huland discusses human trafficking and sees the crime as synonymous with ‘modern day slavery’ (Huland 2012; Post 2008). Bales and Skinner discuss the forms of this modern day slavery, whereby the victims are separated from the rest of the society in such a way that they have no rights anymore. “Their power to make certain decisions is suppressed through force and deceit.” (Huland 2012, p. 111; cf. Bales et al. 2001; Skinner 2008).¹⁹

18 Translation is mine.

19 Translation is mine.

In the 1990s human rights were expanded, and the States are obliged to uphold the declarations contained therein and are expected to respect the human rights of the victims of human trafficking (Bielefeldt 2004; cf. Huland 2012). Huland discusses the design and interpretation of the European Human Rights Convention of 1950 and discovers that most of the countries are far from realising the instructions and guidelines of the convention. This hinders the victims from having access to their rights (Huland 2012). Huland notes this reluctance of many countries to observe the guidelines of the European Human Rights Convention as a structural human rights abuse which denies the victims of human trafficking their rights. This, according to her, is a contradiction of the Universal Declaration of Human Right which states that: "All human beings are born free and equal in dignity and rights." (UDHR art. 1, par. 1.).

1.6 Forced Migration Theory

To answer the question of the causes of human trafficking, the theory of forced migration from Stephen Castles is one of the theories that can be applied. Castles's theory brings the global inequality and crisis in the society to focus. According to him, "The sociology of forced migration must be a transnational and interdisciplinary undertaking. It expresses global inequalities and society crises, which have gained in volume since the superseding of the bipolar world order." (Castles 2003, p. 1). In works on human trafficking, "forced migration needs to be analysed as a social process in which human agency and social networks play a major part." (Castles 2003, p. 1). In its theoretical structure, the process of forced migration connects with the societal changes which may occur either in the lands of origin or in the destination lands or in both. There are many who are forced to leave their homes but do not migrate across the border of their countries. These are referred to as the 'internally displaced persons' (IDPs) (UNHCR 1997; Castles 2003). There are many factors why people are forced to leave their homes to migrate either internally or internationally, such as, the construction of some development projects on their lands and residential areas, natural catastrophe and poverty. In any case, the main goal of migrating is the quest for survival. Forced migration brings with it some negative effects on the society as a whole; "Forced migration is a factor which deepens underdevelopment, weakens social bonds, and reduces the capacity of communities and societies to achieve positive change... The study of forced migration therefore should be a central part of the sociology of development." (Castles 2003, p. 6). The worst form of forced migration (UN GIFT 2008) and a final form of it "is the trafficking of people across international boundaries for purposes of exploitation."

(Castles 2003, p. 3). Traffickers and other agents that are involved in this crime (see chapter 2.8) combine their efforts to entice the victims with promises of better jobs abroad and these are sold to brothels in Europe. "Although trafficking affects mainly women and children, there are also cases of men forced into debt bondage by trafficking gangs." (Gallagher 2002 in Castles 2003, p. 3). Mark Duffield maintains that forced migration and human trafficking are forms of social transformation which affect a land in a negative way as international crimes (Duffield 2001).

Castles writes that restrictive policies of countries on immigration matters neither help to fight nor stop human trafficking. Such policies help to create opportunities for the trafficking enterprise and exacerbate exploitation of the victims (Castles 2003). According to Castles, the sociology of forced migration should be studied as part of the global political economy because "there can be no local studies without an understanding of the global context, and no global theorisation without a basis in local research." (Castles 2003, p. 8).

1.7 Globalisation Theory von Gustavo Esteva

Many authors and scholars have studied the effect of globalization and its impact on the people. One such scholar under consideration is Gustavo Esteva. Before discussing the views of Gustavo Esteva on Globalisation and Post-Development, it will be pertinent to look at globalisation from other perspectives.

Globalization has enabled transnational criminals to thrive because the current world conditions have created increased demand and supply. The supply exists because globalization has caused increasing economic and demographic disparities between the developing and developed countries. It has accelerated migration. Human Trafficking is hidden within the massive movement of people which occurs everyday. Many of those trafficked are available because of globalization (Stiglitz 2003). Globalization resulted in the tremendous growth of tourism which includes sex tourism. Transportation systems have become more effective and the need for cheap labour has increased human trafficking. The elaborate communication systems link the traffickers with the global market for their victims. Louise Shelley writes: "Internet allows communication among buyers and sellers of victims of human trafficking, chat rooms allow buyers to exchange information on sex tourism, and text messaging allows human traffickers to launder their proceeds without a trace." (Shelley 2010 p. 41).²⁰ Through globalization

20 See also U.S. Department of State, *Trafficking in Persons Report*, 2008, Washington, DC: US. Department of State, 2009, 13.

the world becomes closer and a global community is formed. As globalization tends to promote and foster a better human family, people become more interconnected with one another, and information and ideas flow. The differences in the wages are noticeable and people who want to migrate to places where wages are better still find it difficult to do so. The demand for legal migration for qualified workers serves as the catalyst for illegal migration of labour which includes the smuggling of human beings. These have their own consequences; one of which is the crisis of trafficking in human beings. The opportunity of trafficking women to and within Austria becomes readily available to the traffickers back home in Nigeria through advanced technology in communication.

Gustavo Esteva criticizes the theory that poverty and social inequality are the root causes of human trafficking. The sense of poverty is seen by him as a by-product or effect of globalization with its economic implication. The revolution which he proposes challenges the economic nature of globalization which tries to put the economy at the centre of our lives. (Esteva 2006 in Motion Magazine, April 8, 2006). Following his argument, it could be inferred that the eradication of the type of poverty he is referring to in Nigeria, for instance, can only remove the impetus to migrate and not the crime of human trafficking. The assumption that migration and human trafficking will cease once the wage gaps are closed underpins the proposal that boosting development in the developing countries is a solution to the problem of human trafficking (Harris and Todaro 1970). Development, according to Gustavo, has its own effect on society and can give impetus to human trafficking (Esteva 2006 in Motion Magazine, *ibid.*). In as much as development is good, it should be based on a constructive understanding of what is necessary and what is not. A change of attitude is needed for a new civil society and “such change will free the society of ‘development refugee.’” (Lummis 1996, p. 71). Gustavo advocates a construction of a new civil society and emphasises “a movement of people at the grassroots level for the establishment of rehabilitation of a community and its autonomy as a reaction to globalization, and various other initiatives.” (Esteva 2001, p. 126).

1.7.1 Effect of Post Development

The hypothesis that human trafficking cannot take place unless people migrate underpins the assumption that a certain level of social, human and material capital plays an important role in the whole process of movement. Development increases the capabilities of some people to engage in the crime of human trafficking by reinforcing national and international networks which in turn reduce the costs and risks involved in the crime (De Haas 2010). Development increases

people's aspirations and expectations. For example, "this is not a case of not meeting an existing need but of restructuring a society so as to establish a need where there had been none before, so that now the people who cannot buy this thing are to that degree impoverished." (Lumnis 1996, p. 73). This is the frontier of capitalism brought about by globalization. Knowledge of foreign goods and services abounds everywhere and "With this consciousness poverty is created". (Shu 2011, p. 8). Most of the values that were in existence in the African continents are being lost owing to development and new aspirations are replacing some old forms of life that the people originally were contented with. Esteva and Prakash write: "Although humility and austerity were originally considered virtues that people of developing countries have traditionally protected, they have been covered with labels, such as "primitiveness, ignorance, and childishness", via the appearance of the concepts of "development" and "underdevelopment" (Esteva & Prakash 1998, p. 202). Some scholars believe that globalization has brought not only a sense of poverty with it, but for some regions like those in Africa, poverty itself. Obiora Ike writes: "some thinkers have established a thesis that there really is a very close connection between globalization and poverty in Africa." (Ike 2004, p. 11). In the face of abject poverty, one is forced to migrate for survival and such migration can create room for human trafficking.

1.8 Structure of the Work

This work is divided into three parts: part 1 "concept of the work; exposition and causes of human trafficking"; part 2 "Empirical part and case studies"; and part 3 "measures, solutions and anti-trafficking recommendations". These three parts are structured to answer the three research questions (see chapter 1.3).

Part 1 of the work has three chapters thus: chapters 1, 2, and 3. Chapter 1 commences with an exposé of the whole work whereby the primary motivation of the work is presented in the form of a 'problem statement'. This problem of human trafficking affects Nigeria which is presented as a country of origin and transit for human trafficking (see chapter 1.1.2). The study is done with the help of a literature/document analysis, and narrative interviews. The theoretical concept of the work is presented in this first chapter. The human right model theory, forced migration theory of Stephen Castles and globalization theory of Gustavo Esteva are discussed.

As a complex crime that is being carried out in a clandestine manner, human trafficking needs to be understood before the stakeholders could proffer any anti-trafficking solution. This is the task which chapter 2 of this work is set to do whereby the obscurity of the crime and the new trends which emerge as a result

of the dynamism of the crime are discussed. This chapter presents human trafficking as a new form of slavery in the contemporary century and gives a short historical perspective to that. The generally accepted, though often criticized definition of human trafficking – “the Palermo Protocol” is discussed in this chapter with the distinctive marks that should typify the crime of human trafficking. The chapter exposes both the structural organization of the crime and the *modus operandi* of the offenders and expatiates on the beneficiaries of the crime, models of exploitations and the agents involved in the operation.

Chapter 3 discusses extensively the root causes of human trafficking and divides the factors that cause vulnerability into two parts which can be summarised as the push and pull factors. People leave their country for various reasons. Those who leave could become vulnerable to human trafficking owing to a number of reasons. The developed countries are seen as rich and capable of offering lots of opportunity to better one's life; hence “the push factors are complemented by the pull factors.” (Stephens et al. 2005, p. 1). With the discussion of the understanding of human trafficking and what constitutes the factors that cause it and why people are vulnerable to the crime, the answer to the first research question: “What is human trafficking and what are the root causes”? (See chapter 1.3 (1)) is given.

Part 2 constitutes the empirical part of the work and has three chapters: chapters 4, 5, and 6. Chapter 4 discuss the estimation of human trafficking. The exact number of both the victims and offenders of the crime of human trafficking is difficult to ascertain. The estimation given in this chapter is based on the number of identified and assisted victims which has margins of error and so could contain “a gross under-estimation of the overall number of victims.” (Stephens et al. 2005, p. 2). The extent of human trafficking in Austria is examined, whereby the crime could be traced to the time between the two World Wars (Nautz & Sauer 2008). However, the modern form of human trafficking in Austria has taken another form with the trafficking of women and children from the Eastern Block (Boidi et al. 1996, see also chapter 4.2). Due to its central location in Europe, Austria is seen both as a country of transit and destination of human trafficking.

Chapter 5 discusses the situation of the victims of human trafficking in Austria. The victims suffer at the hands of their traffickers and the government through negligence and strict laws. The traffickers use various means which are detrimental to both the psychological and physical wellbeing of the victims to keep them under control. This is an abuse of their fundamental human rights. On the side of the government, restrictive immigration laws which sometimes culminate in the denial of resident and working permits to the victims, and conditional temporal permission of stay (*Niederlassungsbewilligung*) constitute

wrong treatment of the victims by the law. The chapter also looks into the problem of deportation which the victims may face and which constitutes one of the threats used by the traffickers to keep them under control.

Chapter 6 presents the case study, whereby the respondents who are living in Austria were approached after arrangements were made by the author. The narrative interviews conducted on the five respondents are presented and the cases are grouped into three topics: the typical case of human trafficking on the basis of the Palermo Protocol's three distinctive elements (see chapter 2.3); the limited case of human trafficking; and the special case of human trafficking. In keeping with one of the aims of the interview which is explorative, this chapter presents the fact that some victims may know that they will be used in the prostitution business but are not aware of the extent of the exploitation that will follow. Thus with the discussion of the conditions of the victims in Austria and the wrong treatment they experience from both their traffickers and the law which are not in conformity with the provisions of the UDHR, part 2 of this work ends with an answer to the second research question: "how are the victims treated in Austria? Is the treatment in conformity with the dictations of the fundamental human rights declaration?" (see chapter 1.3 (2)).

In chapter 7, which is the only chapter of part 3 of this work, measures towards fighting human trafficking are presented in the form of solutions and recommendations. This chapter considers the anti-trafficking activities that have taken place internationally and nationally in the areas of policy and legislations. The efforts made both in Austria and Nigeria are discussed and these are considered from the standpoint of their adherence to the fundamental human rights of the victims. In implementing the Palermo Protocol, three points emerge as guidelines thus: prevention of the crime and vulnerability of migrants; prosecution of the offenders; and protection of the victims of human trafficking. These points are discussed in this chapter and recommendations and anti-trafficking solutions are proffered while the human rights are taken into consideration. With that the third research question: "what are the necessary measures to be taken so as to treat the victims with respect to their fundamental human rights and to fight human trafficking?" (see chapter 1.3 (3)) is answered.

The work ends with chapter 8 which is a general conclusion.

2 Understanding Human Trafficking and Its Obscurity

2.1 Human Trafficking: A New Slavery in the Contemporary Century – Short Historical Perspective

In discussing the origin or emergence of human trafficking there is the need to underline the fact that human trafficking is different from prostitution. While trafficking in human beings involves prostitution, prostitution does not necessarily mean human trafficking. The subject of human trafficking as we have it today crystallised in such a form because of the abolition of slave trade which began in the 18th Century (Huland 2012). The drafting of the Universal Human Rights led to the abolition of slavery with Germany and Saudi Arabia prohibiting slavery in 1948 and 1962 respectively (Huland 2012, p. 65).²¹ The old form of slavery was abolished and the new form of it, which is human trafficking, started.

There were traces of slavery in the ancient times and there were many other reasons why people leave their lands *en masse* for other places (Neumayer 2009, online version). In the Bronze and Iron eras there were migrations that were sometimes forced and sometimes not forced. In the classical times many were driven away from their lands because of their beliefs or culture (Neumayer 2009, online version). The prosperity of many Empires in the early times like Egyptian, Babylonian, Greek and Roman Empires initiated the idea of pulling labourers forcefully to handle their needed manual labour in those days (Schmidt 2013, online version). In effect forceful and voluntary movement of people away from their homes had already assumed a stage before the idea of doing business with human beings began. With regard to human trafficking, arguments abound on the history and origin of it in the society. While some people believe that the practice of slave trading in which African slaves were captured and forcefully shipped across the Atlantic is to be seen as the first instance of the emergence of trafficking in human beings, others are of the opinion that the forcing of children into engaging in manual labour in the 1700s was the beginning of what later metamorphosed into human trafficking (Kangaspunta 2010). However, “trafficking in persons was a violation against humanity 200 years ago, as it still is today.” (Kangaspunta 2010, online version, p. 3).

21 See also Hellie, R. 2003. “Slavery”. In: Encyclopaedia Britannica 2003. Deluxe Edition CD-ROM.

Human trafficking could be traced back to the ancient Greece and Roman period up to the Middle Ages (Boidi et al. 1996, p. 11). The practice of human slavery did not end with the ancient Greece and Roman empires but continued with the enslavement of the Africans by the colonial masters. "Most countries in Africa were freed from colonial rule only in the latter half of the twentieth century." (Shelley 2010, p. 266). The pre-colonial and colonial slave trade in Africa had its origin in West Africa where the slaves that were either bought or captured in hinterlands were shipped to Europe and America. More than 12 million Africans were transported to America through the transatlantic slave trade route that lasted over 400 years (Hanano 2006, online version). These Africans were exploited and made to work under the worst of conditions. There were other slaves who were not shipped abroad but were meant to stay back in Africa and work for the benefit of the white colonial masters under sub-human conditions. Shelley writes: "Millions were forced to work in slave-like conditions in the mines of Southern Africa and on the farms in Rhodesia and Kenya..." (Shelley 2010, p. 272). When the old slavery stopped the modern-day slavery (human trafficking) began in spite of the fact that slavery was prohibited by all the countries: "In Africa, an illegal slave trade continued in the Red Sea region during the first third of the twentieth century after the introduction of antislavery patrols by the colonial powers." (Suzanne 2003, in Shelley 2010, p. 273).

The understanding of human trafficking in the modern form includes all forms of business transaction with women and children, in which their vulnerable situation is exploited by another who has power over them. Such exploitations which happen within the migration process involve, but are not limited to, prostitution. Human trafficking, as such, is not new but its modern form is. Guggenheimer et al. (2009) write: "Menschenhandel ist zwar nicht neu – in Europa sind wir seit den 70iger Jahren damit konfrontiert – er hat aber im Zeitalter der Globalisierung in den letzten Jahren eine neue Dimension bekommen." (Guggenheimer et al. 2009, p. 10). Viewed from all angles, human trafficking is an abuse of human rights of the victims by all those involved in the crime. However, the modern form of slavery which is human trafficking happens because of many causes, one of which is the demand for the services of the victims in the developed countries (Boidi et al. 1996, p. 12). The victims are requested for as sex objects or cheap labourers. The modern form of old slavery which is human or woman trafficking began in the time of the industrialisation and modernization process in the latter part of the 19th Century and was part of the main supply of women feeding the prostitution business and forced marriages and labour. It also provided labourers for the economic sector (Nautz & Sauer 2008). Josef Schrank

explains how the traffickers organised their strategies in the early part of the 20th Century, thereby pointing to the fact that the modern form of human trafficking had an organisation that had the character of a network system (Schrank 1904 in Nautz & Sauer 2008). Jürgen Nautz writes that “ein Charakteristikum solcher Netzwerke war deren ethnische, kulturelle oder regionale Homogenität [...] zum Beispiel wurden vor dem Ersten Weltkrieg Mädchen und Frauen aus Galizien von galizischen Frauenhändlern mit Hilfe von Ortsansässigen oder dort Aufgewachsenen vor allem nach Südamerika, nach Buenos Aires und Montevideo, gebracht. Wenn sie nicht zunächst für den Eigenbedarf bestimmt waren, wurden sie dort vorwiegend an Bordelle verkauft, die Emigranten aus dem gleichen Kulturkreis gehörten.” (Nautz & Sauer 2008, pp. 24–25). Among the names of those who owned such brothels where the victims of human trafficking were sold in those days in Buenos Aires were those of some people of Austrian – Hungarian origin (Nautz & Sauer 2008, p. 25).

Although the trade in human beings, as stated above, is not a new phenomenon because of the practice of the old slavery, the prostitution of the Nigerian women in Europe is a new one. The exploitation of the prostitution of the Nigerian women is a later development because the early women who went to practice prostitution in Europe in the mid 1980s went out on their own free will. It is difficult to trace the exact origin of the practise of human trafficking with and among the Nigerians, but the gradual development of the business could be traced to the early women traders who went from Benin in Nigeria to sell their wares in Europe.²² These women would buy perfumes and jewelleries to sell on their return to Nigeria. Later, they found out that the sex industry yielded more money than the actual buying and selling of their articles and then opted for prostitution out of their own freewill. These initial women later helped other women and girls to come over and join in the activity, and then exploitation was developed gradually. Kreutzer & Milborn (2008) write:

“Zuvor, in den 1970er Jahren, waren Händlerinnen aus Benin City – einer der großen Städte des Landes – nach Italien gereist, um Gold und Handtaschen zu kaufen und in Nigeria zu verkaufen. Doch mit dem Wirtschaftscrash war das rentable Geschäft zusammengebrochen. Die Händlerinnen entdeckten jedoch eine neue, billig zu erwerbende Ware, deren Nachfrage in Europa unstillbar schien: Frauen für die Sexindustrie. Die Situation in Nigeria tat ihr Übriges. Es war nicht schwer, junge Frauen zu finden, die sich gezwungen sahen, wegzugehen.” (Kreutzer & Milborn 2008, p. 94).

22 The products these women would see at that time were local braided handkerchiefs and artefacts.

2.2 Human Trafficking: Definition and Concept

The United Nations plays an indispensable role in the shaping of the international legal frameworks for transnational crimes which include human trafficking. There are one main convention and two protocols which address human trafficking and related issues: United Nations Convention against Transnational Organized Crime (Palermo Protocol); Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and Protocol against the smuggling of Migrants by Land, Sea and Air.²³

The Palermo Protocol's definition of human trafficking in 2000 came into force in 2003. The international community was able to, for the first time, arrive at a definition of human trafficking which is binding on all the stakeholders and which takes the exploitative nature of the crime and the vulnerability of women and children into consideration. "(a) To prevent and combat trafficking in persons, paying particular attention to women and children; (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and (c) To promote cooperation among States Parties in order to meet those objectives." (United Nations 2000, Palermo Protocol Article 2 (a) (b) (c)). The Protocol recognizes any human being under the age of 18 years as a child (ibid. Art. 3 (d)).

To arrive at a generally acceptable definition of human trafficking was not an easy task owing to the nature of the crime. The crime takes different forms and involves many elements. According to the Palermo Protocol article 3 a:

"Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of [the] threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at [a] minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

(United Nations 2000: Palermo Protocol Article 3a).

It is to be noted that the Protocol sets a crime to be that of human trafficking if at least one of the means presented in the definition (cf. Art. 3 (a)) has been used. In this case, it is irrelevant whether or not the victim consented to the crime. "The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used." (cf. Art. 3 (b)). In a special recognition

23 Henceforth also as "Trafficking Protocol".

of the right of a child and to fight child labour and exploitation, the Protocol states in sub-paragraph (d) of the Article 3: "The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article." (Ibid. Art. 3. (c)).

In observing the Palermo Protocol's definition of human trafficking, it is to be noted that the definition, implicitly, recognizes the crime of human trafficking as "a process comprising a number of interrelated actions rather than a single act at a given point in time. Whether or not an international border is crossed, the intention to exploit the individual concerned underpins the entire process." (UNHCR 2006, HCR/GIP/06/07, par. 10). However, given the fact that there are a lot of crimes that are directly or indirectly connected with human trafficking, it could be seen as a net within which a range of other related crimes could be found. O'Connell & Donelan (2003) state that:

"Trafficking in persons is used as an umbrella term to cover a range of actions and outcomes. Viewed as a process, trafficking can be said to entail several phases- recruitment, transportation (which could be across several countries), and control in the place of destination. Different groups, agents or individuals may be involved in different phases of the process, and can organize recruitment, transportation and control in different ways. There is thus immense diversity between and within trafficking systems." (O'Connell & Donelan 2003, In Laczko & Gramegna 2003, p. 181)

The Palermo Protocol succeeded in setting the problem of human trafficking within a criminal context but it has its limitations and is partly criticised as not covering all the areas that should be considered in the drafting process. Two feministic perspectives were at par with the deliberations throughout the period of its drafting (Shelley 2010, p. 9). These factions debated extensively on the issue of determining whether prostitution is equivalent to human trafficking (Shelley 2010, p. 9). There are disagreements among the parties involved in the drafting of the Protocol with regard to what elements should define a crime of human trafficking. For example,

"There are differences in the understanding of this crime within the international community. This is because of the disagreements on certain elements which are involved in this practice. For example, there is a question on the geographical movement of the victims thus: can trafficking be limited to border crossing alone? This question needs to be reconsidered since there are also cases of domestic trafficking within a given country. There are also controversies surrounding the issue of victim's consent. Some victims give their consent to the whole affair and so the definition that hinges on 'coercion' loses its grip in this direction, although there are arguments with regard to when a situation is to be seen as coerced or consensual. However, it has to be noted that for an action to be

‘forced’, it must not necessarily involve a physical act; a threat can induce someone to act otherwise without any physical torture.” (Nnebedum 2009, pp. 24–25).

Kreutzer & Milborn (2008) write: “The Protocol is only applicable when the crime occurs across the international borders and when a criminal organisational network is involved. The Protocol is far behind the demands of human rights organisations as it concerns the victims. The victims’ wellbeing is not in the forefront of the fight by the international criminal organisation.” (Kreutzer & Milborn 2008, pp. 158–159).²⁴ In the background report, during the United Nations Global Initiative to Fight Trafficking (UN.GIFT), the stakeholders presented a picture of widespread human misery in the cases of human trafficking and revealed the inconsistencies in the terminologies of human trafficking as contained in the Palermo Protocol. The Protocol recognises the trafficked person as a victim, but there is no agreement on the definition of the term ‘victim of trafficking’ because the Protocol did not define it. It is all the more difficult and complicated when a close examination of the understanding of some countries is analysed (cf. Clark 2008).²⁵ Clark writes: “Some countries have criminalized trafficking for sexual exploitation but not for labour. There is not always a consensus on what “sexual exploitation” means, nor is there any broadly accepted tool for the identification of victims.” (Clark 2008, p. 1).

The Trafficking Protocol is at the end consensual and is meant to serve as a basis by different bodies for formulating policies against human trafficking. For instance, the Council of Europe Convention on Action against Trafficking in Human Beings was adopted in May 2005 and came into force in February 2008 after being ratified by 25 member States and signed by 16 of them. (Council of Europe Convention 2005). The Council of Europe Convention is a further advancement of the Palermo Protocol because it is more concerned with the situation of the victims. It recognises the incapability of the victims to resist the aggression of the traffickers, especially when they use force to intimidate them. The affected persons are seen as victims, even when there is the absence of a criminal organisation.

Trafficking in human beings is similar, but different from, human smuggling. The human smugglers’ main preoccupation is to obtain some financial or material benefits in order to assist a potential migrant to enter into a country of

24 Translation is mine.

25 See Clark, Michele A., *Vulnerability, Prevention and Human Trafficking: The need for a new paradigm*. Par. 1. Working Paper: An Introduction to Human Trafficking: Vulnerability, Impact and Action, UN.GIFT 2008.

which the person is not a national or has permission to enter (Aronowitz 2001). Aronowitz, referring to Anis Bajrektarevic, describes the four elements that differentiate smuggling from trafficking as follows:

- “1. smuggled persons always travel voluntarily; trafficked persons can either begin their trip voluntarily or may have been coerced or kidnapped;
2. trafficked persons are used and exploited over a long period of time;
3. an interdependency occurs between the trafficked person and organised crime groups;
4. trafficked persons are eligible for further networking (recruitment for criminal purposes).” (Bajrektarevic 2000, p. 16; see also Aronowitz 2001, p. 165).

From the above differentiations, it could be said that migrants who are being smuggled can thus become victims of human trafficking when the situations get bad for them either on transit or in the destination countries. Aronowitz writes that:

“the distinction between smuggled persons and trafficked victims can only be determined after the individual has arrived in the destination country, is either free to walk away from the smuggler, or is placed in a situation of debt bondage, and is exploited. At this point the smuggled person becomes a trafficked victim.” (Aronowitz 2001, p. 167).

Given this blurred border between smuggling and trafficking, it becomes necessary to discuss the marks of human trafficking per se as a crime.

2.3 Distinctive Marks of Human Trafficking

The crime of human trafficking is an action with different phases. It is not to be seen as a single offence and should not be limited to international crossing of borders because there are cases of internal or domestic trafficking whereby victims are exploited within their own home countries. Human trafficking is a complex action and that makes it difficult to be recognized. As a clandestine action it operates within illegal structures and that makes it all the more untraceable.

In the analysis of the definition of human trafficking (cf. Trafficking Protocol), three elements come to focus as the basic distinctive marks by which the crime of human trafficking can be established. Analysing these elements and using them as guides in the process of formulating policies and fighting human trafficking will help in the clarification of some of the confusions arising from the definition of the term, human trafficking, which often hamper the measures taken by the international communities in combating the crime. This is required because “a lack of clarity related to even basic terms and definitions, has contributed to a lack of systematic and consistent implementation, and sustainable action.” (UN-GIFT, 2008: Introduction, p. 4).

These distinctive marks of human trafficking correspond with the stages involved in the whole process. The perpetrators of the crime may or may not be the same at the various stages because it is not a single offence; their networking however remains intact. The distinctive marks are traceable from the first phase of the crime which includes the recruitment of the victims, followed by the movement to the destination countries and finally the exploitation (Aronowitz 2009). Based on the definition, the three marks can be inferred to as:

1. The act of the perpetrators: This begins with and includes the period of recruitment of the victims with false promises and hidden intentions. It continues with the process of transportation and harbouring until the victims arrive at the destination countries. The act of recruiting the victims of human trafficking is possible for the perpetrators because there are a lot of people from the developing world who want to escape poverty.
2. The method of the act: This includes the means used to keep the victims at check and forces them to be loyal to the perpetrators. Such means are: force/torture; abduction; constant change of domicile; threats; administration of an oath; espionage and other forms of wanton cruelty.
3. The aim of the act: This refers to exploitation which is the main purpose of the trafficking. Exploitation of the victims comes in the form of forced labour; practices similar to servitude; prostitution of others; sexual abuses and removal of organs.

It is to be noted that all these actions can take place in the country of origin, thus depicting the fact that human trafficking is not only a crime committed across borders but also within them. The geographical location of the action is not necessary in the definition of the crime because “whether or not an international border is crossed, the intention to exploit the individual concerned underpins the entire process.” (UNHCR 2006, HCR/GIP/06/07, par. 10.). The victims are handled as goods and are treated as wares owned by their traffickers without any regard for their human rights.

The above points help to understand certain myths that surround the crime of human trafficking most of which try to either de-establish a case of human trafficking when one is suspected or exonerate the traffickers on the grounds of consensual activities. That a person has consented to be trafficked or receives some wages while working does not totally indicate a non-trafficking case. The U.S. State Department, in its Trafficking in Persons (TIP) Report of June 2009, debunked those common myths (see appendix 1).

2.4 New Trends in the Trafficking Enterprise

One of the reasons why human trafficking as a criminal business brings in huge amounts of money for the perpetrators is that they can sell and re-sell, use and re-use their commodities which are the victims. This can happen many times over a good number of years. “Most human traffickers have a commodity that they can exploit repeatedly whether it is a human being sold for labour, or woman sold into sex slavery, or a child’s exploitation that results in pornography that can be sold to multiply buyers.” (Shelley 2010, p. 87). There is an exception; until recently, trafficking in human beings has always been sexually motivated (prostitution), or labour oriented (forced and cheap labour). There are traffickers who sell their victims for the removal of their organs and others who traffic children for adoption. These victims are bought and resold only once at a high price. (Shelley 2010). These two aspects are not the main focus in this work and as such are not discussed in detail.

2.4.1 Trafficking for the Removal of Organs

With the high technological advancement in medicine, organ donations do not have to be from people who are biologically related. “The development and success of organ transplantation since the mid- 1950s paved the way for an era where donors and recipients no longer had to be relatives but could be biologically, socially and geographically distant.” (Budiani-Saberi 2013, p. 898). The transplanting of organs is no longer a medical technological feat reserved for the West alone but can be done in some developing countries: “thus transplantation in recent decades is not just a medical technology restricted to Western cities like Boston, London and Geneva but is a common procedure in much of the globe including urban centres such as Chennai, Cairo, Manila, Shanghai, Singapore and Bogotá.” (Budiani-Saberi 2013, p. 898). With this development, there are a growing number of organs used in the process which are obtained from poor and vulnerable victims of human trafficking.

The whole concept of organ trafficking was the subject of the ‘International Summit on Transplant Tourism and Organ Trafficking’ in Istanbul where a precise definition of organ trafficking was derived from the ‘Trafficking Protocol’. In the summit, ‘organ trafficking’ was defined as:

“the recruitment, transport, transfer, harbouring, or receipt of living or deceased persons or their organs 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 to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation

by the removal of organs for transplantation.” (The Declaration of Istanbul on Organ Trafficking and Transplant Tourism 2008: definition).²⁶

Organ trafficking can occur in several bizarre forms: trafficking of live human beings for their organs to be extracted; and smuggling of life organs from dead persons. Organs of executed prisoners or war casualties are reported to be extracted by the traffickers to be smuggled to countries where their demands are lucrative (Shelley 2010). In the trafficking of live human beings, the victim may be forced to donate his/her organ or it may be a consensual arrangement. Most of the times, the organ donors are left without post-operative care, thereby increasing the risks of infections and death (Eulex 2011; Budiani-Saberi 2013, pp. 900–901). The victims trafficked for the removal of organs are usually the poor ones in society. Shelley writes: “often the true nature of the commodity is disguised. In this illicit trade, a criminal who is part of a larger network may pair a poor individual from a developing country with an affluent buyer of his organ.” (Shelley 2010, p. 16). In a case where such deals are prohibited in a country, they may meet in another country where it is either allowed or not properly regulated and monitored to carry out the act. However, some are abducted and their organs are forcefully removed with or without any compensation. Recently, the number of victims for the removal of organs is on the increase. It is estimated that “10 percent of the 70, 000 kidneys used annually in transplants are obtained on the black market.” (Shelley 2010, p. 75; see also US Dept. of State: Trafficking in Persons Report 2009, p. 17).²⁷ Though this estimate does not correspond with that of the World Health Organization (WHO) in 2007, it nevertheless affirms the fact that organ transplanting is on the increase in the world and that some of the organs are obtained through fraudulent means. “The clandestine nature of Human Trafficking for Organ Removal (HTOR) makes it difficult to derive an accurate estimate of cases across the globe. However, in March 2007 (WHO) estimated that illicit kidney removals for transplantation account for 5–10% of the approximately 65,000 kidney transplants performed annually throughout the world.” (Budiani-Saberi et al. 2013, p. 898). There are a lot of laws already made in recent years to prevent, not just human trafficking for sexual and labour exploitation, but also trafficking for organ removal. Without a concise and transparent means of organ donation that is legal, organ trafficking may not cease. Such legal means could be donations on altruistic bases or from deceased donors (Budiani-Saberi 2013, pp. 907–908). According to the United Nations, there cannot be

26 See: <http://www.declarationofistanbul.org/>. Accessed on 29. November 2014.

27 Trafficking in Persons Report 2009. <http://www.state.gov>. Accessed 4. March 2014.

any altruistic donation once there is any form of coercion in the process: “what might appear to be consent by a victim is nullified or vitiated by the application of any improper means by the trafficker. Furthermore, the consent of the victim at one stage of the process cannot be taken as consent at all stages of the process and without consent at every stage of the process, trafficking has taken place.” (United Nations 2011 as cited in Budiani-Saberi 2013, p. 900). That there must be consent at every stage is to ensure the donors’ willingness to donate. Any absence of such continuous consent would amount to the suspicion that the individuals have agreed to something they would not have done if the situation were to be otherwise (Budiani-Saberi 2013, *ibid.*).

2.4.2 Trafficking in Pregnant Women and Children for Adoption

According to the Convention on the Rights of the Child (CRC), “a child means every human being below the age of eighteen years unless under the law applicable to the child, maturity is attained earlier.” (CRC 1989, Part 1. art. 1).²⁸ Children are known to be trafficked for labour or sexual purposes. Child trafficking has attracted a lot of attention because it violates the inherent right of the child and inhibits the psychological balance of the developing child. Child trafficking for sexual or labour exploitations is common among the traffickers who target them because of their small size. “Most of the children are used in brick industries where they are meant to walk on the bricks to turn them for drying up in the sun. Their light weight is most needed for jobs like this.” (Nnebedum 2009, p. 308). On the other hand some of them are trafficked to work in carpet, fishing net and weaving industries because of their small fingers. When they are grown and no more suitable for such work, they may be trafficked further to areas they can fit well, for example, as sex slaves. “Therefore, the labour trafficking may be only the initial form of exploitation, as the children may be subsequently trafficked into full-time sexual slavery.” (Shelley 2010, p. 64).

A new trend of child trafficking emerged together with the trafficking of pregnant women. This new trend is intended for adoption purposes. Children are trafficked and given away to parents who can pay the high fees to get them. This violates the declaration of the CRC which obliges State parties to:

“Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all

28 United Nations. 1989. Convention on the Rights of the Child. General Assembly resolution 44/25, 20th November 1989. This resolution entered into force on the 2nd of September 1990.

pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary." (CRC 1989, Part 1 art. 21 (a)).

States should "Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it." (cf. art. 21 (d)). On that note, pregnant women can be trafficked by the perpetrators so as to take delivery of their babies immediately after birth or have their children given out for adoption to make a profit (Shelley 2010, p. 87).

2.5 Exposition of the Obscurity of Human Trafficking

Human trafficking is not a new phenomenon but a complex one. In order to fight it adequately, a profound knowledge of the intricacies involved in the crime is required. For example, it is necessary to know the structural organization of the crime; the network of operation of the perpetrators; those involved in the crime and those who benefit from it. Without revealing the obscurity of the crime, it may, in some respects, be confused with 'migrant smuggling' which is "a voluntary act entailing the payment of a fee to the smuggler to provide a specific service. The relationship between the migrant and the smuggler normally ends either with the arrival at the migrant's destination or with the individual being abandoned en route." (UNHCR 2006, HCR/GIP/06/07, par. 4.). However, there is a thin gap between migrants smuggling and human trafficking. The smugglers do take advantage of the vulnerability of the people who seek their services. "Irregular migrants relying on the services of smugglers whom they have willingly contracted may also end up as victims of trafficking, if the services they originally sought metamorphose into abusive and exploitative trafficking scenarios." (Ibid.).

The victims of human trafficking are many because the traffickers prey on the most vulnerable of the society and also on the desperate ones. "They prey on the weak. Targeting vulnerable men, women, and children, they use creative and ruthless ploy designed to trick, coerce, and win the confidence of potential victims. Very often these abuses involve promises of a better life through employment, educational opportunities, or marriage." (US State Department 2009, introduction, online version). The question is: 'what mechanisms do the traffickers use to recruit their victims and what are the structures that enable them succeed?'

2.5.1 Structural Organization and Network of Operation

The operations of the traffickers would not be possible without a well-structured organization that determines their activities. The network with those involved in it has both political and economic motivated actors participating at every stage of the trafficking ring. According to Alexis Aronowitz:

“The degree of organization within the smuggling/trafficking chain can vary dramatically. It can be as simplistic as a single individual providing a single service – hiding migrants in the back of a truck and smuggling them across...only to abandon them, (or) it can be a segmented business involving an interaction between a criminal network.” (Aronowitz 2001, p. 174).

The above statement shows that the organizational structure in trafficking ranges from individuals who are involved in the first stage of the crime which is the recruitment of the victims to those involved in transportation and exploitation. Others are involved in the networks that help to provide services that, though isolated in nature, are linked together with the whole process of trafficking (Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo 2006). In the case of the victims from Africa, there are agents known as “Trolleys”. These agents are those who work as a bridge connecting the trafficking chain from one post to the other. They live outside the countries of origin of the victims and may provide shelters along the routes or harbor the victims being transported by land. According to Shelley: “Traffickers are logistics specialists who can move individuals across vast distances. They often require numerous safe houses along the way where they can lodge their human cargo until it is safe to move them further.” (Shelley 2010, p. 92.).

The outcome of the event at the destination side of the trafficking route is very important because that will determine the success of the whole enterprise. To avoid detection by the law, there are, at the destination side, partners of the traffickers who will receive the victims and ensure their transfer to the clients. As stated by Shelley: “The end destination for the trafficked victims is often one where a Diaspora community can absorb the trafficked people, or where an allied crime group can receive and distribute the trafficked labourers.” (Shelley 2010, p. 92). The need of the Diaspora community is crucial if the crime group operates as a decentralized network. So the use of their own people in the destination countries is needed. The Diaspora community helps to maintain a close bond which does not allow outside intrusion. In some cases, those who receive these victims were once victims themselves. They are known as “madams”. The role of the ‘madams’ in the trafficking ring is discussed in this work (see Chapters 2.8.1 & 2.8.2).

An isolated but important link in the structural organization of the trafficking ring is the connection with the embassy and immigration personnel. Being determined to move and keep their victims in the destination countries, traffickers use variety of techniques. Once an official relationship with embassy official(s) is established, issuance of tourist visas becomes easy. "This allows agency to facilitate human smuggling and trafficking activities." (Shelley 2010, p. 102). There are reports and cases where officials were investigated for deals relating to visa racketing for the purpose of human trafficking. There are reported cases of "corrupt consular officials facilitating trafficking by providing visas have been discovered by American, Swiss, Belgian, and German investigations." (Shelley 2010, p. 103). "Swiss officials in the Department of Foreign Affairs reported that criminal gangs involved in human trafficking had almost certainly infiltrated the visa section of the Islamabad embassy and corrupted officials." (Shelley 2010, p. 103). "A Czech criminal in the consular division was able to recommend to his superiors the issuance of numerous visas to young women that his organization sought to traffic to the United States." (Shelley 2010, p. 104). Austria is not left out of the visa scandal that, perhaps, concerns human trafficking. Its position in the middle of Europe makes it the centre of attraction in the movement of victims to other parts of Europe. "Austria became, as the control in other European countries became stricter, recourse for the human trafficking from Nigeria to Europe."²⁹ (Kreutzer & Milborn 2008, p. 165). To this effect, officials of the Austrian Embassy got involved in the trafficking ring structure. In 2005 the Austrian Embassy in Lagos was closed because of visa fraud. "In 2005 the Austrian Embassy in Lagos was closed because of irregularities in the issuance of visas." (Kreutzer & Milborn 2008, p. 162).

In the structural organisation of the traffickers, it could be concluded that a lot of criminal organisations are involved and these present, to those whom they recruit or those prospective migrants who seek their services, a wide range of phantom opportunities, for example, travelling documents and accommodation in abroad, to lure them all the more. Pierpaolo Romani comments to that effect: "Auf diese Weise beteiligte sich das organisierte Verbrechen sowohl am Schmuggel von MigrantInnen als auch am Menschenhandel und kreierte so eine neue Geographie internationaler Migration (Romani 2008, in Nautz & Sauer 2008 p. 52). The investigations of cases and fight against human trafficking have revealed diverse network structures which have developed over the years as the perpetrators and actors become more professional and invisible in the crime.

29 Translation is mine.

This assertion makes it necessary to determine who the traffickers are (see chapter 2.8). The mode of operation of the traffickers, sometimes, differs according to region and country. The mode of operation of the traffickers in Nigeria has its own working structure and that is discussed in this work (see Chapter 2.7)

2.6 Means of Keeping and Controlling the Victims

To make gains out of the victims, the traffickers need to keep and control them in the destination countries and to be able to move them elsewhere if the need arises. To keep the victims in a country they need to, either, have resident permits or be in such countries illegally. It is not unusual to read that these victims came into a particular country with visas but to keep them beyond the expiration of such visas on a long-term basis can pose a big challenge for the traffickers. They have devised a series of ways to overcome the hurdles of keeping their victims either legally or illegally. Shelley reports that “variety of methods are used by the traffickers, including the provision of false documents, retention of the services of visa mills, false marriages, and other subterfuges to allow their victims to stay.” (Shelley 2010, p. 105). The services of attorneys are hired by the traffickers to secure resident permits for their victims. If they are unsuccessful in securing such permits, they keep the victims illegally. In any case, the bulk of the expenses the traffickers incur, apart from the cost of transportation of the victims, comes from the effort to keep the victims in the destination country.

The traffickers use excessive force and torture to intimidate the victims and keep them under control. The victims are deprived of their documents and are constantly moved to keep them disorientated. While being transferred, they are nevertheless clustered together. They are tortured and threatened with death both for them and their relations at home. Such moves are orchestrated to frighten them and gain their total obedience. Without documents, one is unidentified even if one escapes. Aronowitz explains the phenomenon of the trafficking business and the methods of the perpetrators. He summarizes the methods they use to keep their victims in check and concludes that

“traffickers and enforcers have characteristically been known to use excessive violence against their victims to maintain control. Less sinister practices include seizing of documents, confinement of victims to the workplace or threatening them with deportation. More threatening practices include constant monitoring of the victim’s whereabouts, threats of violence against the victim and his or her family in the country of origin... assault and rape.” (Aronowitz 2001, p. 177).

Confirming the above assertion Shelley reports that there are often violent practices and human rights abuses that are meted to the victims to enforce control

over them: “Traffickers routinely confiscate the passports and documents of those trafficked. Without these documents, the trafficked have no legal status. Loss of identity is central to the dehumanization of the victim.” (Shelley 2010, p. 107). If a victim should escape without documents, identification will be difficult even for his/her embassy. However, attempts by the victims to escape are quite seldom because of the bitter lesson learnt from the treatment meted to those who have attempted to escape. The structure of the operation and multiple network links the traffickers have developed even with the home countries of the victims make it all the more difficult for them to attempt an escape.

2.7 Nigerian Structure of Human Trafficking

In Nigeria, the human trafficking structure is a more complicated one. The techniques and methods applied by the traffickers are, sometimes, quite unique and there are more agents involved. “In general, the methods and patterns of human trafficking in Nigeria exceed what one can say is the traditional method. These days boys, even though they are trafficked for labour exploitations, are also being used in the sex industry as pimps and negotiators.” (Nnebedum 2009, pp. 172–173.).³⁰

The traffickers use all means to get at their victims and keep them, but some of the methods that the Nigerian trafficking rings use are solely unique to the region. Siddharth Kara writes: “The dynamics of Nigerian sex trafficking are the most unique of any nationality I encountered.” (Kara 2009, p. 89). In addition to the recruiting agents, there are native doctors whose duties are to perform the rituals that are supposed to help the traffickers keep the victims in check. Usually, the ordeal of the Nigerian victims begins at the time of recruitment. An agent recruits the victims with, an often false, promise of a better life abroad. Before the victims embark on the journey to Europe, which could be an arduous land journey through many routes or a flight direct from Lagos or from other parts of Nigeria (see Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo 2006), they are meant to perform some spiritual rites which are said to have their efficacy through the power of ‘juju’.³¹ In his research work, Kara describes the ritual as a rite

30 See also Human Trafficking- a View from Edo State, in Daily Trust (Abuja), 19 November 2007.

31 “‘juju’ is a type of magic in west Africa.” (Oxford Advanced Learner’s Dictionary 2014, online edition).

“in which the woman’s pubic hair, nails, and menstrual blood are collected and placed before a traditional shrine. During the ritual, the woman is made to swear an oath to repay her debt, never to report to the police, and never to discuss the nature of her trip with anyone. Failure to uphold this oath results in grave misfortune for the woman and her family.” (Kara 2009, p. 90).

The belief in the occult has not diminished in the African mentality; it has rather tilted towards becoming more pervasive. “In Africa, belief in the occult and its operations has not been diminished by modernization and globalization, but has rather responded to them.” (Kiernan 1997, p. 2). However, it is to be noted that the practice of occultism is an ancient one and can be found in many cultures of the world. In so far as it can be found in almost every culture, it is not something that can be easily wiped away with modernity. This could be why even the Nigerians who are in Europe still bring some of it to their trade and affairs. “To many Westerners, it seems self evident that the belief in witchcraft or sorcery is something “traditional” that will automatically disappear with modernization. But this stereotype does not fit with actual development in Africa today.” (Lehmann & Myres 1993, p. 417). In the African practice of juju, there is also the serious belief in charms.³² These are concrete things that are tangible and are believed to carry in them certain powers and can act as contact objects between the person possessing them and the spirit from whom they get their power and efficacy. In explaining charms, also known as talisman or amulets, Francis Arinze said that a charm is “an object which by some mysterious immanent and unconscious power, is believed to preserve from evil, disease, bullet or motor accidents, or to make one succeed in trade, in love affair, in fishing, in catching thieves, in passing examination.” (Arinze 1970, p. 20). This is one of the reasons why those Nigerians who use the practice and believe in juju in the crime of human trafficking use some kind of contact objects from their victims to ensure its effectiveness. Shelley writes: “Women (in Nigeria) trafficked for sexual exploitation must abide by a pact with their traffickers. This pact determines how much they must repay and is sealed with Nigerian rituals or voodoo.” (Shelley 2010, p. 91).³³ It is believed that any violation or repudiation of the rituals or oath taken will have serious spiritual consequences as well as bring harm to the victims or their acquaintances (Kara 2009; Shelley 2010). Because of these rituals, it will be difficult

32 “Charm”, according to Oxford Advanced Learner’s Dictionary, could be “a small object worn on a chain or bracelet, that is believed to bring good luck.” (Oxford Advanced Learner’s Dictionary (6th ed.)). In recent times, people believe that “charms” could also bring bad luck to another person if the person wearing it so wishes.

33 Brackets are mine.

to find any Nigerian female trafficking victim who has attempted to escape from the traffickers before finishing her debt (Kara 2009).

The involvement of legal practitioners in this crime by way of preparing the debt bondage agreement brings the unique nature of the crime of human trafficking in Nigeria to the limelight. There are lawyers who prepare the agreement of debt settlement and the touts or agents who take care of the traveling documents. "Intermediaries provide girls and women with travel document and tickets, and then create a debt bondage relationship, based on economical and psychological subordination." (UNODC 2006: Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo, par. 4.4.).

On the destination side of the trafficking ring, the newly arrived Nigerian slaves in Italy or Austria are sometimes received by the Nigerian women (madams) who are agents. These 'madams' who acquire the new victims also receive the items used in the rituals as a sign of absolute control over the victims. Kara writes: "The winning madam receives the pouch filled with the woman's juju hair and blood, thereby conveying absolute control of the victim to her." (Kara 2009, p. 91).

The huge amount of money to be paid by the Nigerian victims as debt is sometimes a result of the greed of the traffickers and perpetrators, or the rigorous nature of their transport to Europe. The more sophisticated or complex the route is, the more expensive it takes the traffickers to move the victims. UNODC describes the known route in its report:

"Four trafficking routes were identified from northern Nigeria: Those leaving from Kebi of Sokoto travel to the Republic of Benin on to Niger, Ghana, and Senegal and from there to the destinations of Libya, Algeria or Morocco. These are transit countries for the destinations in the Middle East or Europe. The Zindel (Katsina State in Nigeria) and Megatel (Jigawa State in Nigeria) exits are used for trafficking persons through Niger to Mali, Burkina Faso, to Libya and on to Europe or the Middle East. The fourth transit route takes persons from Adamawaa and Taraba States (these two states have the most porous borders) through Cameroon on to Gabon. This route is used predominantly to traffic women and young children out of Nigeria. Through the southern axis, persons are trafficked from Imo, Cross River and Akwa Ibom States to Gabon, Equatorial Guinea and Cameroon for cheap labour. There is the "Haji by land" route starting from Maiduguri (Borno State in Nigeria) through Gambaru, a border town in the state, through Gala to N'djamena through Sudan to Saudi Arabia." (UNODC 2006: Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo, p. 32).

The system needs some human agents to move these victims and it becomes necessary to examine who these victims are and those who benefit from the crime.

2.7.1 Edo State Human Trafficking Ring: A Short Inquiry

The trafficking of Nigerians to Europe was an activity which evolved gradually. It started after the lucrative nature of the business was brought to the limelight through the activities of the girls who were engaged in prostitution. The early Nigerian migrants to Europe did so purely on a business basis (Kreutzer & Mil-born 2008, p. 94; see also Chapter 2.1). The Nigerians in Europe later helped to facilitate and are still facilitating the trade in human beings. Louise Shelley writes that: "Italy, home to the second largest Nigerian Diaspora community in Europe, had 12,500 trafficked Nigerian women working as prostitutes in 2006, representing approximately half of the prostitutes in Italy." (Shelley 2010, p. 268). Most of these women are either recruited or from Edo State in Nigeria.³⁴ Edo State is known to be a source of labour migrants in Nigeria too (Shelley 2010). According to Siddharth Kara: "Up to 80 percent of Nigerian sex trafficking victims in Italy belong to a single ethnic group, the Edo, who live in the mid-southern region of Nigeria where interethnic conflict over oil towns continues to rage." (Kara 2009, p. 90).³⁵ In spite of the fact that Edo people, in recent times, have strict laws against prostitution, the number of women who are involved in it is still on the increase. On the other hand, victims of human trafficking who are from Edo dominate the number of Nigerian victims so much so that it is very rampant: "Trafficking is now so ingrained in Edo State, especially in Benin City and its immediate environs, that it is estimated that virtually every Benin family has one member or the other involved in trafficking [either] as a victim, sponsor, madam or trafficker." (Iyi-Eweka 2009, online version). It is, therefore, pertinent to inquire into the reason why so many victims of human trafficking and sex workers are from a single ethnic group – Edo (Shelley 2010).

In an attempt to find an answer to the above inquiry, there are two sides to the argument thus:

- Negation of the statement
- Affirmation of the statement

34 Edo State, with Benin as its capital city, is one of the 36 States in Nigeria (see the map of Nigeria in chapter 1.1.1).

35 Another account holds that "approximately 95% of the Nigerian women trafficked to Italy for the purpose of prostitution come from Benin City in Edo State, which interestingly enough, is not the most poverty-stricken region in Nigeria." (Aronowitz 2001, p. 183).

Ademola Iyi-Eweka (2009) holds the view that not all the victims who claim to be indigenes of Edo State are in actual fact from the State. Women who wish to have an easy passage to Europe do come to Edo State to facilitate their journey. He writes: "...because of the awareness that syndicates that facilitate access to Italy exist in Benin City, those who want to be trafficked to Italy go to Benin City to make arrangements, ...some of them even change their names." (Iyi-Eweka 2009, online version).³⁶ The presence of the syndicate in the Edo region is due to the long existing link between the people and the Italian merchants from the early 1970s: "The trafficking of Nigerians to Italy was originally facilitated by commercial ties forged between the two countries in the 1970s, when Italian oil companies descended on Nigeria to grab their piece of the bounty." (Kara 2009, pp. 89–90). Sex work or prostitution is seen as a new phenomenon in Edo because the culture abhors such practices (Iyi-Eweka 2009). The Edo people have no indigenous word for "prostitution". "The modern Edo word, OSUKA is Igbo derived... Before 1897, it was unthinkable for an Edo woman to rent an apartment and sell herself for money... Tenancy as we know it today came with colonialism." (Iyi-Eweka 2009, online version). In other words Iyi-Eweka's position is that not all sex workers and victims of human trafficking who claim to be indigenes of Edo are really from the region by birth. Edo State became notorious for prostitution because of the early contacts with foreign oil workers who were patronising the services of sex workers and because of other women from other parts of Nigeria who were coming over to Edo to prostitute.

In affirming that Edo women dominate the prostitution industry in Europe and are mostly victims of human trafficking, the reason could be traced to the economic hardship and the brandishing of wealth by the Edo girls who have made it while abroad and the willingness on the part of other girls to migrate. Many fall victims to human trafficking as a result. The lavish lifestyles of the migrants who are visiting home or have returned finally serve as bait to others to aspire to migrate: "Many families pride themselves on having their daughter, wife, sister, or other relation in Italy, Spain or the Netherlands, pointing to houses, cars, boreholes and other material things acquired with the money sent by their daughters." (Iyi-Eweka 2009, online version).

The early exposure of the Edo girls to prostitution and trafficking leads them to dominate the scene and because the crime of human trafficking can be a crime that is 'self reproducing', that is, a crime in which one can graduate from being a victim to becoming a trafficker, it is easy for these women to remain in the

36 Benin City is the capital city of Edo State.

practice. Shelley writes that: “Nigerian women trafficked to Italy replicate the exploitation to which they have been exposed. In other words, Nigerian trafficking is characterized not only by female leadership, but also by a self-reproducing organizational structure.” (Shelley 2010, p. 91). The Edo girls, who are in the business, can only trust people from their ethnic group. This trust leads to recruitment of the victims from their area with a view of training them also to continue in the crime of human trafficking.

2.8 Who are the Traffickers?

A human trafficker is one who participates in one or more stages of the human trafficking process described above (cf. chapters 2.2, 2.3 & 2.8).³⁷ As a process with different stages, human trafficking transcends borders and so do the traffickers. A person can be considered a human trafficker if he or she takes part in any step of the human trafficking process, including recruitment, transportation, transfer, harbouring or receipt of persons irrespective of the location.

The perpetrators of the crime of human trafficking range from a simple family member who arranges for his or her relation to travel, to a government official who oversees the smooth running of the procurement of the necessary document for the travel and a resident permit in the destination country. Thus the crime can be run as a family business or an international enterprise (Schirmacher 2012, p. 37). In most cases traffickers are either nationals of the country in which the exploitation takes place or those of the countries of origin of the victims. (Kangaspunta et al. 2008). The trafficker(s) can be one person, a small group or a large group of network partners. Most of the times, the traffickers are people with a good educational background. Among such people are managers in hotels, travelling agencies, legal firms, embassy staff, health officers, teachers, students and civil servants (Schirmacher 2012, p. 32; UNODC 2006: Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo).

Some networks of organized criminal groups can be involved in trafficking in human beings. The United Nations Convention against transnational organized crime issued a statement on what an organized criminal group is: “Organized criminal group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention,

37 See the definition of human trafficking and the three distinctive marks of human trafficking in Chapters 2.1 and 2.2.

in order to obtain, directly or indirectly, a financial or other material benefit.” (UN Convention against Transnational Organized Crime 2004, Article 2 (a)).

2.8.1 Women as Traffickers (The ‘Madams’)

More women are migrating than in the past (Brysk 2011). In human trafficking, it is known that women assume high positions not only as recruiters but also as managers of the ‘ware’ (Shelley 2010, p. 88). The men who are traffickers sometimes prefer to use the services of women because, as women, they can easily control the victims who are also women. That is one of the reasons behind the involvement of women in the crime. Besides, there is the likelihood that they will not easily arouse any suspicion either from the side of the law enforcement agents or from the public about the whole transaction of human trafficking. Shelley writes about a Chinese woman who was given a thirty-five year prison sentence for being involved in human trafficking and smuggling. The woman was said to be “at the top of a major transnational trafficking organization.” (Shelley 2010, p. 88). In other words, traffickers can be men or women and in some cases men do play a secondary role in the whole process. The United Nations Interregional Crime and Justice Research Institute (UNICJRI) report reads: “trafficking in women from Nigeria to Italy is managed mainly by women, with men relegated to largely secondary functions.” (UNICJRI 2004, p. 222) In Germany, “more than 20 per cent of suspects in German human trafficking cases are women.” (Bundeskriminalamt 2006, in UNODC UN.GIFT. 2008, p. 22).

Women involvement in the crime of human trafficking has had an enormous increase in some regions; so much so that they are institutionalized and are referred to with certain terminologies. In India, for example, they are known as ‘nayikas’ (Shelley 2010, p. 90) and in the case of Nigerian women who are traffickers, they are called the ‘madams’ (Kreutzer & Milborn 2008, p. 44; Shelley 2010, p. 91). They coordinate the activities of these victims and manage the proceeds and because they were once victims, they know the system very well. “Most ‘madams’ started as prostitutes themselves and, once their debt has been paid to their ‘madam’, they, in turn, use the same method to make money.” (UNODC 2006: Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo, par. 4.4.2.). The majority of the ‘madams’ or ‘nayikas’ were victims of human trafficking themselves. They are, therefore, a replica of the system that exploited them and are carrying out the ordeals they themselves went through. The women who are involved in human trafficking justify their involvement by stating that, as women and perhaps former victims, they understand the ordeal the victims are passing through if they are to be controlled by men. One such

‘madam’ reports that “the women in her brothel sent some of their wages home, a fact that distinguished them from others in the male-run brothels in Antalya, where the trafficked women were enslaved and uncompensated.” (Shelley 2010, p. 91.). In other words, a madam could be said to be playing double roles for the victims: as one who exploits them and as one who takes care of their basic needs and aspirations. Kreutzer & Milborn write about the madams: “Sie nehmen den Mädchen das ganze Geld ab, aber versorgen sie mit dem Lebensnotwendigen. Sie schreien sie an, sind aber auch die Einzigen, die sie trösten.” (Kreutzer & Milborn 2008, p. 46).

In connection with the question on who the traffickers are, it is also necessary to find out who the beneficiaries of this crime are.

2.8.2 The Madams’ Modus Operandi

The madams could act as the agents of contacts and control for the whole network of human trafficking. They themselves are freed victims of human trafficking as stated above (see chapter 2.8.1) and are now better experienced to act as peddlers on individual basis or as a group. As discovered during the interview conducted by the author (cf. Chapter 6) most of the madams have their own recruiting network, while others pay to acquire their victims as soon as they arrive in Europe. As a group, they are united in the crime and have devised means of helping themselves financially to keep acquiring new victims and ensuring the continuity of their business in case of any problem. This method is described vividly by Kreutzer & Milborn (2008) as:

“Etwa 15 von ihnen tun sich zusammen und zahlen regelmäßig in einen gemeinsamen Topf ein. Wenn 10.000 Euro zusammengekommen sind, dann kann sich eine der Frauen ein Mädchen kaufen, mit den nächsten 10.000 die nächste und so weiter[...]. Auch für den Fall von Verhaftungen ist vorgesorgt: Wenn eine ins Gefängnis kommt, ist das gar kein Problem: Dann springt sofort eine andere ein und übernimmt die Mädchen, bis die verhaftete Frau wieder frei ist.” (Kreutzer & Milborn 2008, p. 46).

To control their victims in Europe, the madams have young men whose job it is to spy on the victims when they are out on the streets. They are part of the networks of the madams in the perpetration of the crime of human trafficking and to a great extent their role is one of the reasons why the victims find it difficult to escape. These men intimidate the girls and give reports to the madams about the activities of the girls. To achieve maximum control over the victims, the madams apply the same method as stated above (See Chapter 2.6). They confiscate the documents of their victims in case these are genuine; otherwise they threaten them with a renunciation to the authority for possessing fake documents. The

girls are made to know the dangers of going to the police which include arrest and imprisonment and a possibility of deportation. They are told and shown stories of those who have been deported due to the illegality of their sojourn in Europe. They do this to them on their very first day of arrival when they are still in shock from a new environment and culture.

The madams use torture sometimes to intimidate the victims. The torture can be physical or psychological (see chapters 5.2.3 & 5.2.4). Torture is applied when the victims refuse to work, make a poor return after work or are rebellious. There are reported cases where the victims were beaten with instruments, had hot water poured on their bodies, sent back to the street to make up for losses or raped by someone as a punishment (Kreutzer & Milborn 2008).

The madams develop a system of making the victims spy on one another and the ones who report on others are rewarded to encourage more of these actions. The madams make sure that the victims are aware of the fact that their families back home in Nigeria are under the watchful eyes of their gangs and can be attacked anytime the need arises. Such information helps to make the victims keep to the rules and acts as a deterrence to them from acting otherwise. Finally, the cultic pact performed at home before the journey to Europe (see Chapter 5.2.5) acts as a powerful tool in the hands of the madams to keep the victims in check. The victims are often forced to swear that they will pay certain agreed amounts before they can gain their freedom. The belief in the efficacy of the oath and the rituals is so deeply rooted in the mentality of the victims that they are compelled to obey the madams without question.

2.9 Who are the Beneficiaries of the Crime?

Vincenzo Ruggiero structures those who profit from trafficked victims into three basic categories (Ruggiero 1996, 1997, in Aronowitz 2001, p. 172):

- “the legitimate or conventional market economies (factories, farms, hotels, etcetera),
- the legitimate domestic service economy (households which employ maids)
- and the criminal economies of the sex industry – foremost, prostitution.” (Ruggiero 1996, 1997, in Aronowitz 2001, p. 172).

The above classification clearly explains the different structures that benefit from the trafficking of human beings. Other details of people or branches that are beneficiaries fall within any or all of the above categories.

Human trafficking is a complex action that involves sexual and labour exploitations and that makes the beneficiaries of the crime numerous. It is logical to

state that human trafficking is flourishing because there are people on the other side of the business who are profiting from it. Jacob Guggenheimer et al. (2009) write: "a lot of different people profit from human trafficking directly or indirectly either as single persons or group of persons." (Guggenheimer et al. 2009, p. 36).³⁸ Apart from those who traffic these women and make a profit off of them, many other branches are listed as beneficiaries. "The following commercial areas are mentioned: sex industry, domestic work e.g. nannies, agriculture, restaurants and bars, factory work, construction industry, haulage, distribution and courier services." (Schirrmacher 2012, p. 33).³⁹ These benefit from the cheap labour that the victims offer to maximise the profit in their businesses. There are many others that engage people in force labour, thereby exploiting them. Shelley states that: "the nefarious sex traders who exploit women and children are not the only ones who profit from human trafficking." (Shelley 2010, p. 40). Many other businesses enjoy the benefit of exploiting victims of forced labours. Victims are used in the industries to keep the production costs at a very low margin. They are used in the agriculture sectors to ensure steady planting and a timely harvest. In the construction firms, they are used to meet the delivery deadlines. The consumers of the services of these victims are many. Some of them are not aware of the process involved in the production of the goods and services they enjoy, sometimes, at a very cheap price. "Consumers will use the products produced by the sweatshops where trafficked workers are employed, and buy the fruits and vegetables harvested by trafficked agricultural workers... they will eat in restaurants where trafficked laborers are employed. They hire domestic laborers to take care of their children and their homes." (Shelley 2010, p. 39).

The list of those who benefit from the services provided by the victims of human trafficking can be stretched further because of the fact that most of the goods people enjoy may be produced with the services and cheap labour of these victims. But in the forefront of human trafficking are those who benefit from the prostitution of the victims and those who sexually exploit the women. Among these groups are: the traffickers themselves who make the profit and the clients who sexually abuse the women. Most of the clients who use these women do not consider the situation of the women and are just satisfied with their exploitations and perhaps the affordability of the services. "Men who purchase sexual services rarely think about the prostitutes with whom they have sexual relations. Instead,

38 Translation is mine.

39 Translation is mine.

they happily hire the services of a younger woman who is compliant and affordable without thinking of why these services are so accessible.” (Shelly 2010, p. 39).

The crime of human trafficking is based on abuse and exploitation of the victims. It is a difficult crime to fight because it is, as an illegal business, a hidden one, and the traffickers function in a clandestine manner. It becomes necessary to discuss some of the methods of the exploitation of the victims in order to gain knowledge of the dynamics of the crime.

2.10 Models of Exploitation – An overview

There are many views on the number of people that are under forced exploitation as a result of human trafficking and smuggling in the world today. Though the figures vary, the fact remains that very many people are being exploited in the form of slavery (see chapter 4.1). The factors that necessitate the exploitation of the victims of human trafficking can be categorized into two thus: economic necessity; and political regulations. The ILO report summarizes that: “human trafficking represents an opportunistic response to the tensions between the economic necessity of migrating, and the politically motivated restrictions on doing so.” (Geneva ILO 2005, Part 11, par. 219). Although the main focus of this section is forced labour as it concerns sexual exploitation, the other forms of labour exploitations, for example, domestic and factory operations are treated as well. This is because work in these branches can constitute forced labour “Zwangsarbeit ist nur dann gegeben, wenn zu einer Situation der Arbeitsausbeutung das Element der Unfreiwilligkeit hinzukommt, das durch eine andere Person herbeigeführt wird.” (BBGM 2010, Sec. 3.4).

The problem of human trafficking is pronounced in the mode of exploitation of the victims. An overview of the models of exploitation focuses on two main parts namely: sexual exploitation and economic exploitation. Victims are usually trafficked from less developed countries into the developed ones for either one of the purposes stated above or for both.

2.10.1 Sexual Exploitation and Engaging in Prostitution

The term ‘sexual exploitation’ is used in this study to depict the action of forcing the victims to provide sexual services to satisfy the clients; and the term ‘prostitution of others’ is used to depict the activities of both the traffickers and the client in which the traffickers usurp the profit of the sexual activities of their victims, while the clients’ goal is focused on deriving maximal sexual pleasure from the victims. The term human trafficking for the purpose

of sexual exploitation is a replica of the term 'international sex trafficking'. Alison Brysk defines international sex trafficking as "transborder subjugated commodification of female sexual services." (Brysk 2011, p. 267). Such subjugation may be a result of some domestic practices that have been pre-existing, for example, patriarchal tendencies in some cultures like those of the African regions (e.g. Nigeria) or lack of enlightenment on the side of the women due to lack of education and gender inequality.

Italian researchers identified three different levels of sexual exploitations and these levels determine the margin of profit for the traffickers. There are:

"those individual entrepreneurs who are involved in small-scale activities such as running a brothel in a particular area; the second or the mid-level prostitution schemes in which women are controlled by the clandestine operations which imported them; the third and most sophisticated level involves large-scale international criminal organisations that are linked with domestic criminal organisations. The women under the control of the third group have no documentation and are kept under tight control." (Aronowitz 2001, p. 173).

Women and girls have been lured into sex slavery after being deceived with false promises of jobs. Others have given their consent to the affairs while others have migrated legally because of the promise of a better job or good working conditions and ended up being forced to provide sexual services under exploitative conditions. In most cases, the sexual exploitation of these victims begins immediately after they are recruited. This is to intimidate and make them more submissive (Kara 2009). This gruesome crime continues throughout the period of the enslavement. The traffickers use every means they can muster to make sure that the victims satisfy the customers and will never attempt to escape (Kara 2009). Most often the torture with sex is so excruciating for these women that they suffer some psychological trauma. The Nigerian victims suffer special abuse because of the rituals the traffickers perform with them during the recruitment and the oath of obedience and non-resistance they take. The exploitations of these victims, Kara writes, normally do take place in "six primary types of venues... brothels, clubs, massage parlours, apartments, hotels, and streets." (Kara 2009, p. 12). But he was quick to assert that a hotel is not especially a choice venue because the environment could be conspicuously dangerous for both the traffickers and the clients. "Prostitutes who work for pimps or crime networks in hotels are usually former slaves who have accepted a life of prostitution and seek to make as much money as possible." (Kara 2009, p. 14). Whatever the background of the victim or her migration circumstance may be, none has consented to be exploited or has accepted it (Huland 2012). A lot of factors and conditions facilitate

the sexual exploitation of the victims of human trafficking; for example, “Gender, age and racial discrimination as well as the isolation of the work in hotels, private homes or brothels confined to certain districts are important factors that contribute to such sexual exploitation of women.” (Geneva ILO 2005, A Global alliance against forced labour, par. 245.). Apart from these factors, globalization plays a role in the sexual exploitation as well. The advancement of communication technology, tourism, escort agencies and marriage arrangements have contributed to the growing demand for and supply of commercial sex and exploitation of such has set in with it.

2.10.2 Economic Exploitation of the Victims

Limiting the menace of the crime of human trafficking only to sexual exploitation reduces the focus on the extent of the crime and hinders a holistic approach to the campaign against it. ILO estimates that one-third of men, women and children trafficked around the world are for economic purposes other than sex slavery (Geneva ILO 2005, *ibid.* par. 217). Forced labour is at the apex of economic exploitation. ILO sees forced labour as a severe violation of human rights and explains that “there is an evident overlap between forced labour situations and slavery-like practices. Debt bondage or “debt slavery” is a particularly prominent feature of contemporary forced labour situations.” (Geneva ILO 2005, *ibid.* par 27). The trafficking victims who are under forced labour are more likely to go unnoticed than those who are in sex slavery. Those in prostitution have contact with the clients and can interact with them, thus increasing their chances of getting help or assistance to escape (Kendall 1999). But the secluded environments in which the forced labour victims work and perhaps the lack of contact with clients make it difficult for them to be detected easily, and this increases the likelihood that they can be in this situation for a longer period of time. Forced labour operation “generally lasted from 4 ½ to 6 ½ years, whereas trafficking operations for prostitution lasted from a little over a year to approximately 2 ½ years before being discovered.” (Richard 1999, p. 3). The necessity to move outside one’s location for a better living is a factor in the migration process. This is often connected with the lack of employment and increased consumer aspiration in the origin countries. These factors are augmented by the lack of labour force on the side of the destination countries. Migrants are willing to accept low-paid, insecure, and sometimes dangerous jobs to meet their aspirations. The countries of destination sometimes put out immigration restrictions as control measures for migrations. Perpetrators of human trafficking utilize such opportunities to charge fees and smuggle the victims across for cheap labours. ILO recognizes such dependency

of migrants on the intermediaries as one of the major factors behind economic exploitation and forced labour practices. When helped by smugglers to migrate, the victims are more vulnerable because they may live under the persistent threat of being reported to law enforcement agents, especially if their legal status expires, and could lead to their eventual deportation. That is a subtle means of pushing the wages down and enforcing compliance of the victims.

Women and children are especially vulnerable to forced labour and economic exploitations. Women work more in those areas where exploitation can easily happen because of the close link between employers and workers. Places such as: hotels, domestic homes and 'enclosed factories' are only a few examples. Domestic homes are difficult to be supervised for violations of labour regulations (Geneva ILO 2005, A Global alliance against forced labour, pars 237–243). In some cultures, like in Northern Nigeria, women are still being discriminated against and they, like children, are unable to claim their rights. When these are trafficked, they carry this inherited mentality with them and as a result are cheated and abused by their employers.

2.11 Health Implications of Exploitation

The health implications of the exploitation of these women do not end with the individual victims alone but have consequences in society. Sexual exploitation of the victims of human trafficking has some health costs for the victims, the clients who use their services, and the entire society at large. One such cost is death occasioned by the transmission of venereal diseases like HIV and AIDS. Shelley writes: "trafficking also contributes to the spread of AIDS. The health consequences of human trafficking are particularly severe in the sexual arena." (Shelley 2010, p. 76). The victims of human trafficking are expected by their traffickers to serve as many clients as possible to maximise their gains and they are denied the rights to protect themselves against possible venereal diseases. Sometimes these victims are forced to undergo abortions to be able to continue the commercial sex services without any interruption due to the maternity period, thereby being traumatised for a longer period or for life. The health implications are too numerous to pinpoint because "many victims who have been sexually trafficked, if they survive, are permanently psychologically damaged, suffering posttraumatic stress, painful flashbacks anxiety, fear, incapacitating insomnia, depression, sleep disorders, and panic attacks as a result." (Shelley 2010, p. 63). The health effects extend to other victims in the domestic or forced labour exploitation.

Economic exploitation has health costs for the victims. As the victims are forced to work for more hours than normal in the most risky areas and under

dangerous conditions, the accident rate is usually high. “Their exhaustion and their work environment make trafficked workers particularly prone to serious accidents.” (Shelley 2010, p. 75). Being victims of forced labour, they run the risk of not getting appropriate treatment and so may be disabled for life in the case of a serious accident. Once a victim of human trafficking is unable to function appropriately either in the commercial sex branch or in the forced labour branch, the victim is dumped. “Trafficking victims may be permanently incapacitated or simply die. Such victims are referred to as ‘disposable people’ by Kevin Bales.” (Shelley 2010, p. 75).

The victims of organ trafficking are deprived of a normal healthy life for their future. Sometimes individuals may agree to sell their organs, but most of the time they are either forced or deceived into doing so and, as a result, they suffer some health consequences. (Shelley 2010). The need for post-operation care that should serve as a follow up for good recovery after donating an organ is not met because of little or no compensation to the donors of these organs. Shelley writes: “many who have lost their organs to organ traffickers are unpaid for their losses and, therefore, are unable to pay for needed postoperative care.” (Shelley 2010, p. 74). Recipients of organs that are obtained through an unregulated avenue stand the risk of receiving infected organs which may pose life threatening problems for them.

2.12 Methods of Recruitment

The business of trafficking in human beings begins, first of all, with the recruitment of the victims. This can happen in a variety of ways with different but interlocking methods because the supply of the victims will be difficult to come from one source (Shelley 2010). The recruiters scout around for possible victims. It is easier to get potential victims for recruitment in periods of conflicts, wars, disasters and economic crises because of peoples’ instinct to survive and it costs the perpetrators time and, perhaps, money to recruit enough victims for onward trafficking. The initial recruitment of the victims is, in some cases, done by the victims’ acquaintances because of trust. “Proximity and access are important. But equally important is trust.... Trust is more easily established with someone from one’s own ethnic, language, or cultural group.” (Shelley 2010, p. 95).

The techniques and channels used by the traffickers depend on “the level of education, the expectations of the victims and their families, and their financial situation.” (Shelley 2010, p. 96). In the developed countries, the techniques that are widely used are the mass media; for example: advertisements on the internet and billboards; cell phones; newspapers and magazines; and personal approaches.

In developing countries, like Nigeria, the recruitment techniques are mainly personal. "Trafficking victims are often recruited by people they know – friends, family, acquaintances, and sometimes boyfriends." (Shelley 2010, p. 96).

Arrangements of marriages and partner matching are among the methods of recruitment used by the perpetrators of human trafficking. Recruiters may establish agencies for marriage or partner matching in the origin countries and organise contracts for interested clients. These marriages could be properly and legally arranged, but in effect they are fake and deceitful. They could be arranged and managed by brokers who, sometimes, are traffickers themselves. Marriages are sometimes arranged for Nigerian women with either foreigners or some Nigerians living abroad (Nnebedum 2009). Sometimes the situation is more complicated especially when the parents of the victims are involved in the whole marriage affair, Nnebedum writes,

"There are also other situations whereby the parents of the girls are in support of their daughters going abroad under the pretence of marriage. Sometimes these parents force their daughters to enter into the marriage contract after receiving a certain sum of money in exchange. This can be classified under the category of forced marriage." (Nnebedum 2009, p. 186).

Heinz Schmidt reported in his research that 'marriage arrangement' is one of the methods used by the traffickers to entice their victims and, perhaps, their parents: "Oft findet die Heirat gleich im Heimatlande statt, vielfach mit Zustimmung der unerfahrenen Eltern. Hat der Ehemann seine 'frau' ins Ausland gebracht, erklärt er die Heirat für nichtig und bringt sie in ein öffentliches Haus oder zwingt sie zu ähnlichem." (Schmidt 1985, p. 19). Most of the girls given for marriage are underage, but with improper birth registration and easy falsification of documents, it becomes difficult to determine who is underage and who is not. It is an arduous task for the law enforcement agents to determine when a marriage is fake or not. In Nigeria, grown adults are free to marry within and outside the country. But there are cases where the bride expresses either her disappointment in the choice or her disapproval of the whole contract. Kreutzer & Milborn (2008) write:

"A young girl from Nigeria was promised marriage to an Austrian. Upon arrival, she saw that she was meant to satisfy the libido of an almost 70 year old drunkard and upon that, must also work on the streets as prostitute. She knew that it was difficult to come over to Europe. But she never knew that it would result in prostitution. She must work to pay back the debt of €35.000." (Kreutzer et al. 2008, p. 23).⁴⁰

40 Translation mine (see also Nnebedum 2009).

Women are recruited under the pretence of securing partners for them and are then left to be stranded in the foreign land. Aligned to this are the model and film/television industries. These advertise for qualified candidates with the prospect of paying them well but may end up being a cover up for the business of human trafficking. Women and girls are recruited to work in the show business industries on a contract basis or otherwise and are, in the end, delivered to the traffickers. As Heinz Schmidt puts it:

“Ein besonders verlockendes Angebot ist etwa das Engagement als Tänzerin. Ein Vertrag wird geschlossen, gute Honorare und freie Rückreise zugesichert. Im Ausland werden die Mädchen dann gezwungen, in verrufenen Lokalen aufzutreten. Das vereinbarte Honorar wird nicht gezahlt. Die Mädchen müssen zu Lebensbedingungen arbeiten, die nicht das Existenzminimum bieten. Sie werden so auf die Strasse getrieben.” (Schmidt 1985, p. 19).

Agents acting under the pretence of securing a better future for their clients but instead turn them into victims of human trafficking are conducting the recruitment.

2.12.1 Recruitment through Agents.

Agents may sometimes be women who were once victims of human trafficking. They return to tell the potential victims about their good earnings and talk them into joining them abroad for jobs. These women can be either recruiters themselves or agents of the recruiters. In the latter case, they get bonuses for their intermediary role (Shelley 2010; Geneva ILO 2005). The agents go about scouting for vulnerable victims. These are, most of the time, women and children from poor families with serious financial problems. In the case of recruitment of children, the parents are promised that they will have the opportunity of going to school, and in the case of women, they are promised jobs. Parents with many children, in some cases, agree to sell their children to the agents for money and justify such acts. Shelly writes: “selling off their children is not seen as a malicious act but rather is motivated by the possibility of saving their other children.” (Shelley 2010, p. 98). The agents for recruiting can be grouped into two, depending on their method of operation. These groupings as determined by the author are:

- Simple transient recruiters
- Habitual organized recruiters.

2.12.2 Simple Transient Recruiters

The simple local recruiters are the agents that are mostly in direct contact with the potential victims. They scout for the victims through advertisements and their usual locations are cinemas, schools, hotels and bars, events and disco halls. To maximize their strategies and gain more trust from the potential victims, they need to be indigenes or residents of the area they are operating within. They usually own suitable vehicles to move the victims around and across the trafficking route and can provide some distance transportation of the victims and may, if the need arises, move the victims to the destination point. They do this for the habitual organized recruiters (Shelley 2010)

Others in this group are the indigenes and residents who are residing along the routes the traffickers use. These provide some distance transportation for the victims and earn some money for their services. "Being indigenous, they know the route and short cuts and they have mastery over the area so that they can manoeuvre their ways through poorly secured borders and through the bushes." (Nnebedum 2009, p. 176). These recruiters are not professional recruiters and so do not have trafficking in human beings as their main source of income. Their being involved in the business is motivated by the temporal financial benefit which they earn alongside their main occupation. Their activities are arranged on an *ad hoc* basis and are usually spontaneous. These recruiters may move further to become habitual recruiters, but it depends on their experience and courage.

2.12.3 Habitual organized recruiters.

The professional traffickers are referred to in this work as habitual organized recruiters and are the sophisticated and difficult perpetrators in the crime of human trafficking. These habitual recruiters are difficult to combat because of the level of their connections and dynamism of their operation (Nnebedum 2009). Given their connections, they can access lots of procedures in many countries to ascertain the viable ones for human trafficking and are knowledgeable in the art of the forgery of documents. The 'madams' (see chapter 2.8.1) are found within this group. "Auch für den Fall von Verhaftungen ist vorgesorgt: Wenn eine ins Gefängnis kommt, ist das gar kein Problem: Dann springt sofort eine andere ein und übernimmt die Mädchen, bis die verhaftete Frau wieder frei ist." (Kreutzer & Milborn 2008, p. 46). Though this group works very closely with the Simple Transient Recruiters, they more or less depend on them for their recruitment. When they are detected by the law enforcement agents, their activities still continue because of the wide ranging network that they enjoy. They can change their

methods and routes easily if they are detected or constantly monitored by the government agencies or NGOs.

Most of these traffickers are found in Lagos, Abuja, Port Harcourt, and Benin City which are some of the major cities in Nigeria. Others are those already living abroad who have connections at home. Their activities involve actions that cannot be executed without proper planning. Most of these professionals are already living in the respective countries and only come home to prey on their victims and take them as a group or individually back to Europe. The activities of the habitual organized recruiters do not end with the recruitment and movement of the victims but also extend to keeping watch over them in the destination countries and ensuring maximum utilization of their services to their own advantage (Geneva: ILO 2005; Nnebedum 2009; Kara 2009; Shelley 2010). They know how to follow their victims and how to recapture them in case of any attempt by them to escape. The victims, especially those who were ordered, are never lost in transit. Their traffickers always appear when they have survived the journey because there is a steady follow-up. One of the secrets of this steady follow-up of the victims is the network which also involves, though not always, the governmental agencies.

3 Causes of Human Trafficking

Being a crime that is ever evolving in nature, examining the causes of human trafficking is very essential in the fight against it. In the fight against human trafficking, emphasis is laid on prevention. For any prevention to be effective, the consideration of efforts geared towards the reduction of vulnerability is indispensable (Clark 2008, p. 59). In this regard, Michael Widgren identifies some factors that account for the reason for the market of human trafficking and summarizes them as “the sheer number of willing targets, driven by poverty and a lack of opportunity, to take chances with smugglers and traffickers to improve their lives... the internationalization of the world economy and the globalization of world markets...advanced communication and technology and cheap and rapid air travel.” (Aronowitz 2001, pp. 169–170; see also Widgren 1994).

The causes of human trafficking are numerous and could be, at times, complex because they are interwoven with the causes of migration. For human trafficking to take place, people must move. Movement of people, which is migration, does not always entail human trafficking but the traffickers utilize the vulnerable situation of the people fleeing poverty through migration to perpetrate their crime. Kenneth Bohl writes: “in many cases potential victims are trafficked in the process of migrating.” (Bohl 2010, p. 14; see also Schirrmacher 2012). When the situation in the country of origin is not suitable for survival, one of the options available to the people is to move. Thomas Schirrmacher, agreeing with the above statement and referring to Follmar-Otto, writes:

“Menschenhandel hat multiple Ursachen. Es besteht ein enger Konnex zwischen Menschenhandel und Migration, wenn gleich nicht alle Opfer von Menschenhandel Migranten oder Migrantinnen sind. Zentrale Ursachen sind das wirtschaftliche Ungleichgewicht zwischen Herkunfts- und Zielländern sowie die gesellschaftliche Ungleichheit innerhalb der Herkunftsländer, auch die Nachfrage in den Zielländern, niedrige Risiken und immense Gewinne für die Täter sind Faktoren. Hinzu kommen traditionelle Geschlechterrollen und kulturelle Praktiken, Korruption, bewaffnete Konflikte und Post-Conflict Situationen sowie restriktive Einwanderungspolitiken der Zielländer.” (Schirrmacher 2012, pp. 38–39).

G. Gunatilleke, in his report on International Seminar on Response to Trafficking, throws more light onto the general causes of both licit and illicit migration which, in end effect, are the causes of human trafficking. He writes that they:

“lay in the social, economic and political conditions in the sending countries – rapid growth of population, persistent poverty, high unemployment, internal conflicts

resulting in widespread violence and civil disorder, oppressive political regimes and grave violation of human rights. At a different level, inequalities in living standard between the more developed and less developed countries and the rising expectations act as 'push' factors that induce people to migrate in search of opportunities for a better life." (Gunatilleke 1994, p. 65, in Aronowitz 2001, p. 170).

The number of people on the move in the contemporary world is enormous compared with what it used to be (Schirrmacher 2012). Susan Frank Parson describes the situation as: "The movement of peoples has become a familiar feature of contemporary life, perhaps without historical precedent at such a level of magnitude, until the world seems to be filled up with traffic of all kinds bound in every direction at once." (Parson 2006, p. 7). One can hardly set out on a journey without meeting people on the move. With the number of people on the move in and out of their living areas, it is expected that a great number will be living, legal or illegal in places other than their homelands.⁴¹ According to the United Nations Population Commission (UNPC) estimate in 2010, around 213 million people are residing in countries other than their original countries. 70 million of them are living in Europe (UNPC 2010, in Schirrmacher 2012).⁴² This number is equivalent to 4% of the world population. The traffickers, as opportunists, have been described as "fishing in the stream of migration." (Cameron & Newman 2008, p. 26, in Bohl 2010, p. 14).

Many factors force people to migrate by pushing them, and many factors attract people to immigrate by pulling them. However, it could be said that "structural factors such as poverty and the lack of resources, employment, health care and educational facilities, push people to migrate and improved livelihood opportunities pull them to urban areas and foreign countries." (Bohl 2010, p. 10). Shelley argues that these factors alone do not account for the reason for the tremendous increase in the migration of people and human trafficking because poverty and social inequalities have been there for a very long time. She writes that "they alone do not explain the phenomenal growth of human trafficking since the mid 1980." (Shelley 2010, p. 37). She argues that globalization has a role to play in the growth of human trafficking because of the interconnectedness of people and nations it brought with it and the opportunity of free trade. Arguing in line with Esteva Gustavo, she writes:

41 By the legal status of residence we mean the possession of a resident permit of the host country if the migration involves a crossing of border into the territory of another country.

42 See also United Nations, Department of Economic and Social Affairs, Population Division, 2009.

“Trafficking has increased dramatically with globalization, the rise of illicit trade, and the end of the Cold War. Free markets, free trade, greater economic competition, and a decline in state intervention in the economy have been hallmarks of the globalizing process. Globalization is also characterized by greater mobility of goods and people and more rapid communications. Remote parts of the world are now integrated into the global economy.” (Shelley 2010, p. 37).

In this section, causes of human trafficking are examined with regard to those structural factors that necessitate movement of people. This movement renders them vulnerable to exploitations, abuses, and violations of their human rights. The effect of forced migration, globalization, and other factors disconnected from, but linked to human trafficking will be examined. People are trafficked because they move or are forced to move. The movement of people is occasioned by necessities, needs, and opportunities that are lacking in one place and available in another. The presence or lack of such needs and opportunities act as incentives for people who migrate and this is technically referred to as ‘push and pull’ factors.

3.1 ‘Push and Pull’ Factors in Migration as Causes of Human Trafficking: A Synopsis

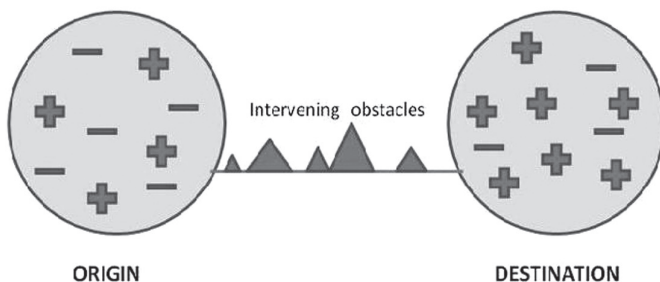
The theory of ‘push and pull’ was developed by Everett Lee in the 1960s to describe the two forces that exist at the two ends of movement of people who migrate (Jackson 1969; Fell & Hayes 2007). Push factors exist at the point of origin and motivate people to embark on a ‘centrifugal’ movement (movement away from the center) while pull factors attract people to move towards a particular point of destination through a ‘centripetal’ movement (movement towards a point of destination). The relationship between the two factors is complementary as opposed to supplementary. Following the push and pull theory, movement occurs only when the pushing factors from the point of origin have corresponding pulling factors in the point of destination; for example, lack of employment in the country of origin must be complemented by a job opportunity, or prospect of it, in the destination country before one can consider embarking on the movement (Osvaldo et al. 2011, online version).

Lee represents his ‘push and pull’ theory in a graphic form, showing the points from origin to destination and the respective positive and negative signs that signify the push and pull factors respectively. In the figure below, one sees that there are obstacles to the spatial movements. The obstacles are called intervening obstacles (Osvaldo et al. 2011) and these could be anything ranging from physical barriers; obstacles en route destination; doubts of opportunity in destination point; cultural influences; to restrictive immigration laws. The barriers are “the reality

that any migrant must consider – both the positives of staying and the negatives of moving, as well as their converses.” (Osvaldo et al. 2011, online version). The logic of the push-pull theory is that if the plusses (pulls) at the destination outweigh the plusses of staying at the origin, as shown below, then migration is likely to occur (Osvaldo et al. 2007).

Figure 3

Lee's Push-Pull Theory



(Lee (1966) from Osvaldo et al. 2011, online version)

Such movements or migration cannot occur without a number of factors that make it possible. These factors contain in themselves a set of opportunities and risks, especially if the migration occurs mainly because of the quest for better living or escape from poverty. One such risk is the possibility of being vulnerable to human trafficking. Whatever the factors may be, being pushed out of, or pulled into, a particular geographical area involves a kind of force that may or may not be physical. Judging from all the elements that may necessitate the movement, one may conclude that the victims of human trafficking might not have been gullible if the situation had been otherwise. This leads to the examination of what Stephen Castles terms ‘forced migration’.

3.2 Forced Migration Theoretical Perspective (Stephen Castles)

Human trafficking in its entirety can be seen as a form of forced migration of people either across national boundaries or within them for the purpose of

exploitation (Castles 2003, p. 3). It is not only women and children who are trafficked as sex slaves, men are also victims as there are cases in which they are forced into debt bondage and are exploited by the traffickers or smugglers by engaging them in forced labour (Gallagher 2002). In his discussion on forced migration, Castles advocates a soft promulgation of immigration policies because the contrary will only provide opportunities for the perpetrators of the crime of human trafficking to thrive in their business. He writes:

“The growth in people trafficking is a result of the restrictive immigration policies of rich countries. The high demand for labour in the North, combined with strong barriers to entry have created business opportunities for a new ‘migration industry’. This includes legal participants, such as travel agents, shipping companies and banks, as well as illegal operators.” (Castles 2003, p. 3).

This statement from Castles finds its acceptance in the discussion on women labour migration by Annette Huland, who sees society as contributing to the problem of human trafficking. She maintains that the society encourages human trafficking when it formulates strict immigration laws: “Restriktive Einwanderungspolitiken erhöhen die Gefährdung von Frauen im Migrationsprozess. Gesetze sind nicht neutral, sondern bringen Frauen in Abhängigkeiten.” (Huland 2012, p. 120).

In the face of threat to life and quest for survival, human beings have seen that “mobility has become the most powerful and most coveted stratifying factor” (Castles 2003, p. 3). Castles, making reference to J. Arango (2000), sees it as a key challenge to explain why some people do not move even though they are in poverty. “The new global economic and political elites are able to cross borders at will, while the poor are meant to stay at home.” (Castles 2003, p. 3). The very reason why the poor stay at home, that is, lack of the means to migrate, forces them to embark on it at all costs and thereby fall prey to the human traffickers. Poverty or inability to possess the means to migrate legally “helps to explain the upsurge of asylum-seekers and undocumented migrants.” (Castles 2003, p. 3).

Castles links globalization to the context of economics and establishes the relation between economic migration and forced migration. For him, globalization is a selective systematization of economic hierarchy, whereby some groups are included and some are excluded, thus aggravating inequality: “globalisation is not a system of equitable participation in a fairly global economy..., but rather a system of selective inclusion and exclusion of specific areas and groups, which maintains and exacerbates inequality.” (Castles 2003, p. 4; see also Beck 1997; Hoogvelt 1997). Such social inequality leads to economic disparities and “these processes lead to conflict and forced migration.... The distinction between

forced migration and economic migration is becoming blurred as a result. Failed economies generally also mean weak states, predatory ruling cliques and human rights abuse.” (Castles 2003, p. 4). These predatory cliques are made up of those who may engage in the activity of human trafficking and exploit the victims, thereby abusing their human rights.

3.3 Push Factors

There are lots of factors which compel people to migrate. These are known as ‘push and pull’ factors. The ‘push factors’ are those factors that influence and induce an individual to leave his or her birth place in search of greener pastures elsewhere. They are the factors that forcefully push people to migrate from their countries. In this sense, it can be said to be a flaw or distress situation that necessitates such movements. The ‘pull factors’ are those factors that draw the individual towards migrating to a particular land. These pull factors are the benefits that one foresees in the destination country. In the case of human trafficking, there are lots of intrinsically related factors which push and pull the victims towards being vulnerable to the crime. In the West African region, some of the push factors are socio-economic in nature and these include: illiteracy, unemployment, abject poverty, political instability, etc. (Salah 2001; UN.GIFT 2008). Poverty, for instance, is identified as a major factor that is causing human trafficking, especially child trafficking, in the sub-Saharan Africa (Human Right Watch 2003). Poverty, according to Kenneth Bohl, “has made the most socio-economic and disadvantaged women and children more vulnerable to being trafficked in an increasingly stream of foreign labour migration.” (Bohl 2010, p. 9). In Nigeria, the political instability and failure of most of the governmental programmes have aggravated economic insecurity and poverty. This has made many people vulnerable to human trafficking and exploitation (Talens 1998; Salah 2001). There are a number of factors that could be grouped as push factors and below are some of them as outlined by the author:

- Unemployment
- Illiteracy
- “Primitive” conditions
- Political fear/persecution
- Poor medical care
- Loss of wealth
- Natural Disasters
- Pollution

- Globalisation
- Poor housing
- Discrimination

3.3.1 Socio-economic Problems

Socio-economic problems are problems that have to do with the social structures as well as economic arrangements and positions of a country. The social structures include social amenities like education, health, electricity, water and recreational facilities. The economic arrangement includes the commercial aspect of the social life both in the public and private sectors and these include: big and small scale businesses, banking industry, rate of inflation, retirement arrangements, and spending rate. Variations in economic and social status act as factors in the exacerbation of the crime of human trafficking in Nigeria (Talens 1998; Salah 2001). Corruption of the officials at high governmental levels has continued to weigh down the operational system in the country and this goes a long way to affect the overall life of the citizens. The failure of the structural adjustment programmes to regulate the economy and the heavy debt the country owes force a majority of Nigerians to live under the poverty line, thus rendering them vulnerable (Talens, 1998). Mismanagement of government funds leads to a total breakdown of the economy. When the economy and basic social amenities are not functioning well, the crime of human trafficking will thrive (Talens, 1998). The breakdown of law brings about insecurity. This may render people incapable of sustaining themselves and their dependants owing to the resultant high unemployment rate, high cost of living and lack of amenities. Owing to economic hardship, some parents accept payments and sell their children for domestic work or other unclear engagements (see chapter 2.4.2). Most of the times these children end up in the hands of the traffickers.

3.3.1.1 Illiteracy

The right to a good education should be a trademark of the developmental plan of any society. This is not the case with Nigeria and many African countries. Because of lack of funding, education has no place in the developmental plans of such countries. It could be said that Nigeria places more value on sports than education. Stan Ilo writes:

“A country like Nigeria, considered the construction of a national stadium within two years, spending \$300 million, and another bogus \$90 million on a phantom space program, and the hosting of the All-African Games, more important than funding education at all levels and empowering her citizens.” (Ilo 2006, p. 242).

Education opens the door to the world and makes one understand one's rights and, of course, obligations too. According to the UDHR:

"Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit." (UDHR art. 26. par. 1).

This assertion was re-emphasized by the CRC which states that the right to education is fundamental and should be enforced: "States should recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all." (CRC. art. 28. par. (a)). The rate of illiteracy in Nigeria in particular and Africa as a whole is high. This is partly due to the poor foundation of general education laid down by the colonial masters in the past. As Osmund Anigbo would put it, "the British colonial administration on the other hand showed very little interest in providing schools in the colonies [and] the number of Government schools was too meager to be considered significant." (Anigbo 1992, in Nnebedum 2008, p. 159).

Good education in Nigeria is a sign of the financial status of the parents. A "Poor and average child has no other option than to go to government owned schools which are for the public and these schools, though they have qualified teachers, are lacking basic teaching aids. The teachers do not only suffer from lack of motivation, they are also paid very poorly." (Nnebedum 2008, p. 159). It is not the case in Nigeria that the right to basic education should be the hallmark of a society. Besides, the reasons for the high rate of illiteracy are many. Cultural bias is one of them. In some parts of Nigeria, for example, owing to some religious beliefs, females are not allowed to go to school. The males who are allowed to go to school are hindered by poverty. If such people want to migrate, the information at their disposal is very minimal because of their illiteracy. Michele Clark notes the fact that "individuals with limited education or who are illiterate will likely have fewer income generating opportunities, whether in the formal or the economic sector." (Clark 2008, p. 74).

The poor standard of education in Nigeria, especially among the rural dwellers, is evident when it comes to the situation in which the exhibition of certain qualities is needed. For example, the ability to communicate well in the English language, which is the official language in Nigeria, is supposed to be proof of the level and standard of education one has attained. The incident in Chibok in Borno State of Nigeria where more than 200 school girls were abducted has revealed that a majority of the girls cannot speak the English language (see chapter 3.6.2).

Some of the kidnapped girls who escaped could not express themselves well in the English language which is taught in the school. The girls from the Northern part of Nigeria, who go to school, try as much as possible to hide it. The ability to speak the English language is not only a sign of literacy in Nigeria, but also an indication that one has embraced western education. The northern girls who have gone to school try as much as possible to hide their ability to speak the English language so as not to expose themselves to the extremists who are against western education. Most parents do not want to put the lives of their daughters in danger by sending them to school. They rather pay greater attention to farming and other domestic works. The reason for the overall poor performance in education has also been attributed to government policies in education and low quality of teachers. Favoritism plays a role in the employment of the teachers, whereby the Teaching Service Board officials prefer their relations and friends to qualified teachers when it comes to employment of teachers (Luscombe 2014). There is also the problem of unwillingness of teachers to be engaged in rural areas owing to a lack of basic amenities like water, electricity, hospitals, and good roads. The traffickers take advantage of this situation. Individuals with little or no education are disadvantaged in terms of job opportunities. These individuals are ready to migrate at all costs to find jobs. Being uneducated, they are not well informed about the migration process and can fall victims to human traffickers. It should also be noted that those who are educated and informed migrate for several reasons and can also be victims (see case description in Chapter 6.3).

3.3.1.2 *Unemployment*

People are ever ready to embark on adventures that could enable them get a job. Many people live under sub-human conditions, and when the opportunity presents itself for them to travel for a supposed engagement in some sorts of work, they are likely to embrace it. Unemployment as a ‘push’ factor should be addressed in any effort at fighting human trafficking. The UNO report emphasizes it thus:

“underlying vulnerabilities or “push” factors can be issues such as poor employment opportunities and social and economic disadvantage (particularly of women and children), ... while not to undermine the need for the international community to address the “demand” side of trafficking, these vulnerabilities hail the need for more opportunities for education, health, jobs and safe social mobility to be made available to people who may otherwise fall prey to the “supply” side of trafficking.” (UNODC UN.GIFT. 2008, p. 27).

In the face of desperation, the offer of high paying jobs may be difficult to resist. Sometimes, there may be doubts that such jobs do exist, but at the same time

people accept to migrate in the hope that whatever the case may be or whatever the situation may turn out to be, it will be better than staying back at home.

3.3.1.3 *Abject Poverty*

One of the root causes of trafficking is poverty. But poverty can be relative because what constitutes poverty in African may be different from what it is in the western world. "In the Western World, inability to afford a good holiday in summer may be seen as a sign of poverty. But in Africa, the signs of poverty range from inability to pay for a simple bill for hospital treatment to uncertainty about the daily food." (Nnebedum 2008, p. 155). There is a link between poverty and trafficking in the sense that poverty forces people to migrate for a better life (Geneva: ILO 2005; UN.GIFT 2008; Bohl 2010; Shelley 2010). However, it is not always the poorest of the society that migrate. "Migration theory generally holds that labour migrants do not belong to the poorest strata of the population, although they may come from very poor countries in terms of gross domestic product (GDP) per capita." (Geneva: ILO 2005, par. 266).⁴³ Although such abject poverty is most suitable for the recruiters of the victims of human trafficking, many of the poor ones will find it difficult to engage in the whole process because of a lack of money and exposure. The lack of money may lead them to entrust their journey entirely in the hands of some smugglers or traffickers who will utilize the opportunity to entrench them into slave-like situations through debt bondage (Geneva: ILO 2005, par. 266). Thus ILO recognizes poverty as one possible root cause of human trafficking.

The poorest countries in the world and those that come from the poorest strata of those countries could be seen as the most vulnerable with regard to human trafficking (Geneva: ILO 2005; Shelley 2010). This is because many citizens of those poor countries live below the international poverty line.⁴⁴ When the economic growth does not correspond with the population growth, then the per capita gross domestic product (GDP) will be kept at a very low margin. In effect,

43 It is to be noted that those who fall prey to the traffickers are categorized as labour migrants because they become involved in the whole affair as a result of their expectation of a better job abroad.

44 The World Bank calculates and determines where the international poverty lines should be placed. The current \$1.25 per day per person is the absolute poverty line below which a person may hardly survive. Slightly above that is \$2 per day per person which is the national poverty line for all developing countries of which Nigeria is one. (see World Bank's World Development Indicators 2004).

it could be said that the population of most of the countries of Africa is a factor militating against the economy.

It is the poverty of the potential migrants who cannot afford paying the smuggling cost in advance that pushes people to select international human trafficking for the purpose (Pak-hung 2011). It has to be noted that there are some arguments against the view that poverty is the root cause of human trafficking. Some scholars maintain that the type of poverty that is seen as the root cause of human trafficking must be defined because, according to Kevin Bales, “generalizations about poverty, without identifying its components, make it difficult to identify responsibility and, consequently, solutions. Poverty is created by policies and preserved through structures that reinforce these same policies. For this reason, it is counter productive to say that poverty is a cause of trafficking without defining the term.” (Bales 2005, in Clark 2008, p. 72). On this note, it is to be understood that it is not always the poorest who are victims of human trafficking for sexual and labour exploitations. Bales writes: “The ill, the elderly, the malnourished, the disabled and the infirm are not sought out by traffickers. They are human commodities of insufficient value to bring high profits.” (Bales 2005, p. 141). The economic confusion in Nigeria caused by the political instability renders most people poor in the real sense of the word. This situation favours the traffickers as many people would want to escape poverty by migrating and that is a good opportunity for the traffickers.

3.3.1.4 Political Instability and Corruption

Shelley distinguishes between large- and small-scale corruptions and concludes that in either case corruption is a contributing factor to the rise of the crime of human trafficking (Shelley 2010, p. 47). Political instability and corruption are very common in Africa in general and Nigeria in particular (Shelley 2010, p. 48). Small scale corruption, following Shelley’s argument, could be said to be one in which the ordinary citizen, following the break down of law and order, goes about plundering public amenities, collecting bribes on a low level, evading tax and failing in his or her civil duties. Government and law enforcement officials may be involved at this level thus: “Civil servants such as border guards, police, and customs officials will facilitate trafficking by taking bribes to augment their low salaries, often not sufficient to provide a living wage.” (Shelley 2010, p. 47). Large-scale corruption is one in which the activities of the political leaders and those in politics are grand and consist of other components. High-ranking officials may collect bribes to facilitate smuggling and trafficking, or judges may do the same to thwart judgment in favour of the traffickers (Shelley 2010; Holmes

2009). In the transportation of the victims, corruption comes into play because “it is often an integral part of the transport process as border guards, customs officials, consular officers, and other diplomatic personnel must be bribed or extorted. Collusive relationships are established with real or bogus travel agencies to facilitate the trafficking.” (Shelley 2010, p. 101).

When the political situation in a country is not stable, corruption prevails. Money stolen as a result of corruption is usually banked abroad and is difficult to recover. Nigeria is one of the countries rated as the most corrupt by Transparency International. (Transparency International 2012–2013).⁴⁵ These corrupt countries are notorious as countries of origin and major suppliers of victims of human trafficking. These countries are known to have an unstable political situation and corrupt leaders. Some examples are the former Prime Minister of Ukraine, Pavel Lazarenko who stole almost half a billion dollars from his country; Sani Abacha, former President of Nigeria and President Marcos of the Philippines (Shelley 2010, p. 48). When corruption becomes endemic in a country, those inclined to criminal activities use the opportunity to their advantage. Shelley puts it thus: “Corruption is endemic in Nigeria, and state control of illicit activity is insignificant because government officials are direct beneficiaries. Nigerian traffickers exploit the corrupt and ineffective bureaucracy to obtain genuine passports with partial or incomplete information.” (Shelley 2010, p. 129). This situation reveals that the crime of human trafficking and smuggling can be committed in the country without much conflict.

3.4 From Globalization Perspective

Globalization has been defined as “a process through which finance, investment, production and marketing are increasingly dominated by agents whose vision and actions are not confined by national borders or national interests. Global corporate actors are forming complex networks around a hierarchy of technological capabilities, comparative advantage and production practices leading to an increase in cross-border flows of trade, capital and information.” (Keller-Herzog & Szabo 1997, No. 8). In the above definition, the authors stressed the benefits of globalization but at the same time created the background against which the mixed impact of globalization could be assessed. The corporate integration of markets as seen in the definition gives rise to economic growth and

45 In 2012, Nigeria was No. 139 out of 176 countries that were investigated and No. 144 out of 177 countries that were investigated in 2013. See <http://www.transparency.org>. Accessed on 4. March 2014.

improves the standard of life of the people with technological advancement. At the same time, globalization has brought about increased economic disparities between countries and accentuated poverty within the people (Marshall 2001). The trans-movement of services and knowledge brought about by globalization has changed the perspective of migration. As services and goods cross borders through migration, ideas and human beings cross too with their cultures and mentality (Castles 2002, p. 1146). As such, crimes cross boundaries and are also committed across boundaries.

Many authors and scholars have studied globalization and its effect and impact on the people. Such studies have also been done by Africans. According to Obiora Ike, “globalization is one of the most widely used and least clearly defined of the terms in political and economic discourse today.” (Ike 2004, p. 6). The integration with and dependency of the countries of the world on one another is an emerging reality of the globalization of the world. The term globalization could be used to “refer to the phenomenon of increasing integration of nation states through economic exchanges, political configurations, technological advance and cultural influences.” (Ike 2004, p. 7). Economic exchange has to do with the flow of goods and services with the resultant effect of global financial management. Political configurations touch the trans-national agreements that exist among all the nations under the umbrella of United Nations. Such agreements underline the mandates of regulations in matters of human rights, global security, social issues and environmental regulations (Ike 2004). The technological advances cover the areas of communication and better transportation. The business of human trafficking has assumed a new dimension because of globalization. This assertion is one of the many discoveries made by Alpen-Adria University in Klagenfurt:

“Wir müssen zur Kenntnis nehmen, dass die Globalisierung, neben positiven Aspekten, nicht nur nachteilige Auswirkungen auf die Wirtschafts- und Beschäftigungslage sowie auf den Zugang zu Bildung in vielen Schwellen- und Transformationsländern hat, sondern dass sie zu einem gewissen Grad auch den praktischen Bedürfnissen von Kriminellen und organisierten VerbrecherInnen entgegenkommt – durch verbesserte internationale Transportinfrastrukturen, durch gelockerte Grenzkontrollen, durch elektronische Geldüberweisungsmöglichkeiten, durch mobile Sofortkommunikation u.a., die direkt oder indirekt Menschenhandel erleichtern.” (Guggenheimer et al. 2009, p. 10).

Borrowing from the results of the researchers in globalization matters, one could get an insight into the effect of globalization in the Nigerian socio-economic system. Movement of money, people and global economic collaborations exist because of globalization. Modern day technological advancement in all its ramifications came to be because of globalization. Globalization with its encouragement of ‘transfer of knowledge’, as mentioned in the introductory part of this

dissertation, brings about development, and development, according to Gustavo, has its own effect on society and can give impetus to human trafficking (Gustavo, 2006; Chapters 1.7 & 1.7.1).

Part of the task of sociology of migration, according to Stephen Castles, is to analyse, in the face of forced migration, its new characteristics in the epoch of globalization (Castles 2003) and so he says that “there can be no local studies without an understanding of the global context, and no global theorisation without a basis in local research.” (Castles 2003, p. 8; see also Chapter 1.5.2). Globalization is seen by Castles as a system of inequitable collaboration in a structured global economy and not a system of general inclusion (Castles 2003, p. 4; Ike 2004). Because of this marginalized system of global economy, the financial system is, from time to time, in crisis (Shelley 2010). This leads to the North-South divide and “within both North and South, the dynamics of inclusion and exclusion lead to increasing social inequality, as well as to areas of growth in the South and areas of decline in the North.” (Castles 2003, p. 4). It is noticeable that there is an “enlarging gap between the rich countries of the north and the poor countries of the south, with particular focus on Africa. Economic prosperity brought about through industrialisation, technological innovations, trade and investment have not in fact been widely experienced in Africa.” (Ike 2004, p. 12). Countries in Africa are among the 64 countries rated as ‘low income’ by the World Bank in her 2000 report (Ike 2004).⁴⁶ Shelley maintains “unequal development is also a hallmark of globalization.” (Shelley 2010, p. 45). Business people tend to move to areas where there are possibilities of more profits and potential. People tend to invest more in developed regions where they will have cheaper manpower, transportation, communication and security. An unequal economic situation sparks the tendency for people to move, which may lead to human trafficking (Shelley 2010, p. 46). Castles discusses what he terms ‘cultural capital’ which he regards as a product of globalization. This is the acquired knowledge of the way of life of other societies than one’s own. It also includes the knowledge of the opportunities that exist elsewhere. He concludes that “globalization helps make this cultural capital available by beaming images of Western lifestyles into the most remote villages.” (Castles 2002, p. 1150; see also chapters 1.7 & 1.7.1).

The effects of the national and international regional financial crisis that have been on the increase since the 1980s can be observed in the lives of the common

46 The rating is calculated on the basis of GNP per capita.

people.⁴⁷ The international financial agencies, for example, the International Monetary Fund (IMF), the World Bank and United States Aid Agency (USAID) are poised to help countries in financial difficulty, but such help does push some of those countries to debt bondage which in the long run impoverishes them. To service such loans, the countries are deprived of the capital they need for their economic development and improvement in their education sector as well as better social services. Such situations lead to poverty which is lopsided in favour of the wealthy because “the wealthy in the developing world can usually weather these financial storms, but the poor often face disaster, as the cost of basic necessities multiplies, leading to starvation or untenable debt.” (Shelly 2010, p. 44). It was reported that “Nigeria was the first country identified where an economic crisis and the provision of structural adjustment loans by international financial bodies was associated with increased trafficking.” (Shelley 2010, p. 45; see also Asiwaju 2008). Such financial help goes with some conditions ranging from strict financial controls on the governments to austerity measures which affect mainly the poor and the middle class. This situation serves as a catalyst for those living in poverty to migrate and in so doing they become vulnerable to the trafficking ring. Osvaldo et al. (2011) affirm, not only the negative side of globalization of the economy but also, the dangers and risks that go with the movement of people for the purpose of bettering their lives; “labor migration also plants a seed for increasing inequalities between places and countries. The old expression of the spatial movement of people has been transformed into new forms of migration flows, which bring opportunities and advantages but also risks and disadvantages.” (Osvaldo et al. 2011, p. 3). One of the risks involved is that globalization has created an opportunity for the traffickers to carry out their actions. Utilizing technological advancement as their tool in the increasing developing world, they can act across borders and carry out the trade in human beings in the new regions of the globe. Globalization has facilitated human trafficking in many ways with its dynamism of exclusivity, that is, of “marginalizing many rural communities, impoverishing women and children in many regions, and accelerating rural to urban migration.” (Shelley 2010, p. 40). The speed at which money is moved and human beings are transported across the globe enables the traffickers to transact their business with ease.

47 By common people here, we mean the average or low income earners as opposed to the bourgeoisie.

3.4.1 Easy Movement and Transportation

Globalization brought with it easy and effective ways of transportation and movement. The world is closely connected through globalization and technological development makes it faster and sometimes easier to move from one place to another. The reduction of border controls in some regions through amalgamation further exacerbates accessibility to many countries with one visa. For example, “with the introduction of the Schengen Agreement in 1985 and its subsequent amendments, it is now possible to move within twenty five European countries without showing a passport.” (Shelley 2010, p. 43). This makes it possible for human traffickers to move their victims across as many countries in Europe as they deem necessary. Once they sense danger or are in the brink of being detected by the law enforcement agents or are not satisfied with their profit margins, they can transport the victims to other regions where demands are higher and profits better.

3.4.2 Easy Communication

The speedy and lowcost communication technology available to almost everybody is a result of globalization, and “behind the poor, vulnerable, and isolated trafficking victim often exists an elaborate communications systems that link the human traffickers with the global market for their goods.” (Shelley 2010, p. 41). The possibility of being anonymous in the communication process is favourable to the traffickers because it will enable them to evade detection by the law. The internet, on its own part, makes the arrangements of sex tourism and advertisements for ‘brides’ easy and accessible to interested persons. Such arrangements, though legal in some countries, could provide the cover for human traffickers to operate.

“It is the polarizing world with reducing communication cost that drives the increasing intensity of migration activities.” (Pak-hung 2011, p. 8).

3.5 Demand and Supply Syndrome

In discussing the demand and supply syndrome as one of the causes of human trafficking, it should be noted that this factor is not limited to sex workers alone. The dual market interaction of demand and supply is one of the factors causing human trafficking. It is a logical deduction that the supply of the victims of human trafficking to a particular area is precipitated by the demand in that area. Alexis Aronowitz writes “smuggling and trafficking in migrants could not have grown to such proportions if it were not supported by powerful market forces.” (Aronowitz 2001, p. 171). Jacob Guggenheimer et al. (2008), agreeing with this conclusion write: “Der Common sense verschleiert jedoch, dass Menschenhandel nur dann möglich

ist, wenn es auch ein Gegenüber gibt, das einen Gebrauchswert in der gehandelten Ware, in diesem Falle Hehlerware, ortet." (Guggenheimer et al. 2009, p. 35).

Because the traffickers make profits when they respond to the demand of victims through supply, they continue to recruit victims. Michele Clark puts it thus: "Such profits are realized because of the unabated demand for cheap labour and services mainly in the developed world... Demand provides the incentive to recruiters." (Clark 2008, p. 75). There is an increase in the demand for international migrant workers in many branches of business enterprises. Many look forward to the opportunity not just to raise their standard of living but simply the opportunity for survival. The demand for the services of the victims of human trafficking has fuelled the supply of such. Heinz Schmidt points out that demand and supply encourage slavery, and goes on to relate this to the victims from the developing nations: "Das Geschäft mit Frauen aus Übersee beruht ja durchaus auf dem Prinzip von Angebot und Nachfrage, angewandt auf ein Angebot an Menschen aus den Ländern der sogenannten Dritten Welt und eine Nachfrage von Menschen in den sogenannten Industrieländern." (Schmidt 1985, pp. 15–16). The intensity of the supply of the victims could not have reached this stage if it was not supported by the market force (Aronowitz 2001, p. 171; see also Brysl 2011). Steady supplies are made to the areas with high profit margins. The demand for the services of the victims offers a lot of benefits to the traffickers, beginning with the transportation of the victims. They start making their gains immediately upon setting the transportation of the victims in motion and this continues after their arrival at the destination country.

There is a correlation between demand and supply and this continues throughout the process because, as Aronowitz puts it, "in the receiving countries there is, and always will be a demand for cheap labour and sex.... What occurs between the supply and demand sides of the market is a complex process linking the two." (Aronowitz 2001, p. 172). Theories of migration may not be able to adequately account for the demand for and the supply of the victims of human trafficking, but it can help throw more light into the themes of migration which has to do with human trafficking. This is because not all trafficking is carried out because of the demand from the users' end. For example, the trafficking of children for the purpose of begging or committing some minor crimes, like pilfering, is not prompted by the demand for it; rather it is a scenario created by the traffickers themselves. A lot of European countries encourage, directly or indirectly, the supply of migrant workers who receive low wages for their work, and in some of these countries prostitution is legalized. Illegal migrants and victims of human trafficking may be ready to do the menial jobs which the

citizens of the destination countries may see as “3-D jobs” dirty, demanding and dangerous.” (Castles 2002, p. 1148).

However, it is pertinent to note that demand and supply alone do not necessitate human trafficking but can create conditions for it when other contributing factors exist. For example, Aronowitz says “stricter entry controls or requirements and diminishing legal channels to enter destination countries have provided unscrupulous entrepreneurs with a potential for profit. The number of persons attempting to enter a country clandestinely has given rise to a market for services such as the provision of fraudulent travel documents, transportation, guided border crossings, accommodation and job bunkering.” (Escaler 1998, p. 16, quoted in Aronowitz 2001, p. 171). One can then conclude that the fight against human trafficking will be difficult without addressing the conditions that encourage the supply of the victims, which are the demand for cheap labour and sex workers and the strict immigration laws making legal entry difficult and in some cases impossible.

3.6 Miscellaneous

There are other reasons why people, especially women and girls fall victims of human trafficking besides the ‘push and pull’ factors; forced migration issues; poverty; globalization or demand and supply syndrome. The push and pull theory can account very well for why people migrate (Aronowitz 2009), but it cannot adequately account for why people are trafficked and exploited. Migration and human smuggling happen, most of the time, out of someone’s volition and may not necessarily constitute a case of human trafficking. Many Nigerians leave the country for other places in search of better quality of life or to escape poverty.

3.6.1 Greed

The place of luxury and material acquisition cannot be entirely neglected in the search for the reasons for the vulnerability of people to human trafficking (Carling 2005). Most of the mechanisms the traffickers apply gear toward increasing the attraction to migrate which includes the possibilities, not just of reducing poverty but of amassing more wealth. Although women and children are more vulnerable to human trafficking than men, many young men become vulnerable when they migrate to increase their wealth: “young men find it easier to opt for international labour migration as it is not only a source of income, but also a status symbol among the younger generation.” (Bohl 2010, p. 48; see also Thieme 2006). This applies to women too (see the case study in chapter 6). It is true that the quest for

a better life and for survival does motivate people to migrate; stories of those who have succeeded are told and the outcome of the remittances they send back home are seen: “it is common to see people who just want to migrate in order to become ‘rich’ and not only that they really need to move to survive. This is a yearning which arises from the experiences of those who have gone and are back; and also from the feeling that while abroad one will make more money than otherwise.” (Nnebedum 2009, p. 161). The feelings that those who have ventured abroad do better and the yearning for a better status or better life are some of the motivating factors that propel some potential victims to migrate. Some victims who have returned home boast of their bogus earnings in the bid to entice and recruit others, and the remittances sent home seem to be proving the case for others that it pays to migrate. The traffickers use this opportunity to recruit more people.

3.6.2 Cultural Influence and Gender Perspective

Human trafficking, especially as it concerns Nigeria, cannot be well understood without one looking into the structural issues surrounding it, which are cultural bias and gender inequality. In the case of victims from West Africa, of which Nigeria is one, culture and gender inequality, especially among the rural dwellers contribute to vulnerability to human trafficking (Salah 2001). The extended family system encourages family solidarity in which children are sent to live with extended family member(s) to be educated, trained or to work. Because of poverty and the effect of limited resources, most parents concentrate on the training of boys. In times of financial crises, most parents in the African society do pull their female children first out of school before they pull the male ones. It is often seen as a poor investment to train girls or send them to school, and this arrangement provides opportunities for trafficking (Aronowitz 2001, p. 182). Some cultures, especially those of Africa, value male children more than female ones and because of that there is low investment in the education of the girls. Where there is equal opportunity for education and training regardless of gender, women are faced with discrimination when it comes to employment and wages (Shelley 2010). Discrimination against women is evident in the world today and in some regions it is very intense. Kenneth Bohl writes: “in most South Asian countries (including Nepal), gender based discrimination is often perpetuated and institutionalized within the family, community and political spheres.” (Bohl 2010, p. 42). Women are assigned status lower than that of men and are, in these cultures, given less rights than those of their male counterparts. Shelley writes: “the greatest likelihood of trafficking occurs where women and girls are denied property rights, access to education, economic rights and participation in the political process.” (Shelley 2010, p. 16).

There is a clear gender inequality in the developing world. Shelley sees this situation as discrimination and maintains “discrimination against women is a major causal factor of trafficking not only in Asia, where ILO data suggest the problem is most pronounced, but also in Latin America, Africa and the Middle East.” (Shelley 2010, p. 17). Some families in Africa and Asia encourage their female children to migrate or traffic them, in worse cases, to generate funds to improve their standard of living back at home. This fact is expounded by Shelley: “In some countries, the route to prostitution is more direct as girls are viewed as a means for a family’s economic advancement.” (Shelley 2010, p. 54). Information from some of the sending regions, of which Nigeria is one, reveals that “some young women naively but knowingly enter the sex trade fleeing “normal” customary domestic practices such as forced marriage, bonded domestic labour, and routine domestic violence.” (Brysk 2011, p. 265). This situation, which is gender-based, has made the number of women on the move, nationally and internationally, grow astronomically. Alison Brysk maintains that the number of women migrants equals that of their male counterparts but their vulnerability to exploitation, especially sexual exploitation is equal to none: “Women now comprise almost half of international migrants. Women are trafficked within and across the borders for various forms of female-type labour, from “nimble-fingered” sweatshops to the “maid trade,” from mail order brides to prostitution.” (Brysk 2011, p. 261). They are also kidnapped and sold off to willing men as sex slaves or brides.

In Borno State of Northern Nigeria, it was reported that a group named Boko Haram⁴⁸ has abducted more than 200 school girls between the ages of 12 and 18 from their school (Emeozor 2014: Sun Newspaper Tuesday 6. May; Malone 2014, online version). Boko Haram is a sect that is against any form of western education. The group is set to propagate the Islamic religion though it is criticized as going the fanatical way (Ogaziechi 2014). At the inception of the group, Mohammed Yusuf, an Islamic scholar was the leader. He offered free Islamic schooling to some poor areas and has funded terrorist acts (Malone 2014, online version). It was reported that Boko Haram used to organize demonstrations and was banned. In July 2009, in spite of the ban, Boko Haram carried on with its activities and there was a clash with security forces (Hauenstein in Kronen Zeitung, 22. Juni 2014). Yusuf was arrested by security forces and he died in an attempt to escape. After

48 Boko Haram is a named coined from the Hausa language meaning ‘western education is sin’. It was founded in 2002 as an offshoot of Al Kaida in Islamic Maghreb (AQIM) and has been involved in a lot of attacks on politicians, security organisations, institutions and churches in Nigeria. There is no clear estimate of its members (cf. Profil Nr. 26, 23. Juni 2014; Hauenstein 2014 in Kronen Zeitung, 22 Juni 2014).

his death, Abubakar Shekau took his position as the leader of the group (Malone 2014 *ibid*; Hauenstein 2014 *ibid.*). The members have been designated terrorists by the Federal Government of Nigeria and by the United States of America. The incident of abducting the girls happened in the school where they were writing their West African School Certificate examination (WASC), which is the final examination at the secondary school level. As Mrs. Saratu Pagu Mdurmbula, one of the parents whose daughters were kidnapped says: “our daughters were at school writing their final year examination.... They were not abducted from our homes, but from the school.” (Mdurmbula 2014, Vanguard Newspaper, online). The fact that the girls were at school at the time of their being kidnapped points to the determination of the Boko Haram sect to exterminate western education at all costs. The action could be said to have been carried out in this form and fashion to deter and discourage both parents and wards from embracing western education. To buttress the fact that some of the victims of human trafficking are kidnapped women and girls, the action of the Boko Haram group and the threat by their leader to sell them off is worthy of mention here. According to Emma Emeozor, a reporter with The Sun Newspaper, Abubakar Shekau, who is the leader of the sect, threatened to sell the kidnapped girls off as slaves to older men and to give them as bride to men willing to pay 12 dollars (Emeozor 2014). This was also reported by Christian Hauenstein: “Abubakar Mohammed Shekau lässt seine Männer die Bevölkerung ganzer Dörfer niedermetzeln, [...] überfallen und Geiseln entführen. Zuletzt etwa 300 Mädchen aus einer Schule im unterentwickelten Norden Nigerias, von denen wohl viele bereits für ein paar Dollar an ältere Männer zwangsverheiratet oder als (Sex-)Sklavinnen verkauft worden sind.” (Hauenstein 2014, *ibid*). In the face of this situation, these girls face a life of sexual bondage and will be expected to be move from one terror camp to another as long as the hunt for them by the security forces goes on. Denouncing education as useless, and thereby propagating illiteracy, which is one of the factors facilitating vulnerability to human trafficking, Abubakar Shekau was quoted as saying: “I said western education should end. Western education should end. Girls, you should go and get married. I will repeat this: Western education should fold up.” (Emeozor in The Sun Newspaper: Tuesday 6. May 2014). The Nigerian government did very little to rescue the girls and was widely criticized for that, as the fate of the girls dominated the international discussions on terrorism in Africa. Given the operational style of the Boko Haram group which is more like guerrilla warfare,⁴⁹ it would not

49 Guerrilla warfare involves operating in military tactics to ambush, raid, and strike their targets.

have been easy for the Nigerian security forces to adequately ward off the raid on the girls at Chibok school in Borno but, according to Orji Kalu, if intelligence had been shared the attack would have been less successful for the Boko Haram (Kalu 2014: online version). The fate of the girls is not clear, and according to Gordon Brown, “It is likely that in the month since Boko Haram released a video of the girls flanked by gunmen, the girls have been split into groups of 40–50. Intense international scrutiny is giving way to what seems like silent acceptance of the girls’ fate.” (Brown 2014: online version).

The fight against Boko Haram in Nigeria looks futile at the moment, given the fact that, in spite of there being a joint international hunt for the missing girls and for the terrorists, there has been no progress made. Hauenstein writes: “Die [...] Regierung und ihre...Armee sind trotz internationaler Unterstützungsangebote hilflos im Kampf gegen Boko Haram.” (Hauenstein 2014, *ibid*). The recruiting activity of the members of Boko Haram progresses because of the level of illiteracy and unemployment among most young men especially in northern Nigeria (Emeozor 2014). Boko Haram, as the name implies, propagates illiteracy and maintains that only “Allah” can raise people to suitable ranks and levels and give knowledge (This is implied in Sura 58:11). Relying on this citation, Boko Haram insists that if only “Allah” can give knowledge and belief, then all Western education should be abhorred and forbidden. With the steady attacks on students and school children, most schools and universities in the north, especially in Maiduguri⁵⁰, have been closed at the moment. This situation will increase illiteracy and unemployment. The steady recruitment of willing young men continues to boost the membership of the Boko Haram group. These young men are ready to die in the Jihad – a holy war for “Allah” – in the hope for a life of eternal bliss after death: “So let those who prefer the next life over the present life, battle on in the cause of Allah. To him who fights in Allah’s cause whether he is killed or victorious, soon we shall give him a great reward.” (Surah 4:74). This is a verse mostly misinterpreted by most extremists.

3.7 Pull Factors

In the EU, the debate on human trafficking is often geared towards the idea of maintaining the national identity and regional security, yet there are numerous factors within the EU that feed the stream of human trafficking by acting as ‘pull’ factors. The schengen agreement and stability of the government of most

50 Maiduguri is a state in the Federal Republic of Nigeria. Boko Haram started in this state and has its headquarters in it (see figure 2).

of the EU countries, especially the Austrian government, act as pulling factors for the migrants into the country. Though there is the schengen agreement, “human smuggling and trafficking are not evenly distributed within Europe. Austria, Denmark, France, Spain, and Switzerland fell into the next highest group as recipient countries of human traffickers.” (Shelley 2010, p. 205). As a recipient country, Austria is better situated for the onwards transportation of these victims to other countries designated as destination countries. The pulling factors of the destination countries are: large immigrants’ presence, ports and steady markets for sex workers. “These destination countries are many of the most affluent and populous countries in Europe, which have large sex markets, either as a result of large domestic demand or large tourism industries such as in the south of Spain...(they have) extensive coastlines that facilitate entry of both trafficking victims and those who pay smugglers to enable their entry into Europe.” (Shelley 2010, pp. 205–206). By focusing more on regional and domestic security rather than the fight and prevention of human trafficking, most EU countries are giving the crime of human trafficking the chance to continue without decreasing, thereby defiling all the efforts by the policymakers to combat it. The “Focus of many European countries is on removing the trafficked individuals and repatriating them rather than on assisting and admitting those often highly traumatized individuals.” (Shelley 2010, p. 202). The fight against human trafficking ought to be a priority to the stakeholders and this cannot be achieved by repatriating the victims or criminalizing them. This is because there are a number of factors that act as ‘pull’ factors for the human traffickers. Some of them are:

- Job opportunities
- Better living conditions
- Political and/or religious freedom
- Education
- Better medical care
- Security
- Steady demand of the services of the victims

It could also be added that the prosperity of Austria and its centrality in Europe are ‘pull’ factors for human trafficking, as Gerald Tatzgern puts it: “Österreich erscheint für Menschenhändler insofern lukrativ, als das Land. [...] ‘das erste reiche Land’ und der Grenze zu östlichen (EU-)Ländern ist und somit mehr Geld für die Drahtzieher verspricht....” (Tatzgern in Özkan 2013, see Die Presse 26.03.2013)).

So long as these ‘pull’ factors are present, it will be difficult to curtail the activities of the human traffickers. It has to be noted that some of these factors are

necessary for the well being of the citizens of the countries; the problem is that they, on the other hand, favour the human traffickers and act as factors that lure the potential migrants into the countries of the EU. Strong regulations are needed against the perpetrators of the crime and not against the victims themselves.

3.8 Weak Legislation against Human Trafficking

Researchers and stakeholders discovered in the fight against human trafficking that traffickers exploit the weaknesses in any country's legislative system to carry out their crime of human trafficking (Geneva: ILO 2005; UN.GIFT 2008; Kara 2009; Shelley 2010). In some countries, there are insignificant strategies in the fight against human trafficking and in some the counter trafficking legislations have very limited effects. This is what Kara terms an 'absence of political will' when he writes that inability to "enforce the law, as well as endemic corruption, allows trafficking and slavery to transpire in broad daylight. When criminals are not prosecuted and there is no penalty for committing a crime." (Kara 2009, p. 40). Some countries maintain that they are interested in the fight against human trafficking and systematically encourage the crime by espousing a double moral standard. The laws of such countries allow for migration for cheap labour and at the same time restrict or deny the labourers the permission to stay. The same applies in the case of sex workers. Huland writes: "Die Gesellschaften verlangen nach Prostitution und stigmatisieren die Prostituierten zugleich, weisen ihnen die Verantwortung für Gesundheitsrisiken zu und klagen die Prostitution an, die Moral zu gefährden." (Huland 2012, p. 120). When the migrants are stigmatized by the law and are restricted in their movement and opportunities, they become helpless and then are vulnerable before the traffickers. Furthermore, when the migrants, for the reason of not being citizens, are denied their basic rights they ought to have in the social system of a country, the consequence is usually labour exploitation. Huland writes: "Die repressive Migrationspolitik in Deutschland, die zu Illegalität, Rechtlosigkeit und Ausgrenzung führt, ist eine der wichtigsten Ursachen für die Gefährdung migrierter Sexarbeiterinnen." (Huland 2012, p. 121).

3.9 Conclusion of Part One

Human trafficking is a crime against humanity which is complex in nature and comprises many activities which are not easily recognisable (Ivana-Yuko 2009). It is taken to be an international issue because every country is affected directly or indirectly by the crime which is structured in the form of forced labour or sexual exploitation of the victims (Gallagher 2001, p. 976). Between two million

and two and a half million people are reported as victims of human trafficking around the world (see Geneva ILO 2005, Part 1, par. 60; Guggenheimer et al. 2009, p. 26; Shelley 2010, p. 5; ILO Global Estimate of Forced labour 2012; European Union: Eurostat 2013). These numbers are described as approximate since the crime is one that thrives on invisibility. The crime is said to be on the increase in spite of the fact that many measures have been taken towards combating it (Bales 2005; Clark 2008; Shelley 2010; Skinner 2010). The belief that there is an increase in the rate of human trafficking is highly contestable. “Experts have so far been hard pressed to explain what an increase in human trafficking means in real terms. Are they referring to more arrests, prosecutions and (with luck) convictions? Do they include all forms of trafficking, such as labour and human organ trafficking to name only two, or are they limiting themselves to trafficking for sexual exploitation?” (Clark 2008, p. 60). Since “effective policy requires valid and reliable information,” (Clark 2008, p. 60) these questions as posited here are necessary to ascertain whether the crime of human trafficking is on the increase or not. When the claims of the increase in human trafficking cannot be substantiated, then it will be difficult for policymakers to base their anti-trafficking measures on the numbers presented. This is a big challenge facing them.

The UN has reported that victims are taken from 136 countries and are found in 118 countries other than their original country (Luscombe 2014 in *Time Magazine*, Vol. 183, No. 20). Among the countries that are seen as ‘countries of origin’ in human trafficking terminology are China, India and Pakistan. These countries are followed by Nigeria (Luscombe 2014, *ibid*). People tend to migrate for many reasons and as the tendency to migrate increases, more vulnerable people are prone to become victims of human trafficking. This is because of the strict immigration laws of the wealthy nations which make traffickers circumvent legal migration routes to smuggle vulnerable migrants into the destination countries for the purpose of exploitation (Gallagher 2001, p. 976). We have to note here that the Trafficking Protocol recognizes the trafficked person as a victim but it did not define the term “victim of trafficking” as such. “The Protocol itself does not define the term, although it contains numerous references to victims of trafficking.” (Clark 2008, p. 61).

In the effort to understand human trafficking, there are divergent opinions on what should constitute a crime of human trafficking. The definition of human trafficking as found in the Palermo Protocol 2000⁵¹ stated three related

51 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against

components as the identifying elements of human trafficking thus: means of recruitment and movement of people; means of controlling the victims and the purpose of the exploitation. Wherever and whenever these elements are involved human trafficking is said to be taking place and the victim's consent is irrelevant in criminalizing the traffickers (Trafficking Protocol 2000, Art. 3). In view of the above explanations, we can state that any deprivation of someone's freedom through coercion, fraud or other forms of deceit for the purpose of exploiting an individual for prostitution or labour is to be considered an offence of human trafficking. In this case, "Child bride, a frighteningly high number of prostitutes and underpaid immigrant, as well as girls sold by their parents into brothels," (Luscombe 2014, no. 20) can also be considered a crime of human trafficking. Since this is a crime with many connecting activities, a person is considered a trafficker once he or she participates in any step of the trafficking processes described above – recruitment, controlling or exploitation.

The expression "21st century slavery" is used in this work to depict the extreme form of exploitation, debt bondage and dependency of the victims on the traffickers (see Chapter 2.1). It is true that slavery is officially abolished in all the member nations of the UN (Huland 2012); however, its modern form shows that because of many reasons new forms of slavery still exist of which human trafficking is one. It is a new form of dependency and exploitation when compared with the old slavery. Belinda Luscombe maintains that: "No country legally protects the institution of slavery anymore, and the shackles are economic or psychological rather than physical – but the trade in humans is a thriving 21st century business." (Luscombe 2014, no. 20). In the old slavery, the victims are bought at a high price and the owners have great interest on the health of the slaves because their productivity depends on that. In the new form of slavery – human trafficking, the victims are bought at a low price and are expected to make high returns. Their maintenance is not of utmost importance to their traffickers since they can be disposed of when they are sick (Huland 2012).

There are various factors that necessitate the crime of human trafficking (see Chapters 3.1, 3.3 & 3.7). The 'push and pull' theories which are further explained in the form of demand and 'supply' factors of human trafficking give some insight into why people are forced out of their home countries to migrate into another. This is the 'supply' side of human trafficking. The factors that draw people

Transnational Organized Crime, 2000, Art 3. This definition is widely used by Council of Europe, OSCE, Austrian Ministry of Justice, ILO, EUROPOL, INTERPOL, IOM, and it is the working definition adopted in this work.

into particular destinations are discussed as the ‘pull’ factors of human trafficking. These countries are where the demand side of human trafficking takes place. Luscombe writes: “Finding people to enslave is not that complicated.” (Luscombe 2014, no. 20). In discussing the issue of vulnerability, it is necessary to ascertain the reasons why people are vulnerable because it will be difficult to succeed in “assisting vulnerable populations to protect themselves from potentially harmful situations without an understanding of what makes them vulnerable to violence, abuse and exploitation in the first place.” (Clark 2008, p. 67). The terms “vulnerable” and “vulnerability” are used interchangeably in this work to refer to the conditions and factors that need to be alleviated to fight human trafficking and prevent people from becoming victims. The terms “vulnerable” and “vulnerability” appear three times in the Trafficking Protocol. First of all in the introductory part:

“Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected” (The Trafficking Protocol 2000: Preamble).

“Trafficking in person shall mean the recruitment, transportation, harbouring or receipt of persons, by means of threat or use of force...or of a position of vulnerability...to achieve the consent of a person ...for the purpose of exploitation.” (The Trafficking Protocol 2000, art. 3. (a)).

“State Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking.” (The Trafficking Protocol 2000, art. 9, par. 4).

The individuals most likely to be vulnerable or to remain in the vulnerable situation are those without alternative means to resist the factors that render them vulnerable. “On the basis of this note, it is possible to state that the individuals most vulnerable to harm are those with the fewest alternatives.” (Clark 2008, p. 69). Such individuals who have no choice when confronted with the potential possibility of being exploited are most vulnerable and likely to become victims of human trafficking. It could be concluded that the summary of the factors that cause human trafficking is a lack of “the provision of alternatives to the individuals who are most vulnerable.” (Clark 2008, p. 69). There are many conditions that can lead to vulnerability, such as social exclusion, cultural bias, illiteracy, political instability, gender inequality and poverty. This list is not intended to be conclusive but the conditions could be indicators for the development of targeted preventive measures. Strategic interventions could also be focused on those conditions.

Poverty, as a root factor which renders the victims vulnerable in the first place, is discussed but we also considered the fact that there are some poor ones who are old, disabled or sick who, though vulnerable, are not trafficked. Poverty is, therefore, not the only reason for vulnerability. Other vulnerable factors are considered

(see chapter 3). The strict border and immigration regulations have left the potential migrants with the option of turning to the traffickers and smugglers for assistance. Because of the high profit and low risk involved, traffickers will always find a way to conscript new victims.

Once the risks that are involved in this crime continue to be less and the gains continue to be high, it will be difficult to combat the crime. That is why it is necessary to take all measures possible to combat it (see part 111). The demand for the services of victims of human trafficking is a factor that encourages the traffickers to recruit the victims. The profits made by the traffickers are possible because the demand for cheap labour and sexual services of the victims goes on unabated. Proliferation of commercial sex is seen as another major factor militating against the fight against human trafficking. Both the number of the traffickers that are involved in this crime and the victims that are being exploited through the crime is hard to ascertain. Nonetheless, estimates could be made based on reports by the stakeholders. This is the point which part (ii) of this work discusses together with the examination of the situation of the victims in Austria and a case study done with a few of the victims in Austria.

Part II (Empirical Part)

4 Estimation of Human Trafficking in Résumé

4.1 Estimation of Human Trafficking: A General Short Appraisal

According to estimates, as of 2005, there were 12.3 million victims of forced labour worldwide and about 2.4 million of them were victims of human trafficking (Guggenheimer et al. 2009, p. 26). International Labour Organisation (ILO) reports that about 20% of the whole forced labour and around 1/4 of those working in private domestic households are provided by human traffickers (ILO 2005, in Guggenheimer et al. 2009, p. 58). The United States (U.S) government estimates the victims' number to be in the neighbourhood of 600,000–800,000 each year across the globe (U.S. Trafficking in Person Report 2005, 2007, online version). ILO issued a report in 2012 covering between the year 2002 and 2011 in which it states that the number of victims of forced labour and human trafficking globally is to be estimated at about 20.9 million and 5.5 million of this number are children (ILO: Global Estimation of Forced Labour 2012; European Union: Eurostat 2013). ILO reports that globally 43% of the victims are trafficked for commercial sexual exploitation and 32% for other labour related exploitations, such as, work in the agricultural sectors, industries or construction sites (ILO 2005: "Forced Labour and Human Trafficking: Estimating the Profits."). In 2013, Eurostat reported that the number of people that were believed to be in some sort of forced labour and trafficking related engagements within the European Union was estimated at 880,000 persons (European Union: Eurostat 2013). In Austria alone, it was estimated that 39,408 persons were victims of human trafficking in 2006 (Guggenheimer et al. 2009, p. 63). These were caught up in the working condition in which they were forced to work and they were not allowed to quit.

To get to the exact number of the victims of human trafficking is an arduous task and, even at that, an authentic number that is accurate may not be guaranteed. According to Thomas Schirmacher: "Genaue Zahlen kennt niemand," (Schirmacher 2012, p. 13) the more efforts made towards getting the factual number or real estimate of the victims of human trafficking, the more clearly the complication of crime is noticed. Jacob Guggenheimer et al. (2009) put it thus:

"Umso intensiver man sich bemüht, verlässliche Zahlen zur Menschenhandelsthematik zu recherchieren oder daran geht, vorhandenen Zahlenwerke auf ihre Aussagekraft hin zu befragen, umso deutlicher wird die Einsicht, dass quantifizierbare Forschungsergebnisse, v. a. für regionale Situationen des Menschen- und Frauenhandels nicht vorliegen

und bis zu einem gewissen Grad vielleicht auch nicht vorliegen können, bedenkt man die kriminelle Qualität des Problemfeldes.” (Guggenheimer et al. 2009, p. 49).

In this regard, it is to be noted that the numbers that are being provided each year by various agencies to the public are based on estimates and therefore are questionable. The generally accepted number of victims each year is derived from the number of victims that stakeholders get from institutions and organizations that are involved in victim protection worldwide (Nautz & Sauer 2008). A lot of factors are militating against comprehensive data on human trafficking. These could range from reluctance of some stakeholders to share their information to the quest to protect their integrity. Frank Laczko & Marco Gramegna (2003) write: “Some countries regard data on human trafficking as classified.... Some agencies are reluctant to release data because their data is so poor. Some authorities in destination countries may also be reluctant to share information with source countries when the authorities and law enforcement agencies in source countries are themselves believed to be implicated in trafficking.” (Laczko & Gramegna 2003, p 185). Alexis Aronowitz maintains that the crime is a difficult one to measure because of many factors involved, such as, the available resources, police efforts and obscurity of internal trafficking (Aronowitz 2001). He concludes that owing to “its clandestine nature, accurate statistics on the magnitude of the problem are elusive.” (Aronowitz 2001, p. 169). The IOM was quoted by Kelly and Regan as concluding that the trafficking of women and girls across Europe alone was enormous, so that any statistical measurement “was not possible with any level of accuracy.” (Aronowitz 2001, p. 169; see also Kelly and Regan 2000).

Human trafficking is a non-transparent criminal action and comprises many offensive and illegal activities. When the experts measure or give statistical data of human trafficking activities based on estimation, there are a lot of questions that should be raised concerning the validity of such an estimate. It will be necessary to ascertain whether such estimates refer only to: “the numbers of individuals identified as victims of trafficking according to the laws and (most frequently) practices of a country and assisted through shelters or other social service organizations?” (Clark 2008, p. 60). Or are they referring to illegal migrants that are identified? It will amount to an erroneous estimation if the data is to be taken from the number of cases reported and the number of criminal charges levelled against the traffickers. Estimations on such a basis will give little information on the actual situation of the trafficking activity in a given area or in the world as a whole.

The level of human right abuses which include force, torture and threat that are applied by the traffickers to the victims increases their fear and makes it almost impossible for them to report to the law enforcement agents or resist the

abuse of their traffickers. The victims find it difficult to file a report out of fear of being deported. These factors make it difficult for the investigating agents to identify the victims and record the cases with accuracy.

The assumption that the exact numbers could be collected from the national criminal data (Kara 2010) bank of some of the countries is also viewed critically, because the cases that are entered in these data banks may contradict the universally accepted definition of human trafficking. For example, there is a lot of confusion about prostitution and sex trafficking, whereby most of the free sex workers are wrongly classified as victims of human trafficking or where smuggled migrants are categorized as victims of human trafficking. This is a problem which Laczko & Gramegna (2003) refer to as “frequently program-specific”. Thus, “data are often based on the various trafficking definitions used by each individual agency.” (Laczko & Gramegna 2003, p. 184).

It is to be noted that to get the data on victims in the EU is very difficult, and as a result, studies on the issue of human trafficking are conducted on an estimation basis. The reality of the lack of reliable data and a constant repetition of figures which are whole numbers most of the times question the authenticity of the information especially when it is not very clear how the estimates were made and on what criteria they were based.

4.2 The Scale of Human Trafficking in Austria

The crime of human trafficking is not new (see chapter 2.1) and it should not be seen as a new case in Austria. According to Nautz & Sauer (2008): “[...] der Frauenhandel nach Österreich war in der Zwischenkriegszeit ein florierendes Geschäft.” (Nautz & Sauer 2008, p. 16). However, before the war, documents indicating cases of human trafficking in Austria were very few and recorded as isolated cases – “Bisher wurden in den österreichischen Akten nur vereinzelt Hinweise auf organisierten Frauenhandel gefunden.” (Nautz & Sauer 2008, p. 27). For example, Nautz writes that 20 persons were arraigned for procuring women and girls for prostitution or prostitution related matters in 1924; 131 cases of procurement of girls for sexual purposes were alleged in 1927 and 26 of them ended up in prosecution; and in 1928 there were reports of two cases, whereby some Austrians tried to recruit some young women for movement to Buenos Aires (Nautz & Sauer 2008, p. 29). Before this time, the authorities in Austria had believed that Austria was only used as a land of transit because of her centrality. It was later found that economic pressure and austerity measures have forced people to either emigrate or wish to emigrate thereby increasing the vulnerability of women to prostitution and the possibility of forced prostitution

and exploitation in the time before the World Wars (Nautz & Sauer 2008, p. 29). According to Vienna Police reports, as analysed by Nautz, there were cases of human trafficking as far back as the time between 1932 and 1937 (Nautz & Sauer 2008, pp. 32–33).

In recent years, the problem of human trafficking has taken another dimension in Austria with the intensified trafficking on women and children from the former Eastern block (Boidi et al. 1996, p. 6). As Austria is geographically located in the centre of Europe, it is better situated for the traffickers to move the victims to other parts of Europe. Austria can be seen as a transit country or depot for the traffickers. Austria's location in the middle of Europe and the opening of the border due to the schengen agreement make it all the more easier for the crime of trafficking to thrive in Austria because of the easy and free movement across the borders (Nautz & Sauer 2008, p. 81). There is a big business behind this transaction with women and children which until recently was done in secrecy. The crime of human trafficking in Austria is not to be understood merely as an action of bringing the women to the country to work and then letting them go back to their homes. It is an activity which makes the women dependent on the society and its double moral standard. Boidi et al. (1996) write: "wenn wir von Frauenhandel sprechen, verstehen wir darunter eine extreme Form der Ausbeutung von Frauen aus der sogenannten "Dritten Welt" – entweder als Sexualobjekt oder als billige Arbeitskraft – und als extreme Ausformung der internationalen Machtmechanismen." (Boidi et al. 1996, p. 6). When the subject of human trafficking is mentioned in connection with Austria, what is to be understood is the exploitation of women and children from the third world or developing countries by the men of the "eastern world". This exploitation could be in the form of sexual exploitation or cheap/forced labour.

Table 1: *The Statistics of Cases of Human Trafficking and Fight Against it in Austria (2005–2007)*

| § 217 StGB | 2005 | 2006 | 2007 |
|--------------------|------|------|------|
| Suspicions & Cases | 542 | 395 | 524 |
| Convictions | 76 | 75 | 85 |
| Pending | 299 | 169 | 232 |
| Acquittals | 35 | 29 | 30 |

(See VJ-Straf/BRZ, Vortrag von Caroline List 2008 in Graz, in Guggenheimer et al. 2009, p. 62)⁵²

An exact data on the magnitude of human trafficking worldwide and in particular Austria is as difficult to ascertain as it is to understand all the dimensions of the crime itself. To undertake a study on a covert topic such as human trafficking is not an easy task. The unwillingness of some of the identified victims to divulge information which may lead to a better understanding of the crime further compounds the difficulty of undertaking a study on the topic of human trafficking. This unwillingness is not unconnected with the consequences of such a betrayal as can be inferred from the mechanisms employed by the traffickers to make the victims loyal to them and keep them in check (see Chapter 2.6). There are other reasons why the victims are unwilling to open up, such as fear of engaging with the police and a perception of the possibility of not obtaining justice and potentially facing deportation. BBGM reports on the victims thus: “Sie fürchten typischerweise, sich an Behörden zu wenden und als Kriminelle, irreguläre Migranten [...] angesehen zu werden [...]. Die Betroffenen würden für die Kriminalitätsbekämpfung instrumentalisiert und anschließen abgeschoben.” (BBGM 2010: 2.5). This is a special problem that abounds in many European countries (Guggenheimer et al. 1996, p. 18). As a result of all the factors militating against an accurate collection of data on human trafficking, only an estimation of the extent of the crime can be made.

In order to establish appropriate measures to fight the crime of human trafficking in Austria, one needs to have a full understanding of the situation of the crime in Austria. As a point of reference, the following points as can be inferred from Boidi et al. (1996) should always be kept in mind:

52 Efforts were made by the author to get an update on this statistic but it was not possible because such are not journalistic materials. A comparison based on a new figure is not possible at the moment.

- Human trafficking is a complex and problematic international crime.
- Human trafficking is only possible because victims are seen and treated as objects.
- Strict immigration policies⁵³ worsen the situation of the victims and make human smuggling possible.
- Trafficking in women should be understood as part of the migration of women for labour exploitation.
(Boidi et al. 1996, p. 7).

4.3 Austria as a Choice Land of Destination for Nigerians and Reasons for Expostulations by Austria

In the first instance, people migrate for many reasons ranging from quest for economic advantages, political reasons, persecution, and escape from threats to life to mere recreational enjoyment. Depending on the reason for the movement, people tend to travel to those countries where their desires and aspirations can be met with little or no hindrance from the fulfillment of their goals. When the opportunities in the country of origin are very nebulous and the prospect for the future looks bleak people tend to move away. That is the case with most of the Nigerians who migrate to Europe. Nigeria belongs to the developing countries and counts among the poorest in the world with an average per capita income of 1.154 dollars, inflation and debt load (see Kara 2009; UN development Index 2013; World bank 2014). One of the characteristics of underdeveloped or developing countries is economic backwardness, for example, low personal income, over population and unemployment, lack of industries and usage of antiquated tools in the manufacturing sectors and agriculture (UN development Index 2013).

When compared with Nigeria, Austria has a lot to offer in the economic sector. The high standard of living in Austria orchestrated by her economic stability and social system make it a choice destination for the Nigerian migrants. The comparison between the two countries can be presented as follows:

53 This includes restrictive asylum, resident and working permit laws.

Table 2

| Country | GDP (\$ per person) | Population growth | Birth Rate pro 1000 person | Death Rate pro year | Doctor pro 1000 persons | Illiteracy (%) for citizens over 14 years old | Use of Energy per Person (KWh) |
|----------|---------------------|-------------------|----------------------------|---------------------|-------------------------|---|--------------------------------|
| Nigeria | 856 | 3.138.263 | 40.43 | 2.233.705 | 2.28 | 29,70 | 125 |
| Austria. | 37.033 | 7.373 | 8.74 | 79,962 | 0,24 | 0,90 | 8.158 |

(Source: *Welt-in-Zahlen.de*. Accessed on 25. April 2014)⁵⁴

To further buttress the attractiveness of Austria to Nigerian migrants, among the 186 countries assessed by the UNDP in 2012, the Republic of Austria ranks 18th while Nigeria ranks 153 (UNDP HDI 2012, online version, pp 144 & 146).⁵⁵ It is reported that up to 100,000 women from Nigeria are working as prostitutes in Europe and they are mostly victims of human trafficking in one way or another (Kreutzer et al. 2008, p. 37). In the 'trade fair center' in Vienna, there are many Nigerians hanging out as sex workers and it is reported that these are only a few among the whole number scattered all over Europe: "Die Mädchen von Messegebäude sind nur ein paar hundert von vielen Zehntausenden Nigerianerinnen, die nach Europa in die Prostitution verkauft wurden." (Kreutzer et al. 2008, *ibid.*). Because of Austria's geographical location in the middle of Europe, it is a choice land for the human traffickers because it offers them ample opportunities to move the victims to other parts of Europe without much difficulty. Kara writes, "there are several common trafficking routes. The Italian-Austrian border is an open border with no controls, used for entry from Austria to Udine along High way A23 by central and East European traffickers." (Kara 2009, p. 88).

As much as the choice of Austria as a destination country for human traffickers and migrants is high, the Austrian society decries the activities of the human traffickers and deprecates the influx of migrants into her territory with strict immigration laws (Guggenheimer et al. 2009, pp. 67 & 68). With such strict laws, it is constantly difficult to structure one's survival strategies as one may wish, because permission to stay in the country is dependent on the outcome of one's asylum

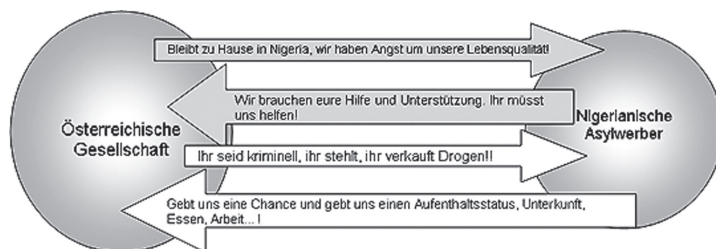
54 The *Welt-in-Zahlen.de* uses as the CIA world fact book as the primary/basis source of the information it gives out (cf. <http://www.welt-in-zahlen.de/index.phtml>). The English translations are mine.

55 See: http://hdr.undp.org/sites/default/files/reports/14/hdr2013_en_complete.pdf. Accessed on 27. November 2014.

application. For migrants from Africa, especially Nigerians, the chances of a positive outcome of their asylum applications are very low. Hafner is of the opinion that the system is reacting against the African migrants, especially Nigerians, with rejection. She writes: “Die Gesellschaft reagiert auf Flüchtlinge aus Nigeria meiner Meinung nach klar mit Ausschluss und “Hinausdrängen.” (Hafner 2004, 3.1.1). The reasons for such a negative reaction could be associated with the fact that the number of Nigerians seeking asylum in Austria outweighs that of other Africans seeking the same. If it is to be done on a ratio or quota system, Nigerians are not going to be favoured because of the number. Out of the 400 seekers only 13 received a positive response in comparison with Somalia where 241/481 seekers got the same response. (cf. BMI: Asylstatistik 2012, online version).⁵⁶ Other reasons are the issue of drug peddling and cases of abuse of asylum privileges. While the large number of Nigerians seeking asylum in Austria could be said to be real on the basis of the statistics of the Austrian Ministry of Interior Affairs (see Chapter 4.5.), the claim that Nigeria has the highest number of drug peddlers could be said to be based on prejudice and the fallacy of ‘over generalization’.⁵⁷

The distrust and rejection of the migrants in general and Nigerians in particular is presented diagrammatically thus:

Figure 4



(See Daniela Hafner 2004: 5.3.2)

4.4 Challenges of Obtaining Accurate Data of Nigerian Victims of Human Trafficking

Apart from the refusal or reluctance of the victims to divulge information or to speak out about their ordeal (see chapter 4.2), there are other factors that are

56 http://www.bmi.gv.at/cms/BMI_Asylwesen/statistik/files/2013/Asylstatistik_Jahr_2012.pdf. Accessed on 27. November 2014.

57 This is an error in conclusion based on limited or little amount of evidence.

counter productive to the efforts towards obtaining an accurate data on the crime of human trafficking. There is sometimes confusion about the definition of human trafficking and the scope to cover while considering a crime as being that of human trafficking. As a result of this confusion, ordinary migration or human smuggling may be erroneously placed on the same platform with human trafficking (BBGM 2010). Mike Dottridge writes: "The incompatibility of definitions for data collection is exacerbated by the intermingling of trafficking, smuggling, and illegal migration in official statistics. Countries have used different definitions regarding the scope and means of trafficking; the activities involved... For example, there are discrepancies in the collection of data on sex trafficking." (Dottridge 2008, in UN.GIFT background paper, p. 125). There is the need to make a clear-cut distinction between those who migrate or are smuggled into an area for prostitution and those who are trafficked for the same purpose and are exploited.

It was discovered during the research for this work that there is neither a standard method of data collection of the victims of human trafficking in Nigeria nor one of accounting for the citizens in diaspora. Information on this is based on the data collected from the respective countries in which Nigerians emigrants are residing. Efforts were made towards obtaining permission to access such data banks if they exist but no response came. The only information that could be obtained from the internet was a summary of the number of convictions without an objective reference to the source of the summary. This lack of data from the Nigerian side makes it impossible to compare it with information derived from the data of the Ministry of Interior Affairs Department of the Austrian Government (BMI). Therefore the data of Nigerians who are victims of human trafficking or ordinary migrants cannot be adequately accurate without significant margins of error. According to the summary on the data analysis of the National Agency for Prohibition of Traffic in Persons and Other related Matters (NAPTIP), the number of convictions made between 2004 and 2013 is 206 with 32 of them being from 2013 alone (NAPTIP 2013).⁵⁸ Apart from the data on prosecutions, other information on the number of victims or the magnitude of the crime of human trafficking in Nigeria, if they exist, are geared towards the routine and sole use of the agencies that gathered them, as these are not made public.

58 See <http://www.naptip.gov.ng/databaseanalysis.html>. Accessed on 18. April 2014.

4.5 Other Data on Nigerian Victims of Human Trafficking and Illegal Migrants in Austria

The information on the number of Nigerian victims of human trafficking is obtained from the number of those rescued, which leaves out the number that are not noticed. The number of Nigerian illegal migrants can be estimated, using the data of the criminal department of the Austrian Ministry of Interior Affairs. The criminal department of the Ministry of Interior of the Republic of Austria prepares a yearly report on illegal migration so as to have an overview of organised human smuggling and illegal migration. This is a strategy developed to help law enforcement agents in their efforts to counter illegal migration and develop future policies on migration. The yearly report is a demonstration of the cooperation that exists between the different departments in internal and external affairs of the Austria government and the other relevant agencies in combating crimes. Such agencies are Europol, Interpol, NGOs and governments of other countries with bi- and multilateral agreements with Austria. The report is based on primary data from the illegal immigrants' data banks of the central and regional criminal data banks, external affairs migration information and evaluated sources in Austria (BMI: Kriminalstatistik: online version see bmi.gv.at).

In a 2011 Austrian criminal report, Nigeria ranked 5th among the 129 nations with the most frequent number of migrants with illegal entries or residence. It was recorded that 814 Nigerians entered the Austrian territory illegally, i.e. without the proper documents, and out of this number, 258 persons were smuggled in (BMI Kriminalstatistik: online version. In: bmi.gv.at).⁵⁹ In the previous year of 2010, the number of Nigerians with illegal entries or residence was higher, with 902 persons out of which 271 were being smuggled. Nigeria was the 5th out of 127 countries that were observed and the highest from Africa (cf. BMI Kriminalstatistik Ibid.).

According to the former Austrian Minister of Women affairs (*Frauenministerin*), there are as many as 6,200 legal prostitutes working in Austria in 2013 and over 3000 illegal ones. Nigerian women were among the registered prostitutes working in Austria. She writes: "Wir haben zum Beispiel 6.200 legal arbeitende Prostituierte in Österreich. Von den registrierten kommen 30 Prozent aus Rumänien, 25 Prozent aus Bulgarien. Danach kommen Bürgerinnen anderer EU-Staaten wie Polen, Ungarn, der Slowakei oder Tschechien. Erst danach kommen zum Beispiel Nigerianerinnen." (Konrad 2013, see <http://derstandard.at>).

59 See: http://www.bmi.gv.at/cms/BK/publikationen/files/Jahresbericht_Schlepper_2011.pdf Accessed on 27. November 2014.

5 Situation of the Victims of Human Trafficking in Austria

5.1 Wrong Treatment of the Victims by the Traffickers and Clients

The Federal Republic of Austria has nine states (Bundesländer).⁶⁰ In this chapter, the general situation of the victims within the territory of the Federal Republic of Austria is examined. While the examination focuses specifically on the victims' situations in Austria, it is not limited to it alone as mentioned in the introduction (cf. Chapter 1.1). The situation and treatment of the victims in Austria will be analyzed on the basis of their conformity or non-conformity with the dictations of the UDHR (see Chapter 1.5.1) whereby human rights are to be understood as the basic standards of rights every person has, without which one cannot live with dignity. The UDHR demands that every person deserves the right to be accorded due respect as contained in the declaration and sets the minimum standard to be observed by all in treating others (see UDHR art. 2, in appendix 2).

Victims are constantly exploited by the traffickers in order to make a maximum profit off of them. This exploitation, which normally worsens the lives of the victims in the destination countries, lasts over a long period of time until the authorities can rescue them – if at all and if the victims are lucky. The traffickers use intemperate violence to control the victims who are often kept under miserable conditions throughout the period of their 'servitude'. In addition to other ordeals the victims go through, they are further denied decent accommodation, stripped of their documents, raped and tortured, threatened and are forced to swear to an oath of allegiance. Coercion of the victims of human trafficking is seen as threat of violence or actual use of force to subject them to obedience. This violence could be in the form of torture, subjection to heavy debts, lack of freedom of movement, low wages or withholding of wages, and threats of renunciation to the immigration authorities (Stephens & Van der Linden 2005; Ivana-Yuko 2009). Such violence is meted out to the victims directly but can also be indirectly meted when they are forced to witness others go through it as a form of deterrence: "In vielen Fällen üben die MenschenhändlerInnen eine extrem

60 Burgenland; Carinthia (Kärnten); Lower Austria (Niederösterreich); Upper Austria (Oberösterreich); Salzburg; Styria (Steiermark); Tyrol (Tirol); Vorarlberg and Vienna (Wien).

brutale und manipulative Kontrolle – sowohl physisch als auch psychisch – über ihre Opfer aus. Vergewaltigung, Schläge, Folter, Nahrungsentzug, Isolation, Täuschung und (Todes-) Drohungen sind jene Mittel, die sie einsetzen, um ihre Opfer gefügig zu machen.” (Guggenheimer et al. 2009, pp. 14–15). With these factors in place, the traffickers and the clients are able to sustain their exploitative activities with the victims. Although some of the women may know that they are going to be engaged in the sex industry before leaving the shores of Nigeria, none of them is aware of the extent they are going to be maltreated by the traffickers and the ordeal they will go through (Shelley 2010; Huland 2012). There are other abuses on the victims done exclusively by the traffickers.

5.2 Wrong Treatment of the Victims by the Traffickers

The ordeal that the victims of human trafficking go through at the hands of both the traffickers and the clients who utilize their services is enormous. As the victims are in foreign countries, their vulnerability increases owing to many factors such as “Lack of familiarity with the local language and culture, isolation, fear of reprisal and mistrust of local authorities.” (Clark 2008, p. 75). The victims of human trafficking work almost every day and are made to be ever ready to offer their services to the client at anytime. Nevertheless, those who are in sex slavery work more at night unless they are not able to make good returns, in which case they work in the afternoon to make up for the loss (Kara 2009). Stephens et al. (2005) write in their report on Albanian⁶¹ victims: “Trafficked victims worked the most days a week... victims of trafficking for sexual exploitation work five to seven days a week mostly in the evening. Some of them also work in the afternoon if they fail to earn the required daily quota.” (Stephens & Van der Linden 2005, p. 21).

5.2.1 Clusters of Accommodation and Constant Relocation

To reduce the cost of harbouring the victims so as to maximise their profits, the traffickers resort to keeping them in clusters, and to avoid detection by the law enforcement agents they relocate them constantly (Shelley 2010). Within this accommodation arrangement there is a restriction of movement and communication for the victims. They are not allowed to speak freely with each other and do not go out unaccompanied. Though they are watched carefully and moved

61 Although the focus in this work is Nigerians, as stated in the introductory part of this work, references will be made to other countries when necessary to portray the objectivity of the work. (see Chapter 1.1 Statement of Problem [Motivation for the Research]).

constantly, they are nonetheless kept in isolation. This is one of the most important tools used by the traffickers to control and maintain the loyalty of the victims (Stephens & Van der Linden 2005). When the victims are brought to a location, the traffickers choose to keep them together in the same place. This reduces the cost for the traffickers and increases their income because the victims are also made to pay for their food and accommodation (Kreutzer & Milborn 2008, p. 40; see also the interviews in Chapter 6.2).

5.2.2 Forgery and Confiscation of Documents

Victims of human trafficking are moved with documents that are either forged, illegally acquired or sometimes legitimate (cf. UN.GIFT 2008: Human Trafficking, overview, p. 13; see also BBGM 2010; Shelley 2010; Huland 2012). To keep a victim in the destination country the document has to be tampered with through total destruction or confiscation. As immigration laws get tougher, traffickers utilize the services of other fraudsters to obtain travelling documents to facilitate the movement of their victims. While in the countries of destination, traffickers arrange for resident permits for their victims, whereby they may obtain them from those legally living in these countries or arrange with corrupt officials to receive the permit. They do also use authentic documents of unreported deceased persons to harbour their victims who have an irregular immigration status (Nnebedum 2008). In the whole process of forgery there are intermediaries who may not be traffickers themselves but nonetheless facilitators of the trafficking activities. These could be embassy workers, law enforcement agents, travelling agents or event organizers. This means that forgery of documents can happen anywhere along the route to the destination, i.e. in the countries of origin, transit or destination.

For the traffickers and recruiters with a Nigerian connection, forging of travelling documents is not much of a problem, but sometimes getting through with them is. "In Nigeria, it is somehow very easy to obtain fake documents and to possess such; even though it is a criminal offence to do so people still engage themselves in this practice... the visas they produced from the late 1980s to the mid 1990s passed the European scrutiny in different airports." (Nnebedum 2008, p. 259). The issue of forgery arises owing to strict regulations on immigration affairs. Sometimes there are restrictions on visa or resident permits which are based on age, career and nationality. To meet such requirements, traffickers or agents do forge birth certificates, marriage certificates, job appointment letters, international passports and other documents that are necessary for their victims to be harboured in the destination countries.

Other managed activities could be classified within this category such as contract marriages. It was reported by ILO that “girls were forced by their traffickers to marry (to) obtain [a] regular status. Once the regular status was secured, they were forced to divorce and then marry the trafficker so that he could also obtain [a] regular status via marriage.” (Stephens et al. 2005, p. 18).⁶²

Beyond the forgery of travelling documents, traffickers do render the victims ‘stateless’ by confiscating whatever documents they may have in their possession. This is a way of keeping them under control and ensuring their inability to escape. Whoever withholds the immigration documents of another is making sure that the person does not leave without his or her permission. In the case of labour exploitation, the employers do confiscate the identification documents of the labourers to make sure that they do not leave (Stephens & Van der Linden 2005). Without the proper documents, the victims will not be able to move about and without proper identification it is all the more difficult to turn to the police for help without risking being imprisoned and deported.

5.2.3 Torture (Physical): Rape, Starvation and Drugging of the Victims

The victims undergo some physical torture and other abuses from the traffickers to ensure obedience. These could be in the forms of rape, starvation, drugging and, in some extreme cases, murder. These forms of torture are against the fundamental human rights of the victims (see UDHR art. 5, in appendix 2). Raping of the victims by the traffickers is rampant during the trafficking activities (Shelley 2010, Gallagher 2010). This is a violation of UDHR which implies an attack on the honour or reputation of any person (see UDHR art. 12, in appendix 2). “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.” (see UDHR art. 12).

Women and girls who are victims are repeatedly raped to create fear and instil obedience in them. Sometimes they are raped to initiate them fully into the business of prostitution and get them orientated towards their future activities as prostitutes. The traffickers do this to ward off naivety from the victims because most of them are very young and inexperienced and also for their personal pleasure. The clients do rape the victims when they are not submissive. Women and girls who are victims do work in bars and brothels where they are systematically

62 Brackets are mine.

forced to be engaged in the entertainment or sex industry (Shelley 2010, p. 91). The clients who hire the services of these women handle them as sex objects. Their illegal status makes it all the more possible for the clients to abuse their rights. "That these women are not to be identified with any particular group makes these suitors ever ready to throw all decent respect overboard, ignore the rules and assure themselves of freedom from punishment. The more young and foreign from the ethnicity and culture these women are, the easier the suitors find it to break the rules of the business." (Kreutzer & Milborn 2008, pp. 68–69).⁶³ The girls are beaten at times when they fail to perform. Such actions could be reported as rape but the girls are afraid of coming up with any such claims out of fear of being deported. The number of victims, especially Nigerians that are killed cannot be ascertained owing to improper documentation, but in Italy, as reported, "40 Nigerian women were murdered on the street in the year 2000." (Kreutzer & Milborn 2008, p. 72).⁶⁴

The victims of trafficking for labour or sexual exploitation are most of the times not remunerated with money but with non-financial materials like food, cosmetics and shelter. They receive alcohol and drugs to boost their interest in the job. As reported by Judith Dixon, "Trafficked victims may be subjected to substance abuse by their traffickers. Some trafficked women have described how they were forced to use drugs or alcohol to ensure their compliance and to enable them to take on more clients, work longer hours or perform objectionable or risky acts." (Zimmerman et al. 2003, in Dixon 2008, p. 85). There is every likelihood that some of these victims may become addicted to these substances and as a result may continue with their consumption even after being freed from the bondage of the traffickers.

5.2.4 Torture (Psychological): Threats to the Victims and their Acquaintances

The victims are placed under perpetual threats by the traffickers. These threats range from the possible report to law enforcement agents of their illegal status with the consequences of imprisonment and deportation, to the actual manhandling of their acquaintances back at home. Under such duress, the victims are ready to do anything that the traffickers demand of them to avoid the shame of being deported or the pains of having their relations dealt with back at home (Haerens 2012). The threat of being reported to the police is a very serious factor

63 Translation is mine.

64 Translation is mine.

that prevents the victims from either leaving the trafficking ring or reporting the traffickers to the authorities (Stephens & Van der Linden 2005). Threats of this kind should be seen as crimes against their fundamental human rights because they weaken the victims' rights to freedom and self-assertion and reduces them to the status of slaves (see UDHR articles 4; 5; 12, in appendix 2).

As a result of fear for the consequences of being detected, the victims lack the courage to denounce the fate that befalls them and if they do, they will lack the courage to sustain it. ILO reported that a victim in Germany who mustered the courage to report his ordeal to the police later withdrew his testimony after threats because of fear of deportation (ILO Geneva: 2005).

5.2.5 Administration of Oaths

The crime of human trafficking in Africa has a lot to do with rituals and occultism. According to Encyclopaedia Britannica occultism is:

“Various theories, practices, and rituals based on an alleged or esoteric knowledge of the world of spirits and unknown forces. [...] the wide range of beliefs and practices that are generally held to be occult includes [...] divination, the art or practice that seeks to foresee or foretell future events or discover hidden knowledge usually by the interpretation of omens or by the aid of supernatural powers.” (New Encyclopaedia Britannica, Vol. 8. 2005)⁶⁵

The belief in the supernatural powers of many rituals and occultism is deep rooted among most people in Nigeria. The human traffickers apply this belief to control their victims, even in far away Europe, through threats with the wrath of these magical powers if they violate the rules. They believe that the powers of the *juju* or cultic practices in African can reach Europe or be felt there. This is the result of the theory that the practice of *juju*⁶⁶ dated as far back as the era of the slave trade: “In most of the countries of Africa the raid of the foreigners from Europe and America does not take away their basic belief in voodoo. Most of the victims of the slave trade went along with the practice of voodoo into their new abode.... Thence it was exported world-wide along with the slaves.” (Venzago 2003 as cited in Nnebedum 2008, p. 200). It is not strange to discover that the traffickers use *juju* to keep and control their victims because this practice has been existence for a long time. “The practice of occultism is an ancient one and can as well be found

65 “Occultism”, The New Encyclopaedia Britannica, Vol. 8, Chicago: Encyclopaedia Britannica, Inc. 2005.

66 Juju is also referred to in a religion that is practised in the Latin America. It involves magic and witchcraft (Oxford Advance Learner's Dictionary 2014, Online edition).

in many cultures of the world. ...it is not something that can be easily wiped away with modernity, and little wonder therefore why even the Nigerians who are in Europe still bring in some of it to their trade and affairs.” (Nnebedum 2008, p. 201). The extent and efficacy of such powers cannot be scientifically verified.

Being people from the same country and, perhaps background, the threats associated with these rituals are extended to the members of the victims’ families. The whole procedure of the cultic aspect of the rituals begins with an oath to be taken by the victims before a ‘juju priest’⁶⁷ to ensure their loyalty when they arrive in Europe. They swear to an oath that any violation of the contract should result in punishment for them and their family members at home (see the interviews in Chapter 6).

The rituals are usually done at night under strict secrecy to boost their mysterious character and they are supposed to remain a secret.⁶⁸ The Nigerian women and girls who are trafficked to Europe for sexual and labour exploitations are subjected to this inhuman treatment. They are forced, sometimes against their will, to appear before a juju priest to enter into a covenant through some oaths. “These are meant to swear before some kind of shrine to either repay their debt, or to remain silent throughout the period of the exploitation. Some kind of contact is mytically made between the victim who took the oath and the shrine where the oath was taken.” (Nnebedum 2008, p. 198). During the rituals the juju priest takes something deeply personal from the victims to keep in the shrine as a point of contact between them. Such items could be nails, hairs, underwear or personal jewels. This art of performing the ritual corresponds to the one reported by the United Nations Crime Office Vienna thus:

“When traffickers draw up a contract, they often call on a traditional priest to give approval. This is usually done at a traditional “shrine”. The priest takes something deeply personal from the girl. It might be hair from her head, some pubic hair, a nail clipping, or some underwear. This trophy is wrapped up with a flourish, and the priest leaves no doubt that it will be used to control the victim from a distance. This use of voodoo is a way of keeping the girl in bondage because it plays on her deepest superstitions.” (UNODC 2006: Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo, p. 52).

The juju priests claim that they can communicate with the ‘gods’ through some magical means and make their wishes known. Such wishes include soliciting

67 Juju priest is the name given to the officiating priest in the shrine. He is also the one initiating and performing the whole rituals.

68 This is information gathered during the interview. The women opened up to some extent that the whole rituals were done at night.

punishments for the offenders of the covenant taken during the oath ritual ceremonies. In the Republic of Benin, the juju priests believe that they have discovered a magical telephone with which they can contact people as far as Europe and Asia.

There are however some theories refuting the efficacy of these *juju* rituals. For instance, it is a common belief amongst some Africans that once the *juju* charms cross the borders of a nation across the ocean it cannot be effective again. Gerald Amadi, an elder in Nigeria states that “The whole aspect and idea of taking charms abroad or sending one from here to there are all about the superstitious ordering of the human mind and belief. The so called flight in the spirit does not make sense. Once those charms cross the vast oceans you have along the way, they become powerless.”⁶⁹ Amadi, as his statement suggests, believes in the power of the juju so long as it is used within the locality. There are other utterances that suggest that the whole affair and the claimed powers are bogus. Mary Kreutzer und Corinna Milborn write about a Nigerian trafficker who was trying to intimidate his victims with the juju thus: “Ich könnte sie mit einem Juju-Zauber in Zaum halten. [...] Sie mussten das vor der Reise beim Juju-Priester in Nigeria abgeben und schwören, dass sie jede Arbeit machen und das Geld Zahlen. Nimm den Puder auf die Hand und drohe damit, ihn in die Luft zu blasen und einen Fluch auszusprechen. Sie werden sich dann aus Angst gegenseitig kontrollieren.” (Kreutzer & Milborn 2008, p. 28). In analysing their discovery, one can conclude that these threats, based on the powers and efficacy of the ritual oaths taken back in Nigeria, are only made-up stories.

The idea of *juju* being practised abroad dates as far back as the era of the slave trade. In most of the countries of Africa, the raid of the foreigners from Europe and America did not take away their basic belief in *juju*. Of course most of the victims of the slave trade went along with the practice of *juju* into their new abode. For example, the *juju* cult of the people of Ouidah, a small town in Benin, West Africa: “...was exported world-wide along with the slaves. [...] Although opposed by missionaries of all religions and politicians of every colour, voodoo remained a firm feature of society. 35% of Benin’ population is Christian, 25% Muslim, yet 80% belong to the Voodoo faith. And this figure is due less to statistical error than the admirable tolerance of Africans towards religion.” (Venzago 1992, pp. 37–38).

69 Interview with Gerald Amadi, (55 years) who is a free thinker, and a christian. (21st August, 2007). (Based on the citation in Nnebedum 2008, p. 198.)

Figure 5



(Picture from Alberto Venzago 1992, p. 97)

5.3 Wrong Treatment of the Victims by the State

The fate of the victims of human trafficking often culminates in the radical consequence of them being seen as illegal by the state and denied the basic legal and social rights that are due to them as victims of human trafficking (Guggenheimer et al. 2009, p. 25). Such status can make them dependent on the traffickers who normally will design some bizarre trajectories to evade punishment from the government while treating the victims with sub-human conditions. Victims of human trafficking often suffer under the authorities in some countries where they are exploited. This ill treatment exists in spite of the international guidelines on how victims should be treated bearing in mind their rights to protection and assistance (UNODC 2008, An Introduction.).⁷⁰ Some of the guidelines provide that the victims should be placed under a conducive atmosphere to be able to receive some services including physical and psychological care, legal assistance and basic human needs – shelter, food, medicine and education (UNODC 2008, *ibid.*). The fact remains that victims of human trafficking are lumped together with illegal migrants and as such are regarded by many countries as offenders and are criminalized because of their illegal status. On this issue, Guggenheimer et al. (2009) write: “Die Kombination dieser beiden Phänomene bringt Betroffene in Situation rechtlicher Mehrfachdiskriminierung, die von MenschenhändlerInnen gezielt zu ihrem eigenen Vorteil genutzt werden.” (Guggenheimer et al. 2009, p. 141). The victims, on the other hand, are accused of engaging in activities that resulted in their being trafficked, such as, illegal entry into a sovereign land. The wrong treatment of the victims does not come from the traffickers and the clients alone but also can be structurally induced by the countries of destinations through either strict laws or an inability to enforce the proper laws that will benefit the victims. “The consequence of inadequate identification procedures usually means that a trafficked person will be summarily returned to his or her country of origin without any attention to potential risks at home.” (UNODC 2008: An Introduction, p. 13). This situation of the victims and their status calls for special treatment instead of punishment or further isolation from the government. This is very important in any fight against human trafficking. Guggenheimer et al. (2009) write: “Der Status der Menschenhandelsopfer muss dem von Opfern schwerer Verbrechen gleichgestellt werden und nicht jenem von Kriminellen. Das bedeutet, dass

70 UNODC, UN.GIFT 2008: An Introduction to Human Trafficking: Vulnerability, Impact and Action, New York: United Nations. Also available online: http://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf Accessed on 28. November 2014.

den staatlichen Behörden eine Schlüsselrolle zukommt – in der Art wie sie die Opfer behandeln.” (Guggenheimer et al. 2009, p. 15). The NGOs are usually very helpful in finding these victims and reporting their ordeals to the governments for proper actions; the victims will not do so themselves because “To report the violence from the customers, may require an entrance into the police station and that could result in being apprehended and deported.” (Kreutzer & Milborn 2008, p. 71).⁷¹ There should be a constitutive working relationship between the NGOs and the governmental agencies. This does not mean that the government should transfer her obligation to the NGOs. Some victims of human trafficking would choose to remain in their situation rather than seek help from the authorities and risk the possibility of being deported only to be re-trafficked again and begin the whole ordeal all over. In order to encourage victims to come forward and denounce their traffickers, the state could lower the sanctions and extend programmes that are geared towards victims’ protection and review their policies in the following areas discussed below.

5.3.1 Denial of Residence / Working Permit

The fact that the victims suffer under the state which is supposed to protect them is a result of the debate on migration in Europe going in the direction of maintaining national and regional identity and security (Kelly 2009, in Shelley 2010, p. 201). Petra Bendel writes: “The focus of many European countries is on removing the trafficked individuals and repatriating them rather than on assisting and admitting those often highly traumatized individuals.” (Bendel 2005, in Shelley 2010, p. 202). The states in Europe that are signatories to the Council of Europe (COE) Convention on Trafficking are obliged to offer assistance to the victims of human trafficking. Such assistance includes a period of reflection in which the victims must not be deported or imprisoned (Council of Europe Convention on Action against Trafficking in Human Beings, 2005). The COE specifically addresses the issue of protection of the victims in the Treaty as follows:⁷²

“Article 12 – Assistance to victims

1 Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:

71 Translation is mine.

72 See COE Convention on Action Against Trafficking in Human Beings 16.5.2005.

- (a) standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
- (b) access to emergency medical treatment;
- (c) translation and interpretation services, when appropriate;
- (d) counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
- (e) assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
- (f) access to education for children.

2 Each Party shall take due account of the victim's safety and protection needs.

Article 14 – Residence permit

1 Each Party shall issue a renewable residence permit to victims, in one or the other of the two following situations or in both:

- (a) the competent authority considers that their stay is necessary owing to their personal situation;
- (b) the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.” (cf. Council of Europe Convention. Treaty Series No. 197).⁷³

Most European countries do not abide by this provision of the COE convention on human trafficking even though they would hope to meet their unskilled labour needs through the services of migrants. Victims of human trafficking are caught within this web of resident permit denial even though prostitution is legalized in many countries in the COE. The issuance of the resident permit to them is still a problem. For those migrants who came into the destination countries with a regular visa and later became victims of human trafficking, they will not have their documents renewed upon expiration (Clark 2008). For the victims living in Austria, the procedure for obtaining resident permit is a very strict one. According to the Austria's general information on the application process for a resident permit, all persons intending to stay more than six months in the Austrian territory must apply for a resident permit before leaving their countries for Austria: “If you intend to stay in Austria for a period exceeding 6 months you must apply for a residence permit and not for an entry permit (visa). Residence

73 In: <http://conventions.coe.int/Treaty/en/Treaties/Html/197.htm>. Accessed on 29. November 2014.

permits are issued by the authorities in Austria and are solely issued for stays exceeding six months.” (cf. bmeia.gv.at).⁷⁴ A number of countries ignore the risk of returning victims to their countries of origin without proper assistance. One such risk is total stigma by the community. Without proper assistance and encouragement, the victims stand the risk of being re-trafficked. Envisaging such a risk and problems, the Palermo Protocol provides that the victims should be assisted and protected: (Trafficking Protocol 2000)

“Article 6

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing

Article 7

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.” (United Nations 2000: Palermo Protocol)

A lack of application of these provisions outlined in the Palermo Protocol to the real life situations of the victims has consequences. It could lead to the victims, who are already suffering at the hands of their traffickers, not receiving any support from the government which is supposed to assist them and prevent their exploitation.

To live in a country without the relevant documents amounts to living a life described by Giorgio Agamben as a ‘bare life’. (see Agamben 1995, *Homo Sacer. Sovereign Power and Bare Life*). The victims in Austria who are without relevant documents are at the mercy of the traffickers and agents who hire them because of their ‘bare life’. Without a resident or working permit, the victims are in a state of vulnerability. Guggenheimer et al. (2009) write: “Es ist möglich, etwa in Österreich, in einem rechtlosen Raum zu leben und somit auf sein nacktes Leben angewiesen zu sein. Solche Notlagen, verbunden mit den von ihnen ausgehenden Ängsten, bilden die Basis für Abhängigkeitsverhältnisse, die missbraucht werden können.” (Guggenheimer 2009, p. 40).

However, it is to be noted that although the illegal migrants are denied the right of abode in Austria, their deportation is sometimes not possible on the

74 See: <http://www.bmeia.gv.at/reise-aufenthalt/einreise-und-aufenthalt-in-oesterreich/einreise-und-visum/visum-d/>. Accessed on 1. December 2014.

grounds of legal proceedings. This situation appears most of the time to be absurd for the victims because they are, on one hand, not allowed to stay in Austria and on the other are not deported. Daniela Hafner, referencing Heinz Fronek, describes this absurdity as “Schubhaftverhängungen und Strafverfügungen wegen illegalen Aufenthalts. Das Ergebnis ist ein Gefühlsgemisch aus Angst vor diesen Maßnahmen und das Gefühl der Unerwünschtheit, das sich auch negativ auf das Selbstbild auswirkt.” (Fronek 1998 in Hafner 2004, 3.2.3).

5.3.2 Strict / Restrictive Immigration Laws

Migration policies, in many of the COE member countries, have led to the limited admission of non citizens into the territory. With the opening of borders, due to more members of Schengen States, there is an influx of migrants – both legal and illegal. The traffickers utilize this opportunity to move their victims across borders. “Illegal entry continues from countries that are not part of the EU. With increasingly restrictive entry policies, the problem of human smuggling has grown relative to that of human trafficking.” (Shelley 2010, p. 204).

Austria, according to the UN, is among the highest recipient of victims of human trafficking behind Germany, Greece, Italy and the Netherlands, and the greater number of them come from source countries like Moldova, Ukraine, Romania, Bulgaria, Russian and Nigeria (Shelley 2010, p. 205). One of the reasons for Austria being a high recipient of victims of human trafficking is because of her central position in Europe from where the victims can be moved to other parts of Europe. It is to be noticed that policies of many countries addressing human trafficking is based largely on the efforts to deter irregular migration. In Europe, the Tampere European Council guarantees safe passage for political asylum-seekers but enacts penal laws against those who facilitate illegal entry or residence (Morison 2002 in UNODC 2008; see also Shelley 2010).

When human trafficking is seen in the context of an illegal entry or stay in the destination countries, then “trafficked persons are at the risk of being considered collaborators in illegal migration rather than as victims of crime.” (European NGO Conference 1997 in UNODC 2008, p. 89). When a country’s immigration laws are strict, migrants will use the services of smugglers and traffickers. The end result is that these irregular migrants are at the mercy of those who help them to cross over: “The more strictly the laws of immigration against the illegal entrants are enforced, the more sophisticated forms of criminality are used in human trafficking to overcome the barriers that are needed to making a profit. This may increase the violence and abuse associated with the practice.” (European NGO Conference 1997 in UNODC 2008, p. 89). The stricter the laws are,

the more human rights abuses are committed by the traffickers directly and by the government indirectly.

5.3.3 Weak Employment Laws and Regulations

Scholars of human trafficking for labour exploitation rely on the conclusion that “certain practices derived from immigration policy or from labour regulation (or deregulation) contribute to exposing migrants to the risk of trafficking for labour exploitation.” (Clark (ed.) 2007, Nr. 4.2). Governments are more often interested in checking immigration offences than abuses in workplaces (Dottridge 2008 in UNODC 2008). Victims suffer more where there is no regulation in the informal sectors of the economy because it is difficult for the government to control work in these areas. Informal employments such as domestic work in private homes make the work of labour inspectors difficult but the government could enact some laws and develop some measures which will make inspection in these areas possible. That is not the case in most countries and as a result the victims continue to suffer because they are tricked into this type of work and are subjected to forced labour with horrible conditions.

One of the reasons for the trafficking of women for sex and labour slavery could be found in the unstructured ways the rules in this area are promulgated. The demand for such is a pull factor but the regulations are contributing factors to trafficking. Much is not done with regard to controls in domestic employment in Austria. Prostitution, for example, is legal in Austria provided those involved are registered. This is at the same time systematically viewed with consternation by the law: “Die Anerkennung von Prostitution als Arbeit blieb jedoch auf halbem Weg stecken: Die Sittenwidrigkeit der Dienstleistung wurde nicht beseitigt. Auch die strafrechtliche Regelung der Zuhälterei macht Sexarbeit im Rahmen von privaten Anstellungsverhältnissen weiterhin unmöglich.” (Nautz & Sauer 2008, p 85).

5.3.4 Arrest, Imprisonment and Deportation

The victims themselves through arrests and eventual deportations suffer the burden of the offence of trafficking in human beings systematically. Most of the victims are in prostitution. Instead of punishing the third parties in the crime of human trafficking which are men and boys who buy the services of these victims, the victims themselves are made to suffer when they are detected. Mike Dottridge writes: “Although by targeting and punishing the third party such as men and boys who paid for sex appeared in theory to protect women sex workers from being penalized, in practice women had suffered ‘the burden of criminalization’, even when laws were intended primarily to target procurers, pimps and men and

boys who paid for sex.” (Dottridge 2008, p. 118). This situation is caused by the conflicting contents of the policies on immigration by some European countries whereby there are conflicting issues between the laws on human trafficking and those of immigration. Guggenheimer et al. (2009) write: “In den meisten Ländern ist der illegale Grenzübertritt, der Besitz von gefälschten Dokumenten und Visa eine Straftat. Deshalb werden Betroffene von Menschenhandel, ohne als solche identifiziert zu werden, oft als illegale AusländerInnen strafrechtlich verfolgt, festgenommen und/oder abgeschoben.” (Guggenheimer et al. 2009, p. 18).

Arrests and deportations can be said to be the most readily available measures used by most of the countries in dealing with the victims of human trafficking when these are discovered. This is contrary to the provisions of the recommendation of the United Nations High Commission for Human Rights (UNHCHR) on the protection and assistance of the victims of human trafficking: “Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to that extent.” (UNHCHR – Recommended Principles and Guidelines on Human Rights and Human Trafficking 2002, art. 7).

SCHLEPPERKRIMI

5.4 Further Adversities of the Victims of Human Trafficking and Migrants in Austria

When the discussion on the situation of migrants or victims of human trafficking by the politicians in different countries centers more on a juridical basis than on humanitarian grounds, then the tragedy of those migrants seeking a means of survival or escape from their ordeal, as in the case of victims of human trafficking, begins. The official way of legalizing one’s illegal status as a migrant in Austria is by applying for permission to stay as an asylum seeker. Because of fear of uncertainty or negative experience, many Nigerians who are illegal in Austria do not want to make such applications for asylum status and so they ‘do not exist’ officially until they are caught (Hafner 2004, online version). For one to live in such a situation means that one is cut off from all the advantages the social system offers and from the basic government subsidies as provided in the social system structure. It means that one stands the constant risk of being arrested, imprisoned and deported (Fronek & Messinger 2002).

The fact that those migrants and victims of human trafficking have left their lands, social backgrounds and families in search of better lives and did not get them is in itself traumatizing. They feel disappointed when the government is not helping them and when they are only seen from the point of view of immigration

laws which they have violated. This disappointment and the ill treatment of the government haunt them while in Austria and years after they have returned to their homes. Daniela Hafner puts it thus: "oft werden Flüchtlinge in Schubhaft gesteckt, erkennungsdienstlich – mitunter wie Schwerverbrecher – behandelt und stehen einer ihnen feindselig gestimmten Umwelt gegenüber. Die realen Gegebenheiten im Aufnahmeland bringen einer Fortsetzung der traumatischen Erfahrungen im Heimatland oder der Flucht mit sich." (Hafner 2004, 3.2.2, online version).

Once the migrants are under this situation, the whole idea of a favourable future will become bleak for them and accordingly mistrust, paranoia, depression and a combination of enmity and helplessness will develop. (Angerer 1993 in Hafner 2004, 3.2.2).

The problems of the migrants and victims of human trafficking are enormous and they are constantly confronted with the burden of their adversities.

5.4.1 The Burdens of the Victims and their Effects

In addition to the ordeals the victims suffer there is also the fear of the force of the law and the actions of the police. This fear is traumatising for the victims and makes it difficult for them to overcome the intimidations they have either suffered or are going through. Upon arrival in the destination countries, the victims suffer the burden of being disoriented and confused. The victims of human trafficking find it difficult to speak about their situation whether they are still under their traffickers or are freed. However, as they have to endure the burden of being interrogated by the police, they have to face the psychological effect of it as Hafner puts it: "Die unangenehmen Befragungssituationen mit völlig unbekannten, teils unfreundlichen oder desinteressierten Referenten, verstärken das Ohnmachtgefühl und die Belastung. Sie bleiben seelisch aufgewühlt mit ihren Gefühlen und Ängsten alleine zurück." (Hafner 2004, 3.2.3).

Another burden the victims have to bear is that of a language barrier. In Austria the language of communication is Deutsch or the local dialects (mostly for those living in the countryside) and for the Nigerian victims of human trafficking and illegal migrants it is English and/or the respective ethnic languages.⁷⁵ To learn a new language, according to Hafner, is to work on an instrument with which to meet and confront a new world (Hafner 2004, online version), but with the shock and the trauma it will be difficult for the victims to work on this instrument. Once there is no means of meaningful communication, it becomes difficult to tackle some of the daily activities, challenges and occurrences that are

75 Nigeria has more than 250 different ethnic languages.

bound to present themselves. The feeling of not having the right instrument to communicate and tackle these daily activities leaves the migrants powerless in the face of many realities and obstructs the process of social inclusion (Angerer 1993 in Hafner 2004, online version).

The prohibition of the victims by law to work in or practise their respective trained professions makes them lose perspective and hinders their further development. The migrants come to Austria for the purpose of working and earning a living. The victims of human trafficking were deceived because they had the impression that they will earn better wages and make a good living. Not to be able to do this will be seen by them as a failure, and that has its own effects some of which could be: under-usage of talents, unstructured days, lack of self confidence and crime.

Not to be able to engage in legal and meaningful work at a youthful age could lead people into other illegal activities because one will try to earn some money to survive. Aside from illegal prostitution and participating in the drug business (this is being done by a few), the Nigerians in Austria have designed many means of earning some money when the permission to work is denied. Below are some of the means as discovered by the author:

- distribution of advertisement flyers
- selling of newspapers
- motor business (exporting old motors and motor parts and used tyres)

When the permission to work in or practise one's profession is denied or not possible, there is the danger of falling into the hands of those who may exploit one's desperation. This is the case with those victims of human trafficking whose exploitation began with their being stranded in Europe.

6 Case Study (Narrative Interview)

6.1 Purpose of the Interview

The interviews that were conducted by the author could be seen, not only as an enterprise aimed at supplying the facts that are lacking in the literature analysis, but also as explorative research. In this case, it becomes necessary to report all five cases of the interviews. In conducting the interviews, which are 'narrative', the victims were allowed to narrate their situations in Austria with occasional questions designed to keep them to the main focus of the interviews. Given the sensitivity of the theme, commentaries that are suggestive of intimidation and interrogations were avoided during the interviews and confidentiality and anonymity were the guiding principles (Lamnek 1995; Flick et al. 2005). In an interview, the person interviewed is allowed to tell his or her experiences while the interviewer notes the points and can ask questions (Schütze 1978). Though in this work, the victims of human trafficking were asked to narrate their stories, they were given some guide on how to go about it. It has to do with the factors that made them vulnerable to human trafficking such as: illiteracy, poor family background, ethnicity, lifestyle and poverty. Not all the five victims are well educated thus some are 'semi illiterates' and could not narrate their stories in good English. They narrated their stories in broken English (Pidgin English) and their local dialects (Igbo and Edo)⁷⁶ and so the interviews had to be transcribed in a consistent way in the English language. In the analysis of the interviews, six indicators of possible human trafficking situations as outlined by the Berliner Bündnis Gegen Menschenhandel (BBGM) were applied; these are: physical torture, sexual abuse/rape, lack of freedom of movement, threats, debt bondage and removal of documents (BBGM 2010).

The access to the candidates that were interviewed was made possible through the African/English Catholic Community in Linz – Austria and the National Association of Nigerian Community in Austria (NANCA). The method of the interviews was difficult because of the unwillingness of the victims to speak out because of fear of reprisal from the traffickers and fear of being arrested and deported by the government. However, with the promise and agreement of anonymity the interviews were conducted. It is very important to note that the

76 Igbo is the local dialect spoken in eastern part of Nigeria, while Edo is the local dialect spoken in the Mid-Western Nigeria. Nigeria has more than 300 different dialects.

cases presented below are only representative because they concern those interviewed and do not cover all forms of human trafficking.

6.2 The Five Interviews and their Grouping

As a rule for a narrative interview there were no questionnaires given to the victims to be interviewed and there were no strict structured guide. The whole process was to understand the situation of the victims from their own points of view without any influence from the interviewer. This is in accordance with the description of the aim of a narrative interview as an action aimed at understanding, exposing and handling of a person based on his or her experiences as narrated by him or her proposed by Harry Hermanns: “Ziel von narrativen Interviews ist das Verstehen, das Aufdecken von Sichtweisen und Handlungen von Personen sowie deren Erklärung aus eigenen sozialen Bedingungen.” (Hermanns 1981, p. 16 in Atteslander 2010, p. 143). The victims were allowed to narrate their experiences in the migration process without interruption and were asked to expatiate on some points at the end of their narration. During narrative interviews, the interviewer is advised not to interrupt the narration but may ask questions at the end for more details (Schnell et al. 2005). A case study is necessary when the research addresses a descriptive question of: what happened, or an explanatory question of: why and how did it happen (Yin 2009). The case study method used in this interview helped in the collection of data directly through contact and observations.

A video documentation was impossible because of the unwillingness of the victims to be filmed. Tape recording was allowed by them but only to a limited extent. The report of the case study was possible at the end because of the combination of the limited tape-recorded information and the written documentation made during the interview. These are used in grouping the cases. The interviews are summarised below:

6.2.1 Interview 1

Miss B., (30 years old) is Nigerian and a single mother of three children, who lives in Austria. She came from a poor background and has her elementary education but did not go further. She heard about the possibility of getting a good job in Austria as a dancer in a club through another Nigerian woman from her ethnic group. She was convinced by this woman to take the offer and she did. The necessary documents were prepared for her and she received a one-month visa to Spain. She travelled in the company of this acquaintance to Spain, from where she was brought to Vienna in Austria. It was in Vienna that she found out that

she was not only going to work as a dancer but, according to her, “to do more than that”. The woman who brought her to Europe handed her over to a bar owner who confiscated her immigration and travelling documents and warned her of the dangers of trying to escape and the possibility of her being reported to the police for having no documents. She was asked by the bar owner to offer services of prostitution to the customers and was given accommodations in the upper part of the bar. The condition was unbearable for her. She was given only pocket money and received very little to eat but was allowed to drink alcohol and sometimes was given drugs. She seldom went out and was not allowed to make calls. She got into a relationship with one of her frequent customers, who arranged for her to join him in Linz Austria. She still lives with him, as of the time of the interview (14.12.2013), but her ordeal still continues because she still has a debt of € 40,000 to pay to the woman who brought her to Europe and has given her €35,000 already. She cannot report the situation to the police because, according to her, she took an oath back home in Nigeria never to betray the woman who recruited her and to pay all her debt as agreed upon. Because of the fear of the consequences of the oath and constant threats to her family, she is determined to pay the debt and gain her freedom. She is not ready to go back to Nigeria after she has paid the debt and does not have the relevant papers to stay in Austria.

6.2.2 Interview 2

Miss T. (24 years old) came to Austria in 2008 through the help of her girl friend with the hope of finding a job and a better life. She grew up in a poor family from the countryside and was given in marriage to a much older man by her parents when she was still very young, at the age of 15. The man abused her both sexually and physically and would often refuse her entrance into the house when he was provoked. When it became unbearable for her she had to escape with her three-year-old daughter to a friend's house in the city. She fancied the idea of travelling abroad after her friend's sister presented the opportunity to her. She was told that she could work as a housemaid or nanny for a family in Germany and that everything was already in place if she accepted the offer. She did and left her daughter with her mother in the village and was brought to Germany after taking an oath at home that she would pay back the cost of her journey and some charges for the arrangement and that she would not betray the negotiators. Her ordeal began as soon as she arrived in Germany. The negotiator from Nigeria brought her to a man in whose house she was to stay for the night. She was told by the man that she would be taken to Italy where she would earn more money and was raped by him the same night. She stayed in the man's house for three

weeks and was forbidden from making calls or going out. There was no contact with anybody whatsoever and her immigration and travelling documents were confiscated by the man. She was taken to Italy on a train from Germany and was brought to the house of a Nigerian woman (one of the so called 'madams'). Here she met other girls from Nigeria. Gradually she was introduced into prostitution by the other girls and was told what to do and what not to do. She received very little for her services and was told that the rest of the money she made was for her accommodation, food and other expenses (e.g. cosmetics and medication). She was very worried and home sick because of her daughter and told the madam about it and was told that she would be allowed to go home if she worked harder. In 2011 the madam told her that she would be taken to Austria from where she could arrange for her trip back to Nigeria. She arrived in Vienna and was taken to a bar to work as a waitress but she ended up again in prostitution under the control of a network. Because of her illegal status she was threatened that she would be taken to prison if she went to the police. The new traffickers told her that she would have to make a profit of € 45,000 for them if she wanted to be free. She could not tell if she made much for them or not. In March 2013, she was brought to Linz – Austria and was introduced to a Nigerian girl⁷⁷ with whom she now lives. Though she is free from physical abuse, she was told that she should be paying € 500 every month to them through the girl she lives with. Otherwise her parents and daughter will be in danger. She works at night as a prostitute in a brothel (*Bordell*) and during the day as a cleaner (*Putzfrau*).

6.2.3 Interview 3

Miss. C. (28 years old) is a Nigerian, who has been living in Austria since 2010. She came to Austria through the help of a smuggler, with the promise of work as a sales girl in a restaurant or a store attendant in a company. She works today as a prostitute. She is the breadwinner of her family at home.

Miss C. was working in the personnel department of a company in Nigeria after her Polytechnic School education⁷⁸ but as the breadwinner of her family her

77 This girl is suspected to be a member of the network of human traffickers. She was, perhaps, once a victim.

78 Polytechnic schools in Nigeria, in contrast to those in Austria, are institutions of higher learning after one has attended secondary school (Gymnasium). The Nigeria graduates of the Polytechnic schools end up with either Ordinary National Diplomas (OND) or Higher National Diplomas (HND). It could be said to be in the middle between secondary schools (Gymnasium) and university.

salary was not enough. Two of her school mates who lived in Italy convinced her, through their lavish lifestyle and show of wealth, to join them abroad and was told that she would make more money if she did. She was promised a job either as a store attendant in a company or a sales girl in a supermarket in Italy after her language course. She was introduced to two men (Nigerians) who would help her facilitate the journey through the procurement of relevant documents and the payment of the flight tickets. Their family house in the city was used as collateral and she was made to sign an agreement with her parents as co-signatories that the sum of €75,000 was the agreed amount to be paid for the whole arrangement. She arrived in Italy and the man who picked her up from the airport told her that she would stay with him for a few weeks until the language course began. Her two school mates did not come to the airport as agreed and she never met them at the beginning though they kept contact with her by phone. In the apartment of her host, which was on the upper floor of a bar, between six to ten girls would come back in the morning and leave at night. After one month of doing nothing, she became worried because she was doing literally nothing and the language course was not forthcoming either. Without a job and knowledge of the new environment, she was told that she had to finance the course herself if she wanted to do it. It was then that the girls who normally would come back in the morning to leave at night told her what she was expected to do. She resisted at first, but when she was starved of food and provisions and threatened with denunciation to the police and the possibility of being deported because her visa had already expired, she reluctantly succumbed. Each time she was revolted and wanted to go home, she would be reminded of the contract she signed at home of which her parents were co-signatories, their family house as a collateral and the possibility of losing it. She was in serious debt and wanted to pay the debt and return home. She met her two friends finally and they told her that they too were in the business of prostitution after passing through the same ordeal she was going through. Owing to constant fear from the mafia networks in Italy, the direct threats from the traffickers and the disappointment from her two school mates, she decided to relocate on her own to Linz – Austria, at the invitation of a friend, where she lives now and continues working as a call-girl but receives very little to show for the type of work she is doing and the services she is offering her clients. Her worries are how to repay her debts, earn more savings and ‘perhaps’ return home to Nigeria.

6.2.4 Interview 4

Miss T. A. (26 years old) is a Nigerian who lives in Austria since 2005. She was a working class woman in Nigeria and came with a tourist visa which was arranged

by a friend of hers to Austria and wanted to change her status as an asylum seeker. She was denied approval and was in danger of being arrested and deported. Being desperate to stay in Austria, she sought help from other Nigerians and was introduced to an Austrian man in Vienna by her friend who was supposed to help her regularise her stay in Austria. The man employed her in his bar where she, at first, did the work of cleaning and after was told that she had to work as a prostitute. At first, she refused but had to give in when she was threatened with denunciation to the police. She was not comfortable with the job but had no option since her stay in Austria was totally dependent on the bar owner who provided protection against the authorities. She was paid a monthly allowance by the bar owner but had to sleep with the customers when they wished. The bar owner has connections with a lot of Nigerian men who visit the bar frequently and other girls from countries like Dominican Republic, Philippine, Peru and Ghana. She eventually got a 'humanitarian visa' to stay in Austria and did not know how it was made possible. All she knew was that they told her to apply and she visited a lawyer constantly in the company of the bar owner and two Nigerian men. At the end she was told that she would pay € 50,000 for solving her immigration legal problems. Her family at home was threatened by the colleagues of the two Nigerian men who were always present during the visitations to the lawyer. She was told that her documentation and applications for a humanitarian visa were all based on fraud and that if she should report them to the police the fraudulent aspect of her immigration process would be revealed and the consequences would be arrest, imprisonment and eventual deportation.

Miss T.A was brought to Linz – Austria by the same trafficking network when they found out that she was getting to know many people in Vienna. When she arrived in Linz she was introduced to a night club owner and was told to continue the work in the club at weekends and during the week days she was free but still had an undisclosed amount of money left to pay back to the bar owner in Vienna. Upon request to know the amount of money she had to pay back, all she could say was that the money was more than €60,000. She did not intend to go back to Nigeria without making a lot of money because of the stigma of being seen as a failure.

6.2.5 Interview 5

Miss J. (33 years old) is a Nigerian who came to Austria in 2011 with the full knowledge of the fact that she would be working as a prostitute. She was educated in a high school in Nigeria and finished teacher's college in Mid-Western Nigeria. She started a job as a primary school teacher but was earning very little

to eke out a living. She started nursing the idea of travelling abroad to greener pastures after reading in media advertisements that there were opportunities for club girls and entertainment workers. She came to Europe through the help of a female agent who works with a network of human traffickers. Though she knew that she would work as a prostitute, she did not reckon with the torture, rape and abuse. The female agent who recruited her told her that the white men were ever ready to pay to have black girls and that she would make a lot of money by being obedient and submissive. A schengen one-month tourist visa was organised for her through the Embassy of Czechs Republic in Abuja, Nigeria, and a flight ticket was bought for her and she was taken through the ritual oath process. She swore that she would abide by the rules which included paying back her travelling expenses, obedience to the 'madams' and the traffickers and non-betrayal of any sort. She arrived in Czechs and was brought into Austria by a Nigerian, whom she later found out to be a member of the trafficking network. After two weeks in the house of the Nigerian she was able to meet the female agent who recruited her from Nigeria. Since her visa was a one-month schengen visa, they kept her disoriented for two months, making sure that the visa had expired. She was told that she had to pay back the cost of bringing her over to Europe which was € 75,000 or risk being reported as being in Austria without documentation with the consequences of being arrest and deportation. Her family at home stands the risk of being harmed if she should disobey any of the rules. As a result of all this, Miss. J. is deeply indebted to the madam and is afraid of reporting to the police.

6.3 Grouping of the Presented Case Studies

The above-presented cases deduced from the narrative interviews with five victims of human trafficking have many things in common. In the first instance, all the five women left Nigeria for Europe because of economic reasons. While Miss D and Miss C were employed in Nigeria, the quest for greener pastures and a high standard of life in Europe were the pulling factor that motivated their migration. Deception, force and exploitation are present in all five cases and they typically characterise the crime of human trafficking (see Chapter 2.2).⁷⁹ The

79 Boidi et al. (1996) summarize the methods and means which the traffickers use to attract their victims. These methods and means typically depicts the action as that of human trafficking: "die Kontaktperson im Herkunftsland verspricht Arbeitsmöglichkeiten in einem vielfältigen Spektrum: Kellnerin, Kindermädchen, Sängerin, Krankenschwester, Tänzerin usw. Die angebotenen guten Arbeitsmöglichkeiten überzeugen die Frauen...

situation of helplessness of the victims, their dependency and the denial of rights are the realities that are present in the five cases. It is to be observed in their narration that the men and, to some extent, the women who abused them did so with impunity, while the victims stood the risk of being criminalized.

The cases narrated above could be divided into three parts which could serve as patterns for empirical studies on victims of human trafficking.

Table 3: Case description of the qualitative interviews

| Cases | Age | Education | Grouping |
|-------------------------|-----|---------------------------------|--------------|
| Interview 1 (Miss. B) | 30 | Elementary Education | Typical case |
| Interview 2 (Miss. T) | 24 | Unknown | Typical case |
| Interview 3 (Miss C) | 28 | High School | Typical case |
| Interview 4 (Miss T. A) | 26 | Unknown | Limited case |
| Interview 5 (Miss J) | 33 | High School & Teacher's College | Special case |

6.3.1 Typical Case of Human Trafficking

The first three interviews i.e. M/s B., T., and C., (interviews 1, 2, & 3) are, according to the definition of human trafficking (cf. Palermo Protocol 2000), typical cases of human trafficking. The agents of the trafficking network recruited all of the victims in this category in Nigeria. They were all given false promises of better jobs and legalization of stay in Austria but ended up working as prostitutes by force and were not free to quit the work. They are rather in Austria by force and are exploited. They work as prostitutes but do not personally earn money in return for their services. At the same time they have a heavy debt purported to be the cost of their travelling expenses, and, they must repay all of it. The traffickers collect the money and give them only pocket money in some cases.

The good network of the trafficking ring could be noticed in the reported cases with some of the network spreading across other European countries: Miss B was taken to Spain before she landed in Austria, Miss T made her journey from Nigeria

Die falschen Versprechungen sind das erste Glied der Kette... Die Anzeigen in den Zeitungen und Zeitschriften und die verschiedenen Arten von Vermittlungsagenturen in den Herkunftsländern sowie in den Industrieländern sind, in Zusammenarbeit mit vielen Reisebüros, Teil des abgekarteten Spiels, mit dem der Frauenhandel strukturiert und in Bewegung gehalten wird. Erfahrungen haben gezeigt, dass die Kontaktperson in den Herkunftsländern meist in Verbindung mit Kontaktpersonen in den europäischen Ländern steht." (Boidi et al. 1996, p. 13).

through Germany and Italy and finally to Austria and Miss C was taken to the Czech Republic where she was received by an agent and later transferred to Austria. It is to be noted that all the women were brought and accommodated in small quarters and were at the same time constantly transferred and moved. The reason for this constant transfer is to make them disorientated and unable to master their environment, so as to avoid any possible detection by the law or attempt to escape.

The use of force and threats are characteristic of human trafficking for sexual exploitation and that could be noticed in the cases of M/s B, T, and C. Furthermore, confiscation of travelling documents, restriction of movements and constant monitoring are features that are suggestive of human trafficking cases and these are to be found in the narrative of the three women. All three experienced extreme exploitation which is a feature of human trafficking. They received little or nothing for the forced work they did under sub human conditions.

There are some differences in the nature of the accommodation of the victims as narrated by them. M/s B and T continue to live under the watchful eyes of the traffickers and are totally dependent on them for their daily activities. Miss C, though she lives on her own, is not free from the tentacles of the traffickers. All of them are under constant threats either to them or to their acquaintances or both.

The cases under consideration in this sub-section fit in well into the basic distinctive marks of human trafficking as contained in the Trafficking Protocol (see chapters 2.2 & 2.3): 'the act of recruitment which is basically deception; the means of keeping the victims which is force and torture; and the purpose of the whole action, which is exploitation' are all evident in their cases. According to the Trafficking Protocol, where any or all of these three essential sets of elements are used, the consent of the victims to the intended exploitation does not exonerate the case from being that of human trafficking.

6.3.2 A Limited Case of Human Trafficking

Miss T.A. (interview 4) came to Austria with a tourist visa and had hoped to apply for asylum status. She became a prostitute through the prompting of a trafficker, when that hope was not realised. She was not recruited from home and was not promised a job or better chances as many others were. The special circumstance that forced her into prostitution was the quest for permission to stay in Austria, which was denied. Her case falls into human trafficking only because of the limited factors that are present, thus: she is dependent on someone who may report her to the police for her survival (threat), she must pay a heavy ransom to remain in illegal prostitution (exploitation) and she is handled by the traffickers with force and is kept against her wish.

6.3.3 A Special Case of Human Trafficking

Miss J. (interview 5) got the information that there were job opportunities for workers in the entertainment industry as club girls. She paid her way and came to Austria to work as a prostitute. The arrangement was that she would be paying some fees to the agency that arranged her travel to Austria. To get her document legalised was not possible, and so she had to work illegally as a prostitute.

The double morality of the society could be seen very vividly here. The advertisement was given out for club girls and yet to legalise the documents of those who have applied and are taken became impossible. Still these prostitutes are seen as threats to the public health. "Prostitution wurde immer als eine moralische und medizinische Gefahr betrachtet und tabuisiert. Prostitution – besser: Prostituierte – wurden als eine Bedrohung der öffentlichen Gesundheit (verstärkt seit der AIDS-Debatte) wahrgenommen und prinzipiell im kriminellen Milieu verortet." (Sauer 2008, p. 83). This gives the human traffickers the opportunity to oppress the victims.

The case of Miss J. is not represented in the definition of the Palermo Protocol because of the absence of those characteristics of human trafficking: false promises, force/threat and exploitation from the smugglers; hence it is a case that should be grouped separately, as a 'special no concluding' case of human trafficking. She earns some money from her illegal prostitution but must pay the agreed fees to the traffickers to not be reported to the police in Austria and to spare her family the impending threats and torture from the traffickers' agents.

6.3.4 Explorative Findings from the Cases

Miss J's case (see interview 5) has shown that there are many who knew that they were coming into prostitution from the outset. Though none of them could imagine themselves becoming victims of human trafficking. Though many are ready to be employed as prostitutes to earn money, nobody will accept to be a victim of torture, rape, or exploitation of any sort. Nautz and Sauer support the idea that no one who freely chose prostitution accepted to be exploited: "die Migration in die Sexarbeit ist bei einigen Frauen freiwillig gewählt – [aber]keine der Frauen allerdings wollte Ausbeutung, Verachtung und Gewalt." (Sauer 2008, p. 13).

In the conducted interviews, as briefly reported above, each case is a special one on its own. The case of Miss J brings the explorative nature of the interview

to the forefront and reveals that not all the cases of human trafficking⁸⁰ are occasioned by the recruitment of the victims from their home countries. Some meet their ordeal while residing, legally or illegally, in the destination lands. Miss J's case reveals that not all the victims are from a poor background or uneducated. She was educated and migrated in search of greener pastures. Working as a prostitute in Europe has become, for many women from Africa, a source of income (LEFÖ 1996) and many engage in it because of the demand for sex workers from the men who patronise them (LEFÖ 1996; Kara 2009; Shelley 2010; Skinner 2010).⁸¹ This fact, as revealed by the victims themselves, corresponds with the statements of protagonists of fair treatment for victims of human trafficking and prostitutes. Duygu Özkan writes: "Die Opfer werden bestraft, weil sie keine Dokumente oder Aufenthaltstitel haben. Oder sie landen in jenen Bundesländern, wo Prostitution verboten ist, wegen Prostitution vor Gericht. In Österreich ist Sexarbeit nicht einheitlich geregelt und das macht die Ausbeutung einfacher." (Özkan in *The Presse*, 26.3.2013).

The interviews were conducted in a functionally oriented form because they were aimed at covering the possible cognitive area of the lives of all the women interviewed within the scope of the research area (human trafficking). This means, that the aim, in addition to understanding the crime more through first-hand discussion with the victims, is also to find out whether they are aware that they are victims of a crime called human trafficking. It was discovered that these cognitive areas are latent in them because they know that they are being abused but are unaware of the crime of human trafficking. They do not have any information about the crime. From the statements of M/s T.A. (interview 4) and J (interview 5), it was discovered that they knew about the possibility of being engaged in prostitution, though they neither expected to be exploited nor thought that they might be in danger of being arrested and deported. It was also found out that none of the victims is 'really' ready to go back to Nigeria even if they are rescued and set free. The reason for this lack of zeal to go back ranges from economic

80 The exploratory nature of the interviews conducted evolved in the phase of narrative interview. This becomes a means of collecting subjective data from the women which helped in the understanding of the objective facts about human trafficking. The interview helped in the gathering of special knowledge different from what is being read from the literature.

81 This shows the double morality of the society which on one hand allows the demand for prostitution to attract the women and on the other descend on them with the hand of the law through strict immigration and work policies, punishment and deportation.

uncertainty to social discrimination and stigmatization which they may face as 'ex-victims of human trafficking' if they return to their homes.

6.4 Conclusion of Part II

The danger of exaggeration in this issue of human trafficking is a fact and the reason for the possibility of such exaggeration is lack of data or sub-standard data. Paucity of data as discussed in this work normally results in random quoting of figures. This may have dual consequences thus: the number of actual victims may be understated, which will give a false impression of the crime being under control; or the number may be exaggerated, which will result in raising a false alarm, thereby disturbing the peace of society. Any attempt to get at an accurate number of the victims of the crime will reveal a more complicated form of the crime itself (Guggenheimer et al. 2009). Because the crime is one that has more clandestine sides than are known, an accurate estimate is not only difficult to get but such accuracy is elusive. The working estimation used by stakeholders is received from the institutions and agencies commissioned to protect the victims on a regional and international level (Nautz & Sauer 2008). This method is derived from the number of registered or certified victims who have been identified. It could still be said that the number of those unidentified is much more than those identified.⁸² Bruce Kutnick et al. (2007) states: "... we do not venture any guesses about the total number of trafficking victims.... Typically, the total number of victims is assumed to be about 10 times larger than the actual number of identified victims." (Kutnick et al. 2007, IV, p. 23).

As discussed in this work, human trafficking is not presented in the context of irregular migration. If human trafficking is seen from the ambience of illegal entry or stay in a country, then there will be the tendency to focus attention on fighting irregular migration rather than the crime of human trafficking itself. "Just as a common response to irregular migration has been to tighten borders, so too have countries responded to the increase in human trafficking by strengthening border control. Strict border controls and increased law enforcement are common methods." (Dixon 2008, p. 89). When the attention is shifted in this way, there is the danger that the human rights abuses which characterise human trafficking will not be addressed. With the restrictive border controls and immigration laws, the journey of those migrants with lesser opportunity to migrate legally will be full of human rights abuses. In fact, "trafficked persons are at

82 Identified victims are those victims who have been officially reported, registered or assisted. (see Kutnick et al. 2007).

risk of being considered collaborators in illegal migration rather than as victims of crime.” (Dixon 2008, p. 89). The treatment of the victims of human trafficking becomes inhuman and against the fundamental human rights of the victims when a country makes the granting of the basic assistance and protection to the victims dependent on their willingness to participate in the investigation and prosecution process of the offenders. The Palermo Protocol 2000 recommends “Assistance to and Protection of victims of trafficking in persons” (The Trafficking Protocol 2000, Art. 6); the Brussels Declaration 2002 stipulates some guidelines toward “strengthening European networking on victims’ assistance” (The Brussels Declaration 2002, Art. 4; Art. 13, points 2, 5 & 8; Art. 14); the Council of Europe 2005 recommends assistance to the victims and advocates that they should be given resident permits (The Council of Europe 2005 – Treaty Series – N0 197, Art. 12; & Art. 14). Thus, to use the granting of assistance and protection as an incentive to induce the victims to cooperate undermines the application of human rights model in the fight against human trafficking (Ivana-Yuko 2009). Governments of different countries are expected to directly criminalise human trafficking, whereby the offenders are criminalised under direct law. In this way, trafficked persons cannot be seen as offenders but as victims who are not to be criminalised but protected. In other words, if states see human trafficking as a crime, then the victims should be decriminalised and are not to be seen as criminals who have violated the immigrations laws of a country (Ivana-Yuko 2009). This is a condition which many countries have yet to implement despite the fact that the Trafficking Protocol 2000, Brussels Declaration 2002, and the Council of Europe Convention 2005 prescribe specific economic and social rights which victims of human trafficking should receive as soon as they are identified as victims. Such rights includes the right to housing, medicare, job and resident permit. While the Council of Europe Convention was specific in its presentation, the Trafficking Protocol was discretionary (Ivana-Yuko 2009). The Trafficking Protocol does not directly forbid countries from demanding cooperation from the victims before they may receive assistance, but the Council of Europe mandates countries to offer the protection and assistance unconditionally. However the Trafficking Protocol admonishes countries to take humanitarian and compassionate factors into consideration when treating cases of victims of human trafficking (The Trafficking Protocol 2000, Art. 7).

In the treatment of the victims of human trafficking in the destination countries, there are both political and social obstacles to overcome in applying human rights. In Austria, for example, there is a constitutional obligation to protect the domestic policies on immigration whereby migrants are obliged to stick to the

regulations guiding foreigners. In respect of the human rights obligation and to maintain national security, countries are required to avoid arbitrary deportation. The victims suffer twice: at the hands of their traffickers, and from the destination countries, in which case their human rights are neglected and abused. Guggenheimer et al. (2009) write: “Die betroffenen MigrantInnen werden also nicht nur durch die MenschenhändlerInnen, sondern auch strukturell entrechtet.” (Guggenheimer et al. 2009, p. 40). They are vulnerable to exploitation because of their illegal status which makes them live under persistent threat of denunciation to the police. Due to the fear and lack of trust, the victims are reluctant to report their ordeal to the authorities. They are fully aware of their illegal migration status and are afraid to reveal themselves even when their human rights are being abused (cf. Chapter 5; see also the interviews in chapter 6).

When a victim is not identified as such, the chance that he or she will receive any help from the government or NGOs is very minimal. The Austrian regulations were examined and their contribution to the fight against human trafficking were extolled.⁸³ The regulations have loopholes that seem to favour the traffickers. One is the idea that the law tries to stop human trafficking but at the same time legalizes prostitution which is the major end-point of human trafficking. Another loophole is that the law does not legislate a strong punishment on the customers (*Freier*) who seek the services of the victims. Again, the law recommends, and in fact it is an obligation, that the prostitutes go for regular medical check-ups against sexually transmitted diseases including HIV-AIDS. The Arbeitsgruppe ‘Länderkompetenzen Prostitution’ (AG-LKP) regulates as follows: “SexdeinstleisterInnen sind verpflichtet, sich regelmäßigen Gesundheitskontrollen zu unterziehen. Vor Aufnahme der Tätigkeit und anschließend einmal wöchentlich muss eine amtsärztliche Untersuchung auf Geschlechtskrankheiten nach dem Geschlechtskrankheitengesetz durchgeführt werden sowie alle drei Monate Untersuchungen auf das Freisein von einer HIV Infektion nach dem AIDS-Gesetz. Diese werden auf einem amtlichen Lichtbildausweis (sog.

83 (See Criminal offences against trafficking in human beings: § StGB 104 (a) “Menschenhandel”; Criminal offences against sexual exploitation of minor: § 207 StGB “Sexual Missbrauch von Jugendlichen”; Criminal offences against forceful prostitution: § 215 StGB “Zuführung zur Prostitution”; Criminal offences against abduction and taking advantage of another’s prostitution: §216 StGB “Zuhälterei”; Criminal offences against transborder smuggling for prostitution: §217 StGB “Grenzüberschreitenden Prostitutionshandel”). In addition to the dictations in the criminal code of the Austrian law, there are other regulations guiding prostitution in the country, for example, Regelung der Prostitution in Österreich Empfehlungen der Arbeitsgruppe (See footnote 69).

Gesundheitskarte oder Deckel) bestätigt.” (AG-LKP 2012, No. 6).⁸⁴ The rule requires the obligatory medical check-up of the sex workers but does not require the same of those men who visit them.

The traffickers maintain that those victims know before their journey to Austria that what awaits them is prostitution. This might not always be true since the traffickers themselves take their time to recruit mostly young girls and women from the villages, who know almost nothing about life in Europe, let alone what prostitution in Europe means. Those who knew that prostitution might be the last resort for them while in Europe did not know that their prostitution would be exploited, that is, that they would be made to work for the traffickers. This knowledge was received from the few interviews conducted during the course of the research for this work. The interviews are not meant to be all encompassing but an exploratory venture designed to delve into the lives of some victims who are reluctant to speak about their ordeals at the hands of the traffickers and to fill the gap left after the literature and document analysis. Victims may not have the opportunity to learn the local language, know the law of the destination country or the assistance that is available due to the strict control of the traffickers; thus the abuse can go on for years. The abusive treatment of these victims is what they get after originally entering into a contract to receive a job. They experience abuses of their human rights through the violence meted to them, including starvation, restriction of movements, threats and torture (both physical and psychological).

When the problem of human trafficking is considered in a wider context, it calls for a long-term solution through the development of workable measures to fight the crime through the prevention of vulnerability, protection of the victims and persecution of the offenders. This is the task which part 3 of this work is set to discuss.

84 Regelung der Prostitution in Österreich Empfehlungen der Arbeitsgruppe „Länderkompetenzen Prostitution“ (AG-LKP) im Rahmen der „Task Force Menschenhandel“, Wien Mai 2012.

Part III

7 Measures to Combat Human Trafficking

There are many anti-trafficking initiatives from stakeholders at both the national and global levels. This chapter looks into such initiatives and how to improve them, while suggesting some other strategies that could be adopted in the fight against human trafficking. The focus should be geared towards the development and enforcement of appropriate laws in the areas of prosecuting the perpetrators of the crime and protecting the victims. International and regional human rights laws prohibit and criminalize trafficking in human beings. Still more needs to be done to secure the rights, liberty and security which are denied the victims in a violent way by the perpetrators of the crime and in a systematic way by the authorities of the destination countries. The efforts should not be limited to one area alone but should be bilateral because it is often the case that the destination countries are more developed and as such better equipped with facilities to fight the crime. Such multilateral efforts should be coordinated to avoid duplication (Shelley 2010, p. 322).

This chapter seeks to review the efforts already made in the fight against human trafficking and advocates for international cooperation against the crime. It seeks to expand the criminal justice approaches, which are prevention, prosecution and protection. This expansion includes empowerment of the victims. States are being guided on the ways to fight human trafficking and encourage empowerment of women. This is necessary because without the empowerment of the victims to be self-reliant the possibility of their being re-trafficked could be high.

The UN urges all stakeholders to take appropriate actions to fight human trafficking from the root factors that are encouraging trafficking in human beings. Such actions include enforcement of the appropriate legislation which will prosecute the offenders and protect the victims through criminal and civil measures. Work already done by the UN and other UN subsidiary bodies, for example, UNODC, UNHCR, international agencies, governmental and NGOs is examined in this section. All those involved or who have interest in the fight against human trafficking are urged to “devise, enforce and strengthen effective measures to combat and eliminate all forms of trafficking in women and girls through a comprehensive anti-trafficking strategy consisting of, inter alia, legislative measures, prevention campaigns, information exchange, assistance and protection for and integration of the victims and prosecution of all the offenders involved, including intermediaries.” (UN General Assembly Resolution 2000: A/RES/55/67, No. 4)

This section further examines some of the preventive measures against human trafficking that are already in place and recommends some new ones to be implemented in the overall fight against the crime of human trafficking. In the effort to prevent human trafficking, care should be taken not to focus much on the restriction of movement of people through tighter controls because such moves will not reduce migration but will change the nature and mode of migration by encouraging the potential migrants to resort to the services of smugglers. There should be efforts geared towards alleviating the problems which render people vulnerable to human trafficking and the factors that facilitate it. It is to be noted that those people who facilitate migration and human smuggling are also the same who facilitate human trafficking (Marshall 2001: online version). More opportunities should be provided in the sending countries to discourage such migration that may render one vulnerable to human trafficking. Furthermore, efforts should be made to combat those factors that cause human trafficking (cf. chapter 3). The Trafficking Protocol makes some recommendations on the preventive measures to be observed in the fight against human trafficking: (see Kangaspunta et al. 2008, online version):

- “There should be regional, national and international programmes and co-operation in the fight against human trafficking (Trafficking Protocol 2003, Article 9 (3); 10 (2)).
- There should be social and economic initiatives to prevent causes of vulnerability (Trafficking Protocol 2003, Article 9 (2)).
- There should be measures to combat poverty and efforts to emancipate women and children from what may be termed cultural and status degradation (Trafficking Protocol 2003, Article 9 (4)).
- There should be training for officials in the art of prevention and protection of the rights of the victims (Trafficking Protocol 2003, Article 10 (2)).
- There should be constant exchange of information on routes and methods of the traffickers (Trafficking Protocol 2003, Article 10 (3)).
- There should be strict controls and monitoring of the known means which the traffickers may use in the transportation of the victims (Trafficking Protocol 2003, Article 11 (2)).
- There should be strict border control and cooperation among countries’ borders in order to identify and prevent trafficking in human beings in its early stage (Trafficking Protocol 2003, Article 11 (6)).” (Kangaspunta et al. 2008: online version)⁸⁵

85 In: <http://www.freedomfromfearmagazine.org>. Accessed on 23. February 2010.

The main objectives of this chapter are to provide guidelines to equip the governments and stakeholders to actions to be taken to prevent trafficking in human beings and to equip the potential migrants with proper information when making decisions about their movements. Being equipped with proper information a prospective migrant may end up deciding not to migrate at all or be better prepared if he chooses to (Marshall 2001, p. 2). The information helps in terms of knowing the avenues of assistance if there is trouble, because most of the victims of human trafficking are migrants who became disorientated.

Comprehensive preventive measures should include a discussion on the demand-supply syndrome. Clark writes: "Any discussion of prevention should focus on developing measures that consider both the supply and the demand components." (Clark 2008, p. 64). This calls for action against those who recruit these victims as well as those who use their services: "Countries of destination, which drive the demand for human trafficking, must increasingly recognize their role in preventing exploitation and abuse and must include the consumers of commercial sex as well as the employers of individuals trafficked for force and exploitative labour." (Clark 2008, p. 64).

7.1 United Nations Efforts to Combat Human Trafficking

An overview of the policies of the UN on human trafficking could be deduced from the Universal Declaration of Human Rights (UDHR) as declared by the United Nations General Assembly of 1948. These rights, as contained in the UDHR, should not be denied and any abuse of them is considered an infringement on the dignity of the person. In relation to the crime of human trafficking, these rights are being denied to the victims. The ordeals the victims of human trafficking pass through stand in direct contrast to the provision of some of the Articles of the UDHR (see appendix 3).

The UDHR has received the approval of many countries and at the same time, like every other human enterprise, has also witnessed some criticisms. One such criticism came from predominantly Muslim nations that accused it of not taking into account Islamic laws. For these Muslim nations UDHR is seen as a by-product of the modernized Judaeo-Christian tradition as contained in the present Christian Bible.

In reaction to the UDHR, the Cairo Declaration of Human rights was adopted by 45 foreign Ministers of the Organisation of the Islamic Conference (OIC) on August 5, 1990 as a guide for their states in issues concerning human rights. This declaration states that "There shall be no crime or punishment except as provided

for in the sharia.”⁸⁶ This means, according to their view and recommendations, that the UDHR should only be adhered to in so far as it corresponds to the dictates of sharia laws. It therefore implies that whatever is in the UNDHR that does not correspond with the contents of sharia law or its implications should be viewed with consternation. In most of the Muslim Nations, women are still subjected to some practices which correspond with their belief that women are not equal with men.⁸⁷

Human trafficking is generally referred to as modern day slavery and many international conventions which compel states to prohibit slavery and slavery-like practices have been ratified by many countries; such as, the Supplementary Convention on the Abolition of Slavery, the slave Trade and Institutions and Practices Similar to Slavery (Geneva: 7th September 1956). Though it could be argued that victims of human trafficking are not held in permanency as was the case with the old slavery, their situation and ordeal are nonetheless slave-like because they include servitude, torture, debt bondage, forced marriages, sexual exploitation, forced labour and lack of freedom (see chapter 5).

It is one of the functions of the UN to oversee the welfare of all member nations. It organizes and enforces programmes against crimes and other human rights abuses and related practices, of which human trafficking is one. Two of the agencies of the UN that are engaged in combating the crime of human trafficking are:

1. United Nations Office on Drugs and Crime (UNODC)
2. United Nations High Commission of Refugee (UNHR)

7.1.1 United Nations Office on Drugs and Crime (UNODC)⁸⁸

UNDOC was established in 1997 and is entrusted with global leadership in ensuring a steady and effective fight against illicit drugs and international crimes. Its mission includes, among many, to make the world safer from the above-mentioned crimes. The legal framework for UNODC against human trafficking was

86 Cairo Declaration of Human Rights, Art. 19(D), August 5, 1990.

87 For example: “In Saudi Arabia, women aren’t allowed to drive, or even ride bikes.... In many areas of Afghanistan, girls are often taken out of school when they hit puberty.... Husbands in Egypt and Bahrain can file official complaints at the airport to forbid their wives from leaving the country for any reason....” (See Rushtan Listverse, online version. In: <http://listverse.com/2008/11/20/10-extreme-examples-of-gender.inequality/> Accessed on 25. November 2014).

88 Cf. Nnebedum 2009. This section is based, with minor modifications, on the work by the same author as cited.

set by the Trafficking Protocol⁸⁹ which emphasizes the need to balance criminal justice issues with the proper attention to the victims which includes, in addition to protection and assistance, the prosecution of the offenders. As the custodian of the Trafficking Protocol, UNODC assists different countries in their efforts to fight the crime of human trafficking through a global programme known as Global Programme against Trafficking in Human Beings (GPAT).⁹⁰

To help the Stakeholders to be better equipped to fight human trafficking, UNODC engages in research and the collection of data of cases of human trafficking. This activity is of immense help in the setting forth of different modes of initiatives to governments and NGOs involved in the global fight against human

89 “In 2000, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children is referred to as ‘Trafficking Protocol’. It supplemented the UN Convention against Transnational Organized Crime (UNTOC) and provided the first internationally accepted definition of trafficking in persons.” (UNODC: UN.GIFT: CD version on Anti-Human Trafficking Publications and Documents 2008).

90 “UNODC, in conjunction with the United Nations Interregional Crime and Justice Research Institute (UNICRI), launched the Global Programme Against Trafficking in Human Beings (GPAT) in March 1999. GPAT assists countries to identify the causes and processes of trafficking in human beings, and to develop effective, ongoing responses to the realities faced by individuals victimized by this crime globally. Through GPAT, UNODC currently provides technical assistance to more than 60 countries. National and regional assistance projects are tailored to local needs, with the following core goals:

- To assist countries in ratifying and adopting legal frameworks in compliance with the provisions and international standard of the Trafficking Protocol;
- To assist countries in strengthening the institutional capacity and human resources of their national criminal justice systems to effectively prevent, investigate, prosecute and adjudicate cases of human trafficking, as well as to effectively support and protect victims and witnesses, based on close cooperation between criminal justice institutions and NGOs;
- To foster bilateral and multilateral cooperation between countries and their respective criminal justice actors, in order to strengthen the international criminal justice response to human trafficking;
- To collect and analyse data in order to facilitate evidence-based criminal justice policy and action at the global, regional and national level;
- In close cooperation with civil society actors, to assist countries in developing and implementing tailor-made awareness-raising campaigns to increase the general public’s alertness on the dangers of human trafficking.” (see: UNODC: UN.GIFT: CD version on Anti-Human Trafficking Publications and Documents 2008).

trafficking. UNODC does not only focus on the data collection of the main activities of human trafficking, but also on the crime-related aspects of it. A database established in 2002 is an avenue of a systematic collection of data and information on human trafficking and a means of making such public. Such public information is in areas of the routes taken by the traffickers, countries of origin and destinations, and methods and levels of operations. The trafficking database covers a period from 1996 to 2003 and includes information from 113 source institutions that provided the information on human trafficking involving 161 countries. These source institution provided lots of case details and information on trafficking worldwide. The main patterns of the crime at the different levels, for example, national, regional and international were provided and the co-relational links between the countries of origin, transit and destination were analysed. (UNODC Human Trafficking Case Law Database: undoc.org).⁹¹

From time to time UNDOC conducts regional research aimed at improving the standard of information available in the field of human trafficking and smuggling.⁹² Such improvement has the goal of strengthening the stakeholders to apply more appropriate actions in their fight against this crime. For example, in September 2006, UNODC empowered a high level investigation in the area of human trafficking in Benin, Nigeria and Togo (UNODC 2006).⁹³

UNODC has taken a lead in the fight against human trafficking through strategising their actions and the development of policies which are aimed at responding to the dynamisms of the crime of human trafficking. One such action of the UNODC in the fight against human trafficking is through the Global Initiative to Fight Human Trafficking (UN.GIFT 2008).

91 Nigeria has 13 reported law cases in this database. The dates of the cases and the verdicts are also reported and made open to the public. (see undoc.org, "UNODC Law Case Database". Accessed on 7. June 2014.).

92 "At the national level, UNODC usually undertakes research in the context of its assistance work to inform any specific activities undertaken. Broad-based research, for example, has been carried out and published in cooperation with UNICRI on the situation of trafficking in human beings in Benin, Brazil, the Czech Republic, Lebanon, Nigeria, the Philippines, Poland, Romania and Togo. As part of this research, various instruments have been designed to systematize and detail different aspects of both the trafficking that occurs and the national counter-trafficking efforts in response." (UNODC: UN.GIFT: CD version on Anti-Human Trafficking Publications and Documents 2008).

93 This document is also available online under: http://www.unodc.org/documents/human-trafficking/ht_research_report_nigeria.pdf. Accessed on 14. October 2014.

7.1.2 Global Initiative to Fight Human Trafficking (UN.GIFT)

Being committed to the fight against human trafficking, UNODC formally launched the UN-GIFT in March 2007. The mission statement for the convention reads:

“The United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) aims to mobilize state and non-state actors to eradicate human trafficking by: (a) reducing both the vulnerability of potential victims and the demand for exploitation in all its forms; (b) ensuring adequate protection and support to those who fall victim; and (c) supporting the efficient prosecution of the criminals involved, while respecting the fundamental human rights of all persons. “In carrying out its mission, UN.GIFT will increase knowledge and awareness on human trafficking; promote effective rights-based responses; build capacity of state and non-state actors, and foster partnerships for joint action against human trafficking.”

(UN.GIFT 2008: An Introduction ...: Mission Statement, online version).

The UN.GIFT is a call to all the stakeholders to embark on actions against the crime of human trafficking. “The United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) provides a much-needed boost to enhance global efforts of all stakeholders: to tackle the crime; to examine the counter-measures taken; and to identify shortcomings.” (UNODC: UN.GIFT: CD version on Anti-Human Trafficking Publications and Documents 2008). This was the aim and the reason behind the conference on human trafficking – UN.GIFT. It helped to assist the stakeholders in their responses to fight against human trafficking and the challenges they face in doing so. The UN.GIFT conference provided the stakeholders with practical actions that were necessary in facing the challenges of the fight; for example, reports on researches by various agencies were made available and discussed during the conference; tools that are suitable for various situations were developed; information and awareness creation were provided and partners were built among agencies.

UN.GIFT, as an agency, enables the governments to take more actions. It is clear that traffickers are not facing any greater risks because most of the investigations of cases do not result in convictions and when they do, little penalties that are not adequate are given to offenders (Shelley 2010). Recognizing the shortfalls in this clarion call to fight human trafficking, UN.GIFT takes steps to improve the knowledge of the nature of the crime, conditions and situations of vulnerability, and the profiles of victims as well as the traffickers, whereby the identities of the victims are diligently handled. UN.GIFT recognizes a lot of challenges in the fight against human trafficking and listed the following:

- Lack of Knowledge
 - Lack of a national legal framework
 - Lack of policy and capacity to respond
 - Limited protection of and assistance to victims
 - Limited international cooperation.
- (UN.GIFT 2008, Human Trafficking, An Overview, p. 1).⁹⁴

As well, UN.GIFT states that “overall conviction rates continue to remain low, data collection remains a challenge, and 39 member states still need to ratify the Trafficking in Person Protocol, further support to victims remains inadequate.” (UN.GIFT General Assembly 2013).⁹⁵ UN.GIFT stresses the need for increased knowledge of the crime, legal framework, protection and support of victims and a general multilateral cooperation amongst countries and NGOs.

Based on the awareness of the challenges, and on the facts which informed the organization of the UN.GIFT conference, the 10 objectives of the conference were developed and formulated as follows:

1. “To raise awareness—to tell the world that human trafficking exists and mobilize people to stop it.
2. To strengthen prevention—to inform vulnerable groups and alleviate the factors that make people vulnerable to trafficking.
3. To reduce demand—to attack the problem at its source by lowering incentives to trade and lowering demand for the products and services of exploited people.
4. To support and protect the victims—to ensure housing, counselling, medical, psychological and material assistance, keeping in mind the special needs of women and children and people at risk, such as those in refugee camps and conflict zones.
5. To improve law enforcement effectiveness—to improve information exchange on trafficking routes, traffickers’ profiles and victims’ identification in order to dismantle criminal groups and convict more traffickers. For those convicted, to ensure that the punishment fits the crime.
6. To implement international commitments—to ensure that international commitments are turned into national laws and practice by targeting technical and legal assistance to countries in greatest need and improving monitoring of implementation.
7. To enrich the database—to deepen global understanding of the scope and nature of trafficking in persons by more data collection and analysis, better data-sharing, joint research initiatives and creating evidence based report on global trafficking trends.

94 Also in: http://www.ungift.org/doc/knowledgehub/resource-centre/GIFT_Human_Trafficking_An_Overview_2008.pdf. Accessed on 28. November 2014.

95 In: <http://www.ungift.org/knowledgehub/stories/May2013/general-assembly-reviews-efforts-to-combat-human-trafficking.html>. Accessed on 2. December 2014.

8. To strengthen partnership—to build up regional and thematic networks involving civil society, inter-governmental organizations and the private sector.
9. To ensure resources—to attract and leverage resources for the sustainable funding of projects around the world committed to ending human trafficking.
10. To strengthen Member States' participation—to give Member States a strong sense of ownership in the process and create long-term momentum.”

(UN.GIFT 2008, *An Introduction...*, p. 2).

UN.GIFT works with all stakeholders to achieve these aims and objectives. These objectives require multi-stakeholders' motivation to be achieved and the efforts should be global. This is a strategy that requires coordination by all. To clear the way for this strategy and to ensure a smooth approach to these efforts, the stakeholders should be made to coordinate their efforts in the acquisition of knowledge and awareness of the crime. They should share their technical know-how among themselves, promote effective and appropriate responses, build and foster partnership for joint actions against trafficking and have a sense of responsibility for their actions. These objectives will increase awareness of this crime in all its ramifications and facilitate cooperation among agencies through combined efforts. They will enhance more interest in keeping the data of the human trafficking cases. This will help in the analysis of the setbacks and progress. In an effort to join forces and to expand the advantages of UN.GIFT, UNODC ought to pull or continue to pull knowledge from experts, especially those in the field who witness firsthand the ordeals of the victims, expand the scope and number of stakeholders to include these experts and other minor NGOs that are relevant, and emphasize more cooperation across borders.

7.1.2.1 The Vienna Forum

A global conference “The Vienna Forum to fight human trafficking” was held from the 13th to 15th of February in 2008 under the framework of UN.GIFT. The UN member states, agencies, NGOs, and stakeholders sent representatives to discuss the way forward in the fight against human trafficking through practical steps and strategic planning. “The Vienna Forum is organized around three central themes, which reflect the key issues that need to be addressed in a comprehensive anti-trafficking strategy: Why does human trafficking occur? What are the consequences? What measures might be taken in response?” (UN.GIFT 2008, *An Introduction...*, p. 3). In the light of the central themes of the Vienna Forum which are vulnerability, impact and action (UN.GIFT 2008), any policy aimed at fighting human trafficking should revolve around the following questions:

- Why does human trafficking occur and what are the conditions and situations which render the individual a potential victim? Which regions have a high frequency of occurrence and why? A focus on the push and pull factors as causes of human trafficking should also be given attention. (This is the issue of vulnerability and it calls to mind the need to find out the root causes of human trafficking and to raise awareness of the crime).
- What are the consequences of the crime on the victims, economy, and society at large? A reference to the countries of origin, transition and destination should be incorporated. (This is the issue of impact).
- What are the measures to be taken by the stakeholder to implement the strategies to fight the crime in the different regions of the world? Such measures should include more research, data collection and sharing of information.⁹⁶ (This is the issue of measures against the crime which also include partnership among stakeholders).

These have been often neglected in the planning of strategies against human trafficking because most of the causes of vulnerability, apart from poverty, centre on misinformation. Most of the times countries and agencies tend to work in isolation from one another in their fight against human trafficking because of the fear of making their countries' data and security porous (see chapter 7.7.2.2). When stakeholders partner with each other, wasteful efforts are avoided. This is necessary because of the financial implications involved in the fight.⁹⁷

Even though the UNODC has, through its many agencies and initiatives,⁹⁸ continued to carry out the fight against human trafficking, the role of ensuring that the fight is sustained should be the concern of every one. The Executive Director of UNODC, Antonio Maria Costa, maintaining his point that the fight should not be only a governmental affair, urged all and sundry to contribute to

96 The Forum encouraged and strengthened the stakeholders and participants to use all the legitimate avenues available to them to discover and form policies to prevent vulnerable people from becoming victims and protect victims from further suffering and prosecute offenders. (cf. UN-GIFT 2008).

97 Conducting field interviews, researches and data collection in the fight against human trafficking is burdened with heavy financial involvement and is also time consuming (Berliner Bündnisse Gegen Menschenhandel 2010: 1.2).

98 Some of these agencies are: International Organization for Migration (IOM); International Labour Organization (ILO); Human Trafficking Initiatives and Activities of UNDAW (Reports); United Nations High Commissioner for Refugees (UNHCR); Office of the United Nations High Commissioner for Human Rights (OHCHR); Global Initiative to Fight Human Trafficking (UN-GIFT) among many others.

the anti-trafficking action and encouraged the crusaders in their efforts towards this goal. In his message at the Vienna Forum he said: “The Vienna Forum to Fight Human Trafficking is more than an inter-governmental meeting. It is a call to action for everyone who is disgusted by a crime that has no place in the modern world.” (Costa – UN.GIFT 2008, online version).⁹⁹ Everyone has a role to play in this fight: for example, government officials, parliamentarians, private companies, the media actors and entertainers, civil society, religious leaders, and society at large. With this type of cooperation, awareness could be raised, political will generated and a sound basis for concrete steps which could help to minimize the situations that render people vulnerable could be created (Ursula 2008: online version).¹⁰⁰ Ursula Plassnik maintains that “to effectively fight human trafficking, we need to work on public awareness of this terrible violation of human rights that is often too little known, even invisible. No country is immune against human trafficking.” (Ursula 2008, online version).¹⁰¹

The Vienna Forum pointed to the lack of implementation of the Trafficking Protocols, which are ‘prevention’, ‘prosecution’ and ‘protection’. It served, therefore, as an occasion to remind the stakeholders of the need to act accordingly. A major task in the fight against human trafficking should be to introduce more practical actions and formulate new innovations to approach the issue of the crime through.¹⁰²

- Tracking and blocking internet arrangements and payments for human trafficking and smuggling transactions.
- Innovative high technology to monitor, locate and disrupt human trafficking routes. The crime of human trafficking is dynamic and new methods and routes are discovered by the traffickers to evade detection.
- Codes of conduct to abolish sex tourism and prostitution. This is because sex tourism and prostitution help the crime of human trafficking to boom because there is a ready market for the victims.

99 Message by Antonio Maria Costa, the Executive Director of UNODC, UN.GIFT, UNODC 13th February, 2008. In: <http://www.ungift.org/docs/ungift/pdf/vf/ebook2.pdf>. Accessed on 9. June 2014.

100 Message by Ursula Plassnik, Minister for European and International Affairs of the Republic of Austria, UN.GIFT, 13th–15th February, 2008. In <http://www.ungift.org/docs/ungift/pdf/vf/ebook2.pdf>. Accessed on 9. June 2014.

101 Ibid.

102 The following points are generated on the basis of the suggestions at the Vienna Forum. See UN.GIFT 2008.

- Helplines to report suspected child prostitution, sex slavery and slave-like activities.
- Social services to put an end to large scale street begging by children and handicapped people.
- Religious appeals and messages. This is because the message of religion most of the times 'may' penetrate the consciences of people and 'may' help in the formation of their moral standards.

(see UN.GIFT 2008: An Introduction to Human Trafficking...)

One interesting aspect of the Forum is the recognition of the importance of religion in the fight against human trafficking. It was maintained throughout the Forum that religious leaders and religion have a strong influence on society. At the Vienna Forum, Agostino Marchetto representing the Vatican City states that: "all efforts to tackle criminal activities and to protect the victims of people involved in trafficking should include both men and women and place human rights at the centre of all strategies." (Marchetto 2008, p. 167). The role of the religious leaders in the fight against human trafficking cannot be neglected. This is to a great extent necessary because most instances of the suppression of women and exploitation of their services stem from religious tenets. Esther Kathirola writes: "The patriarchal culture which is dominant in all religions always de-motivated communities to become spectators and remain silent, throughout the history of the oppressed and the poor and in particular with the issues connected with women and the girl children." (Kathirola 2007, online version, p. 3). People and groups who want to continue the exploitation of the weak and vulnerable of society hold onto certain religious tenets which they misinterpret and misconstrue out-of-context to justify their actions. Religious leaders and scholars should focus on the strengths of their teachings in the faith related matters to correct the wrong teachings and understanding of the people in religious matters, especially as they concern women. New doctrines could be formulated and ecclesiastical laws¹⁰³ expanded to help in the fight against human trafficking through the liberation of the victims of human trafficking. As demonstrated in the "Interfaith Dialogue" in South Africa, many of the religious leaders are already actively involved in preventing and fighting human trafficking in different ways. There is still more to be done.

103 This means the laws governing religious groups and churches.

7.1.3 United Nations High Commissioner for Refugees (UNHCR)

The primary mandate of the UNHCR is to ensure and coordinate global actions in order to protect refugees and resolve problems associated with the displacement of people.¹⁰⁴ “The Office of the United Nations High Commissioner for Refugees was established on December 14, 1950 by the United Nations General Assembly. The agency is mandated to lead and co-ordinate international action meant to protect refugees and resolve refugee problems worldwide. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another state, with the option to return home voluntarily, integrate locally or to resettle in a third country. It also has a mandate to help stateless people.”¹⁰⁵ In her efforts to safeguard the rights and welfare of refugees, the UNHCR provides assistance to internally displaced persons (IDPs).

Though the mandate of the UNHCR is specifically geared towards refugees, it nonetheless extends to victims of human trafficking because the situations in which some refugees find themselves may render them vulnerable to human trafficking. According to the terms of reference for the UNHCR, a refugee is a person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” (Article 1(A) (2) of the 1951 Refugee Convention). It is true that not all the victims of human trafficking may fall within the ambit of this definition but because some of the refugees may find themselves in a situation that may render them vulnerable, the UNHCR’s activities are wide enough to involve the issue of human trafficking (UNHCR: Guidelines on international protection, HCR/GIP/06/07).

The UNHCR’s concern on the issue of human trafficking can be divided into two:

- Prevention of the crime of human trafficking
- Protection of the victims of human trafficking

These two functions of the UNHCR, as far as the fight against human trafficking is concerned, are aimed at ensuring that refugees do not fall victims to human

104 Cf. The 1950 Statute of the Office of the United Nations High Commissioner for Refugee.

105 www.unhcr.org. Accessed on 7. June 2014.

trafficking and that the human rights of those who have become victims already, are protected.

7.2 Implementation of the Trafficking Protocol

In November 2000, the international community under the UN adopted the Trafficking Protocol and this has been ratified by 116 countries as of December 4th 2007 (Clark 2008, p. 59). After this adoption, there is an increase in the interest of countries and stakeholders in combating trafficking in human beings. This can be substantiated by the monetary contributions, awareness campaigns, researches, enactment of legislations, training of personnel and victim support services that governments and NGOs have been initiating and fostering. Aronowitz sees a lack of cooperation both internally and internationally as one of the conditions facilitating human trafficking and maintains that combating it should be an integrated affair, for it to reduce the trans-national crime (Aronowitz 2001, p. 185). This points to the fact that the fight should be a comprehensive one in which concerted efforts should be made. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children being the only international legal instrument that addresses human trafficking as a crime listed the three key points to be used as points of reference in the fight against human trafficking. These are known as the “3P” with focus “on the prevention of the crime, the prosecution of offenders and the protection of victims.” (Clark 2008, p. 59).

For the implementation of the Trafficking Protocol to be carried out globally, there should be a widespread understanding and acceptance of a definition of human trafficking that is aligned with the Trafficking Protocol itself. Such a definition should “be reflected in national laws, which criminalize both internal and transnational trafficking, address trafficking in men and children, as well as women, and acknowledge the various forms of exploitation.” (Kangaspunta et al. 2008, p. 27). One of the challenges of this action will be how to bring the law enforcement agents and judicial authorities to a full comprehension of the Trafficking Protocol. This is because in spite of the fact that the UN Anti-Human Trafficking Protocol which entered into force in December 2005 obliges all countries to cooperate, its “ratification is not universal, implementation is patchy, and information incomplete.” (Costa in Kangaspunta et al. 2008, Preface).¹⁰⁶ Yet another challenge is the differences in the legal systems of individual countries: “In many ways, the differences in legal frameworks across jurisdictions constitute the most fundamental

106 Antonio Maria Costa was the Executive Director of United Nations Office on Drugs and Crime from May 2002 – July 2010.

impediment to an effective response to the ongoing crime of trafficking in persons.” (Kangaspunta et al. 2008, Human Trafficking, An Overview, p. 34). Writing on the legal challenges, Mike Dottridge discovers that “representatives of one State, when referring to a case of human trafficking in communication with representatives of another State, may not be referring to the same practices. This result clearly contradicts the intentions of the Trafficking Protocol.” (Dottridge 2008, p. 104). These challenges in the fight against human trafficking could be seen as some of the reasons why such a crime still exists in the 21st century.

The crime of human trafficking continues to exist because the offenders are often given much lesser penalties in comparison with the offence they have committed and the monetary gains they have made. Kangaspunta et al. (2008) write: “One clear conclusion is that traffickers still face little risk. Even where trafficking is criminalized in a State, investigations most often do not result in convictions or, where they do, in appropriate punishment of the offenders.” (Kangaspunta et al. 2008, p. 1). Given the precarious situation in which the victims of human trafficking are and the harm the crime does to society at large, governments of all countries are implored not only to ratify the Trafficking Protocol but also to implement it. The ratification and implementation, according to the UN.GIFT report, can be measures towards resolving the challenges the anti-trafficking strategies face. That the victims are sometimes not identified and the offenders not prosecuted can be attributed to inadequate knowledge of the crime and how the traffickers operate on one side, and on the other side, the lack of proper legislation on the crime.

7.2.1 Prevention of the crime of human trafficking

Sub-human living situations and the quest for survival can increase the risk of being vulnerable to human trafficking. There is a problem of the non-clarification of the term ‘prevention’. As Mike Clark puts it: “While recognized as a critical issue in combating trafficking, little clarity exists as to what constitutes comprehensive preventive measures.” (Clark 2008, p. 62). The Organisation for Security and Cooperation in Europe (OSCE) focuses its main agenda in the fight on human trafficking on prevention and developed three themes as the basis of its activities in the area of prevention. Clark describes these themes as actions encompassing three broad areas: “The first is prevention through public awareness and education... the second is prevention through data collection and research in order to understand both the scope and the nature of trafficking in those countries. The third form of prevention cited by OSCE member states involves the development of social and economic interventions related to human trafficking.” (Clark 2008, p. 62). However, wherever national or international action plans exist on the issue

of the fight against human trafficking, the role of prevention of the crime is always given an important place. Any discussion of the prevention of human trafficking should centre on the appraisal of the crime, policies that should enhance the avoidance or removal of the crime and efforts to ward off fears of such crime from the people, as well as the management of the impact on the victims to avoid reoccurrence. There are lots of means of embarking on the programme of prevention but for the purpose of this work the following are discussed:

- Women empowerment
- Awareness and Media Campaigns

7.2.1.1 Women Empowerment (Closing the gender gap)

The victims of human trafficking (especially for sexual exploitation) are usually women. They are trafficked for household menial jobs and for prostitution. This means that the crime of human trafficking should also be seen in the context of gender inequality and be considered as an abuse of the human rights of women and be presented as oppression of women (Nautz & Sauer 2008). In this context, Brysk writes: “[...] the best remedy and prevention for the harms of trafficking and other forms of sexual exploitation is programs and policies to increase women’s incomes, educations and [...] freedoms.” (Brysk 2011, p. 268). This fact makes it necessary to tackle the problem of human trafficking from the root causes, of which gender inequality and discrimination is one. Solution findings and preventive measures should aim at balancing the differences between males and females, as discussed above (see Chapter 3.6.2) with the view of preventing vulnerability of the victims. Brysk writes: “Since all forms of labour are linked to sexual abuse in conditions of gender inequity, the best remedy for and prevention of the harms of trafficking and other forms of sexual exploitation is programs and policies that increase women’s incomes, educations, and reproductive freedoms.” (Brysk 2011, p. 268). This inequality and power gap occurs more in developing countries which often are the countries of origin of the victims. There are already efforts being made by many governments at the international level to classify the crime of human trafficking appropriately as a crime that should not only be understood from the economic perspective (forced labour), but also in terms of gender inequality with regard to oppression and degradation of women (UN.GIFT 2008, An Introduction..., online version). It was reported in the UN General Assembly that “some States provided information about efforts to address the root causes of trafficking, including through their poverty eradication activities aimed at economically empowering women, and measures to improve access of girls and women to quality education and vocational training

to enhance entrepreneurial activities of women.” (UN General Assembly 2004: A/59/185, B (2), No. 31). Upon the completion of training and instruction on different possibilities of jobs and businesses, micro-credit loans could be provided to poor women and girls to help them start small businesses of their own. Poverty eradication programmes, like the creation of more jobs, support in small scale agriculture, hiring of tools for handiworks and the creation of cooperative unions could be effective means of keeping women and girls away from the menace of the traffickers and reducing their poverty induced vulnerability.

The gender dimension of the problem of human trafficking at the international level is being looked at at a national level in Austria by the Federal Government of Austria and by some NGOs. These NGOs focus on the independence of the female victims as a factor that should be taken into account when planning preventive strategies against human trafficking and discuss the issue of the resident permit status of married migrant women. Nautz & Sauer supporting the NGOs write:

“Sie skandalisierten die spezifisch weiblichen Formen von Abhängigkeit und damit von Verwundbarkeit, beispielsweise durch geschlechtsspezifische Arbeitsteilung und durch die daraus folgende ökonomische Unselbstständigkeit von Frauen, aber auch durch den oft nur abgeleiteten (Aufenthalts-) Status von migrierten Ehefrauen. Deshalb wurden frauenspezifische Maßnahmen wie Schutzräume für gehandelte Frauen und ein eigener Aufenthaltstitel für Ehefrauen gefordert.” (Nautz & Sauer 2008, p. 89).

The theme of human trafficking became a serious one in the Austrian political agenda in the 1990s after widespread attention was given to it at the international level. Measures and legislations against the crime, for example, those of the Palermo Protocol 2000 and Supplementary Protocols, oblige all participating countries and stakeholders to implement its contents.

7.2.1.2 Awareness and Media Campaigns

According to the Brussels Declaration on Preventing and Combating Trafficking in Human Beings (Brussels Declaration), awareness campaigns should be a continuous affair in the fight against human trafficking, and care should be taken to direct such actions towards understanding the current trend in human trafficking (Brussels Declaration, art. 10).¹⁰⁷

In summarising the Brussels Declaration on “Awareness Raising” the following points could be noted:

107 <http://www.cfr.org/human-rights/brussels-declaration-preventing-combating-trafficking-human-beings/p27797> Accessed on 2. December 2014.

- “Awareness raising and information campaigns should be an on-going process.
- Awareness raising campaigns should be aimed at relevant target groups.
- The campaigns must be realistic and factual concerning the possibilities of legal migration and foreign employment opportunities and of the potential risks posed by the use of irregular migration methods.
- The perception of the problem of trafficking in human beings brought forward by media needs to include a clear explanation of the phenomenon and this explanation needs to be better developed.
- Awareness raising campaigns aimed at the demand side of the trafficking process should be developed as part of a comprehensive process of reducing trafficking effectively.
- Well-publicised telephone hotlines should be established in the countries of origin, transit and destination.”
(Brussels Declaration, art. 10)¹⁰⁸

Awareness campaigns should be target-oriented, and that means that, it should be aimed at such groups as the potential victims, politicians, executive persons, and social workers. Awareness and information campaigns should target younger individuals who are most vulnerable to human traffickers. These individuals should be given adequate and accurate information about the advantages of safe and regular migration and the problems of living abroad. There are other vulnerable groups that are not easily reachable because of their remote location and illiteracy. Awareness campaigns should be able to overcome these barriers in order to inform and empower them. Governments and NGOs that are drafting their plan of actions should have this in mind. Kangaspunta et al. (2008) write: “Throughout the entire process of designing and implementing a national plan of action, public awareness must be raised with strong campaigns capable of reaching even the most vulnerable people.” (Kangaspunta et al. 2008, p. 27). Reaching these people and making them participate in the discussion of human trafficking will be an action aimed at bringing marginalized people into the whole plan of fighting human trafficking. The UN implores governments and NGOs to cooperate “to support and allocate resources for programmes to strengthen preventive actions, in particular education and campaigns to increase public awareness of the issue at the national and grass-roots levels.” (UN General Assembly Resolution 2001: A/RES/55/67).

108 <http://www.cfr.org/human-rights/brussels-declaration-preventing-combating-trafficking-human-beings/p27797> Accessed on 2. December 2014.

There should be extensive campaigns with visual and reading materials on the realities of migration and human trafficking. The information the governments and other stakeholders disseminate should be thorough and should, among others, include “publication of brochures, leaflets, posters and advertisements, as well as the production and screening of movies and documentaries.” (UN General Assembly 2004: A/59/185, B (1) 2. No. 28). In remote areas, visual materials are very necessary owing to the level of illiteracy in those areas. Some anonymous testimonies of freed victims could be sought in the preparation of the best way to disseminate information about human trafficking and the best mechanisms to use in the fight against it. Provision of hotlines for information and launching of reports on human trafficking should not be neglected.

7.2.2 Protection of the victims of human trafficking

The second function of the UNHCR in anti-human trafficking activities is to provide protection to those who are already victims of human trafficking. The agents of persecution for the victims of human trafficking can be the State authorities or the individual trafficker(s). In most cases, as the UNHCR reports, “the persecutory acts emanate from individuals, that is, traffickers or criminal enterprises or, in some situations, family or community members.” (UNHCR: Guidelines on international protection, HCR/GIP/06/07: No. 21). This situation makes it necessary for the stakeholders to examine the chances of the victims receiving protection both at the destination countries in which they found themselves and at their home countries if they should eventually return. Most victims are afraid of persecution in their countries if they return, some are afraid of the traffickers’ threats and the possibility of being re-trafficked, and some who are suffering in the hands of their traffickers are sometimes denied access to asylum procedures. In this case it is within the competence of the UNHCR to assess the situation of the individual victim and to find out the best option for his or her protection and assistance. Thus:

“if the victim risks becoming re-trafficked and reprisals from members of the trafficking network, or becoming socially excluded or discriminated as a result of his or her trafficking experience, he or she may qualify for international protection under the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees, or under one of the international human rights instruments UNHCR therefore promotes the development of rights-based and protection-sensitive identification and referral mechanisms, and fair and efficient asylum procedures.” (UNHCR: Guidelines on international protection, HCR/GIP/06/07; see also UNHCR, Resettlement Handbook, November 2004 edition, Chapter 4:1).

The legislative and administrative mechanisms of a country should be put in place in such a way that victims of human trafficking may be able to be protected if they find themselves within her territory.

The UNHCR Guidelines on International Protection addresses the issue of 'human trafficking and Statelessness'. It is the fundamental right of each individual to belong to one country or more, as the case may be, as a citizen (cf. UDHR 1948: Convention on the Status of Stateless Persons 1954 and Convention on the Reduction of Statelessness 1961). Although human trafficking may render some victims stateless, the mere fact of being a victim does not automatically mean that one is stateless. Victims of human trafficking are bonafide citizens of their countries of origin. Often, the traffickers confiscate their identification documents to have absolute control over them (see Chapter 5.2.2). In such a case, the governments of the countries of origin should be able to assist them to regularise their status by acquiring a replacement of their identification documents. UNHCR admonishes that in this type of process the confidentiality of the victims should be considered (UNHCR: Guidelines on international protection, HCR/GIP/06/07). If the government of the country of origin fails to assist, the victim could be rendered stateless by UNHCR (cf. UNHCR Executive Committee Conclusion: No. 90 (LII), par. (s) 2001). There could be a situation whereby a victim whose identification documents have been confiscated by the traffickers in one country has been trafficked further into another. The UNHCR's guidelines provides that the individual concerned could be eligible to apply for the status of a refugee in the present country (cf. Ibid.).

7.2.2.1 Protection of the Victims of Human Trafficking: A New Paradigm

Setting a new paradigm for handling cases of human trafficking whereby the victims are decriminalized should include the development of a wide range of welfare packages for their rescue from the perpetrators. For example, return (if necessary) to their home countries and reintegration into the communities. Within this welfare package, arrangements should be made for some medical care, counselling and some education like vocational training while their home governments and families are contacted for assessments of the possibility of returning home and its safety to avoid traumatising the victims further and, in extreme cases, a reoccurrence of trafficking. The Trafficking Protocol provides that each country should inscribe the protection of the privacy and identity of the victims of human trafficking within her domestic law and make all legal proceedings related confidential (cf. Trafficking Protocol 2003, Article 6 (1). This presupposes

that the countries should be able to provide legal assistance to the victims bearing in mind their languages and culture. They are to be helped in terms of obtaining some basic needs like food, shelter and medication (cf. Trafficking Protocol 2003, Article 6, 3 (a) (c)). In order to protect the victims adequately, a country should “consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.” (Trafficking Protocol 2003, Article 7, (1)).

Though there are some victims of human trafficking who may wish to go back to their countries of origin, many of them don't wish to do so. This could be because of many factors ranging from fear of living in poverty to fear of revenge from the traffickers. Giving this situation, it is recommended that the victims should be supported when they are to return to their countries of origin. This support should be part of a wider concept of victims' protection. In the management of the victims, the stakeholders should know that there are a lot of negative implications that are connected with the return of victims of human trafficking to their countries of origin. “Die Rückkehr in das Herkunftsland kann für Betroffene des Menschenhandels mit großen Gefahren verbunden sein und sich deshalb als äußerst problematisch erweisen.” (Bericht des Menschenrechtsbeirates zu Identifizierung und Schutz von Opfern des Menschenhandels 2012: 9.3, p. 78).¹⁰⁹ UNHCR recognizes two major dangers for the victims of human trafficking who return to their countries of origin: the first danger could be from the traffickers who are seeking revenge, and the second one could be from the society who may discriminate against them. UNHCR reports that the victims do suffer, among many other things, discrimination, punishment and neglect from the community and, in some cases, from governmental agencies (UNHCR HCR/GIP/06/07, par.7).

In order to curtail the problems which the victims of human trafficking face in their home countries, it is recommended that experts should interview the individual victims and analyse the situation and dangers on the basis of the information that is known about the country (Bericht des Menschenrechtsbeirates zu Identifizierung und Schutz von Opfern des Menschenhandels 2012). The Austrian government has taken the initiative towards this direction. In the ‘National Action Plan Against Human Trafficking’, it is stated that there should be provisions for support of any victim who may wish to return to his or her home country. This support should include an analysis of all possible dangers and should focus on safe return and integration of the victims (Bericht des Menschenrechtsbeirates

109 In: http://www.bmi.gv.at/cms/BMI_MRB/mrb/berichte/files/Bericht_der_AG_Menschenhandel_Endversion.pdf. Accessed on 2. December 2014.

zu Identifizierung und Schutz von Opfern des Menschenhandels 2012). LEFÖ-IBF has embarked on the project of helping the victims who wish to return to their home countries to do so safely and it could do this more competently and effectively if there is cooperation between it and the Interior Affairs Ministry of the Austrian government.

The Trafficking Protocol sets a milestone on the international stage by enacting laws which concern victims of crime: "Building on earlier international policy initiatives, the Convention is the first international instrument requiring States to provide assistance and protection to victims of crime." (Kangaspunta et al. 2008, Human Trafficking, An Overview, p. 34). In implementing the Trafficking Protocol's provisions, stakeholders should bear in mind the following:

- Provision of all round recovery of the victims in terms of physical, psychological and social wellbeing (Trafficking Protocol 2003, Article 6 (3) c).
- Provision of security against the revenge of the traffickers for the rescued victims (Trafficking Protocol 2003, Article 6 (5))
- Legalisation of the victims' immigration status on a humanitarian basis (Trafficking Protocol 2003, Article 7 (2)).
- Facilitation of a safe and justified return to countries of origin if need be (Trafficking Protocol 2003, Article 8 (1) (2) (3) (4)).

(See also Kangaspunta et al. 2008, Human Trafficking, An Overview, p. 34)

There is always a question of what to do when the victims do not want to go home.

Some countries set out some strict conditions for the granting of resident permits or citizenship and some of these conditions affect the victims of human trafficking adversely. In some countries, like Germany, and to some extent, Austria, the victims are expected to cooperate with the law enforcement agents as a precondition for their protection. Some policy makers maintain that for any migrant to seek help from the government, the person must conform to the laws of the land, otherwise the alternative will be deportation (Huland 2012). This position does not take the condition in which the victims of human trafficking find themselves before and during the trafficking into consideration. They are under the full control of the traffickers and can do little to emancipate themselves. Huland writes: "das sie nicht auffallen dürfen, sind sie besonders gefährdet, ausgebeutet zu werden, und sie bleiben de facto ohne Rechte." (Huland 2012, p. 180). This is one of the reasons why their situation should not be further worsened by instrumentalising them in the prosecution process of the offenders. The suggestion of Huland in this direction is very plausible: "Opferschutz soll unabhängig von einer Aussagebereitschaft gewährt werden. Auf Strafverfolgung Betroffener

wegen ausländerrechtlicher Delikte, die im Zusammenhang mit der Menschenhandelssituation entstanden sind, soll verzichtet werden. Und im Falle der Gefährdung Betroffener oder ihrer Angehörigen soll es rechtliche Alternativen zu einer Abschiebung geben.” (Huland 2012, pp. 122–123).

The governmental agencies should cooperate with the civil agencies, like, NGOs, in the protection of the victims of human trafficking and should make finances available for such cooperation and work. The relationship with the police in the activity of protecting the victims should be intensified and the police should be ready to refer the victims to the appropriate NGOs, especially when they are given a temporal resident permit.

7.2.2.2 Human Rights and Protection of Victims

The guideline for the protection of the victims of human rights abuse was incorporated in the resident and asylum policy guidelines of the EU in 2007 (Huland 2012). Victims of human trafficking are mostly migrants who are in a country illegally. Victims’ protection requires that the government should take care of them as soon as they are identified as such. Their status notwithstanding, they need to be given the basic human treatment as human beings: “Hierzu gehört insbesondere auch ein eindeutig formulierte rechtliche Regelung, die für Rechtssicherheit sorgt bei allen Ärzten und anderen Personen, die Menschen in der Illegalität helfen.” (Huland 2012, p. 182). A human right approach to human trafficking ought to rest on the dual mandate of protection and empowerment (Brysk 2011, p. 267). “Human rights” is used in this work as a normative theory which is the basic standard for the evaluation of the attitudes of a country or law towards the subjects. To apply the principles of human rights to the individual actions of a country towards the citizens or people residing within her territory is the obligation of every country and that lays emphasis on the fact that: “Menschenrecht menschlichen Grundbedürfnissen dienen soll.” (Galtung 1994, p. 12). This is because, according to Galtung, human right and its declarations cover the basis of human existence (Galtung 1994). In connection with the problem of human trafficking, the UDHR obliges all countries to strive towards the basic wellbeing of everyone and especially those who are suffering and in dire need of guarantee for their basic human rights (Marshall 1992). The aim of the human rights’ approach in the fight against human trafficking should be clear (cf. Chapter 7.2.2.1)

It is necessary to mention that one of the best approaches to the crime of human trafficking is to create policies and actions that can help to prevent it from happening. This action of developing preventive mechanisms is called for because according to Brysk: “the requisite of protection in the first generation of attention

to a social problem often obscures broader strategies for empowerment vis-à-vis structural root causes.” (Brysk 2011, p. 267). In the resolution on traffic in women and girls adopted by the General Assembly of the UN, human trafficking and the related offences are seen as violations of human rights: “... sexual violence and trafficking in women and girls for purposes of economic exploitation, sexual exploitation through prostitution and other forms of sexual exploitation and contemporary forms of slavery are serious violations of human rights.” (UN General Assembly: A/RES/55/67).¹¹⁰ Regardless of their legal status in the migration process, the rights of the victims of human trafficking should be protected if their exploitation is to be reduced or eliminated. The protection of the rights of the victims could be occasioned, first of all, by reducing their worries of being criminalized and deported. Marshall suggests a way to this: “one important initiative in this area might be to provide migrants with avenues of complaint through mechanisms which do not bring them into direct contact with Police and Immigration officials, thus encouraging migrants to report cases of exploitation without having to worry about the risk of deportation.” (Marshall 2001, 1). Part II of the Trafficking Protocol expects countries to make adequate provisions with regard to the protection and assistance of the victims of human trafficking. The Protocol reads:

- “1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, *inter alia*, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - (a) Information on relevant court and administrative proceedings;
 - (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

110 This statement is contained in the General Assembly 55th Session, Agenda item 07, ‘Traffic in women and girls’. Resolution adopted by the General Assembly [on the report of the Third Committee (A/55/595 and Corr. 1 and 2)].

- (a) Appropriate housing;
 - (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - (c) Medical, psychological and material assistance; and
 - (d) Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
 5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
 6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.”
- (cf. Part 11. Trafficking Protocol, (B) article 6: On assistance to and protection of victims of trafficking in persons, see: UN Trafficking Protocol 2000).

The provisions of this protocol should serve as guidance to stakeholders and governments when making policies on protection or assessing the adequacy of those policies already made by them with regard to the protection of the victims. Trafficking report 2009 states that there is an estimate of 12 million persons worldwide who are stateless and are vulnerable to human trafficking (Refugee International 2009¹¹¹, Shelley 2010; see also chapter 4.). It lies within the scope of victims’ protection that the state in which they find themselves should strive to regularize their immigration status because of the provision of the UDHR which states that: “(1) Everyone has the right to a nationality; (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality” (UDHR, art. 15, par. 1 & 2). It should be noted, however, that the scope and content of article 15. of the UDHR does not specifically clarify the terms and procedure to be followed toward its full realization. The article could be criticised for its failure to provide a full procedure for admission into the citizenship of any nation.

Many countries capitalize on this lack of specificity and regulate their procedure for citizenship to their favour and therefore put the migrants, especially victims of human trafficking, at a disadvantage. UDHR could be expanded to expantiate on the procedure for citizenship for victims of human trafficking. Such an expansion could include a mandate for nations to consider the rights of the victims while making their nationalization laws. It is recommended that such

111 See: <http://www.refintl.org/policy/in-depth-report/nationality-rights-all>. Accessed 21. June 2014.

laws should be promulgated in a clear and recognizable way so that the victims of human trafficking can understand how they work and have access to them.

It should be noted that these measures as contained in Part II of the Trafficking Protocol should be read and implemented in conjunction with other relevant measures that have been taken by other stakeholders.¹¹² The necessity of implementing these measures is a clarion call on all the countries because, though many have the laws, they do not implement them, while others have simply not adopted them (UNHCR Guidelines on international protection: HCR/GIP/06/07). In the absence of a country's ability to implement sufficiently the measures stated in Part II of the Trafficking Protocol, the victims' fear of persecution will increase. UNHCR reports that "the mere existence of a law prohibiting trafficking in persons will not of itself be sufficient to exclude the possibility of persecution." (UNHCR Guidelines on international protection: HCR/GIP/06/07: No. 23). The provision of the protection mechanism includes making the protection strategies accessible to the victims; otherwise the country will still be found wanting in the provision of protection for the victims.

7.2.3 Prosecution

The Trafficking Protocol states that countries are obliged to criminalize the practice of human trafficking within their domestic laws and that organizations and agencies should adopt action plans to prosecute offenders (Kangaspunta et al. 2008, Human Trafficking, An Overview). The Trafficking Protocol sets out some guidelines to be followed in the prosecution of the offenders but the challenges to this practice are many; for example, the expertise to investigate and prosecute properly the crime is not easy to acquire and some countries do not possess the ability to do it. This brings the need for cooperation among countries into the limelight. While one focuses on prosecution as an anti-trafficking strategy, the following as summarized from the recommendations of Kangaspunta et al. (2008) are to be observed:

112 Many resolutions and policies emphasize the obligation of countries to respect and advocate the principles of human rights especially in dealing with the weak and vulnerable like the victims of human trafficking. For example: see the Council of Europe Convention on Action against Trafficking in Human Beings of May 2005; UN.GIFT 2008; and Organization for Security and Cooperation in Europe (OSCE) Action Plan to Combat Trafficking in Human Beings of 2003.

- Travelling documents should be made in such a way that counterfeits could easily be identified.
 - Domestic laws should declare human trafficking a criminal offence.
 - Any attempt of trafficking in human beings or accomplice in it should be made a criminal offence as well.
 - The legislation on human trafficking should apply to all, irrespective of age or nationality.
 - A clear-cut distinction should be made between trafficking in persons and other forms of irregular migration, like human smuggling.
 - Measures should be provided, whereby the victims should obtain compensation and the offenders should forfeit the fortunes made through human trafficking.
- (See Kangaspunta et al. 2008, Human Trafficking, An Overview, online version, p. 35).

Countries should apply significant measures to implement anti-trafficking laws and ensure that there are convictions of those found to be guilty of the crime without exceptions. In Austria, for example, there is progress in this instance (cf. Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, Zeitraum März 2007 – Februar 2009).¹¹³

There should not be any form of immunity for anybody who is involved in the crime of human trafficking. This pertains to many privileges enjoyed by people, like diplomats and top government officials. In this direction, Austria's action is commendable: "Die Regierung ging auch gegen Menschenhandelsfälle durch in Österreich stationierte Diplomaten vor, trotz der Herausforderungen, mit denen sich die Strafverfolgung der Täter aufgrund der diplomatischen Immunität konfrontiert sieht." (see <http://photos.state.gov/libraries/austria>).¹¹⁴

7.2.3.1 *Legislative Measures*

In the fight against human trafficking, one finds that the problems most pervasive in many countries are:

- Lack of proper legislative definition of the crime
- Lack of strong and comprehensive laws for the prosecution of the offenders

113 See also this report in <http://photos.state.gov/libraries/austria>. Accessed on 4. July 2014.

114 Accessed on 4. July 2014.

On this note, combating human trafficking should be an action to be taken by countries of origin, transit and destination. On the side of the sending countries (countries of origin) more actions on socio-economic aspects of life need to be taken. The idea of tightening entry procedures in the transit and destination countries has not helped to reduce the business of trafficking in human beings rather it has created an opportunity for the perpetrators to increase their profit by expanding their route. When one country tightens her immigration legislations, the traffickers resort to another one with lax immigration restrictions. To avoid such tricks, countries should work together to harmonize common basic entry or passage procedures so that the traffickers will find it difficult to target an easy entry point.

Governments should provide frameworks in their legal systems which prevent “victims of trafficking, in particular women and girls, from being prosecuted for their illegal entry or residence, taking into account that they are victims of exploitation.” (UN General Assembly Resolution 2001: A/RES/55/67, No. 13). While reviewing the legislations, countries should develop effective means of cracking down on illegal employment. They should be able to monitor and regulate recruitment procedures, and operation of the employers.

“Laws should be enacted in which the perpetrators of human trafficking are pursued with adequate punishment to serve as deterrent to others who may intend to be involved in the crime. Unfortunately some countries that have ratified the Protocol have not done so in a comprehensive way. Some focus exclusively on cases of trafficking involving women and girls.” (Dottridge 2008, p. 103). The legislative measures should not be limited to setting the pace of punishment for the offenders but should also set initiatives that could prevent and forestall the exploitation of the victims of human trafficking through the empowerment of the NGOs that are involved in the fight against human trafficking, the establishment of offices for reports of suspicious acts of human trafficking, and the development of strategies that will encourage the cooperation of the victims with the government agencies without fear of being punished. It should further specify a wider range of exploitations that are associated with human trafficking and other forms of practices similar to slavery. Countries should make a distinction between sexual exploitation and labour exploitation. If there is any country lagging behind in this specification, their legislation should be reviewed in accordance with the Palermo Protocol. Among the countries that have ratified the Trafficking Protocol are the Federal Republic of Austria and the Federal Republic of Nigeria.

7.3 Efforts in Europe

7.3.1 Federal Republic of Austria

In the first instance, Austria is one of the signatories to the Trafficking Protocol and has provided within her criminal laws strict penalties against human traffickers upon conviction. For example: Paragraph 104 (a) of the Austrian laws forbids trafficking in human beings for the purpose of sexual and or labour exploitation:

“(1) Wer eine volljährige Person mit dem Vorsatz, dass sie ausgebeutet werde (Abs. 3), unter Einsatz unlauterer Mittel (Abs. 2) gegen diese Person anwirbt, beherbergt oder sonst aufnimmt, befördert oder einem anderen anbietet oder weitergibt, ist mit Freiheitsstrafe von sechs Monaten bis zu fünf Jahren zu bestrafen.

(3) Ausbeutung umfasst die sexuelle Ausbeutung, die Ausbeutung durch Organentnahme, die Ausbeutung der Arbeitskraft, die Ausbeutung zur Bettelei sowie die Ausbeutung zur Begehung mit Strafe bedrohter Handlungen.” (Austria criminal law (Strafgesetze) Paragraph 104 (a) see sub-paragraph 1 & 3. [§ 104a StGB].)

More should be done to reduce the difficulties the victims of human trafficking go through while in Austria as a country of destination. It is reported: “es ist möglich, etwa in Österreich, in einem rechtlosen Raum zu leben und somit auf sein nacktes Leben angewiesen zu sein.” (Guggenheimer et al. 2009, p. 40). The “bare life” (Agamben 1995) together with the fear and trauma the victims go through make them dependent on the traffickers and if the law does not provide for their freedom from this dependency they will continue to suffer. The government of Austria has taken many measures both unilateral and bilateral in cooperation with international bodies to combat human trafficking.

Austria has embarked on the fight against human trafficking in different ways through the efforts of both the Federal Ministry of Foreign Affairs (Bundesministeriums für Europäische und Internationale Angelegenheiten [BMEIA]) and the Task Force Menschenhandel (TF-MH). For example: the Austrian government is a signatory to relevant international legislations and resolutions on the fight against human trafficking and as such she is obliged to implement these resolutions through practical measures. In 2005 Austria concluded and voted unanimously in parliament to implement the Palermo Protocol (cf. Beschluss des Nationalrates 417/BNR, 8. June 2005).¹¹⁵ In 2006 Austria ratified the Council of Europe’s Agreement on Action against Human Trafficking and became the

115 See: “Beschluss des Nationalrates vom 8. Juni 2005 betreffend ein Zusatzprotokoll zur Verhütung, Bekämpfung und Bestrafung des Menschenhandels, insbesondere des Frauen- und Kinderhandels, zum Übereinkommen der Vereinten Nationen gegen

first EU member to do so. “Das vom Europarat ausgearbeitete Übereinkommen zur Bekämpfung des Menschenhandels wurde durch Österreich im Juni 2006 ratifiziert und führt – indem es den besonderen Schutz und die materielle Unterstützung von Opfern, unabhängig von deren Bereitschaft zur Aussage in einem Strafverfahren, einfordert – einen weiteren Schritt über das VN-Protokoll hinaus.” (Parlamentskorrespondenz Nr. 83 vom 13.02.2007).¹¹⁶

The first Austrian report on her fight against human trafficking was made under the overall control of BMEIA and TF-MH. The report covers the period between March 2007 and the end of February 2009. The report: “bietet einen Überblick über die getroffenen österreichischen Aktivitäten und Maßnahmen im Bereich des Menschenhandels.” (Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, März 2007 – Februar 2009, online version, p. 1).¹¹⁷ In her efforts to achieve a coordinated and effective action against the crime of human trafficking, Austria’s ‘National Action Plan against Human Trafficking’ which encompasses Austria’s activities and the campaign against trafficking in human beings, includes national coordination among stakeholders both within and outside Austria, preventive and protective measures, and prosecution of the offenders and general international alliance (Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, März 2007 – Februar 2009).

In the area of prevention, Austria has undertaken, or participated in, a number of actions based on the sensitization of the population on issues concerning human trafficking; for example, in October 2007, there was an inter-ministerial action against human trafficking which took place under the platform “Gemeinsam gegen Menschenhandel”; (cf. Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, p. 1), the UN.GIFT organised by the UNODC Vienna in 2008 was done with the support of Austria as a hosting country; Austria participated extensively in the preparatory conference for the 3rd World Congress against sexual exploitation of children in November 2008 in Brazil; sensitization of the international diplomats sitting in Vienna on the way to prevent and check trafficking in human beings involving their citizens both resident in Austria and in their respective countries and involvement in developmental projects in countries of origin to

die grenzüberschreitende organisierte Kriminalität. “ In: http://www.parlament.gv.at/PAKT/VHG/XXII/BNR/BNR_00417/index.shtml. Accessed on 12. June 2014.

116 http://www.parlament.gv.at/PAKT/PR/JAHR_2007/PK0083/. Accessed on 12. June 2014.

117 https://www.bmbf.gv.at/frauen/gewalt/bericht_zur_bekmpfung_des_me_26172.pdf?4dz8a1. Accessed on 12. June 2014.

prevent vulnerability (BMEIA: Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, März 2007 – Februar 2009).

In ensuring the protection of the victims of human trafficking, Austria works together with some NGOs to achieve a maximum result in this area. There is an ongoing agreement between the Austria's Interior Ministry and LEFÖ-IBF in sustaining a wide range of coverage in the support of the victims (cf. BMEIA: Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, März 2007 – Februar 2009). Such support includes the provision of temporary accommodation for the victims. Part of the protection for the victims within the Austrian legal system is unconditional temporary residence of 30 days which the victims receive once they are identified as such: "Opfern von Menschenhandel wird in jedem Fall eine 30-tägige Bedenk- und Erholungszeit zugestanden, die nicht an eine Zusammenarbeit mit den Behörden geknüpft ist. In dieser Zeit dürfen keine aufenthaltsbeendenden Maßnahmen gesetzt werden." (BMEIA: Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, März 2007 – Februar 2009, p. 2). This gives the victims the chance of recovering from their ordeal in order to make further decisions either to go home or appeal for asylum. However, once the case of human trafficking is established and the person is seen as a victim the resident permit could be extended to six months and there is the rule of admission into the witness protection programme of the Interior Ministry¹¹⁸ (BMEIA: Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, März 2007 – Februar 2009).

This period of 30 days or six months of thinking and temporary residence, as the case may be, is not enough for the victims to recover and discover a way forward. Such a limited permit to stay is constantly criticised by experts, like Anette Huland, as not being adequate enough considering what the victims have or may have passed through: "Eine einmonatige Frist zur Rehabilitierung und Entscheidungsfindung bezüglich einer Zeugenaussage ist deutlich zu kurz." (Huland 2012, p. 212).

The Austrian government believes that adequate punishment of the offenders of the crime of human trafficking should be a part of the successful action against the crime. To this effect, the government undertakes the training and instruction of law enforcement personnel and security institutions within the country on the issue of human trafficking. With the opening of the borders through the Schengen agreement, border and immigration police officers are being properly instructed

118 This opportunity is given if the victim is in any kind of danger because of their situation. Such protection can also be extended, if need be, to the relations of such a victim.

on how to detect cases of human trafficking (Erster Österreichischer Bericht zur Bekämpfung des Menschenhandels, März 2007 – Februar 2009). In spite of these measures taken by the Austrian government in the fight against human trafficking, there are some lapses in the policy and some areas need to be improved on.

7.3.1.1 Limitation of Austrian Anti-Trafficking Measures and Solutions

The Austrian government recognizes some categories of residence permit within her territories; for example, there are resident permits for citizens of the European Economic Area (EEA)¹¹⁹, tourists, family members, migrants on transit, migrants with permission of longer stay, asylum seekers who have received a positive response, refugees who are recognized as such, workers with permission to work, and diplomats (Guggenheimer et al. 2009, p. 67).¹²⁰ It is to be noted that there are many who reside in Austria without any legal resident's status. Among them are victims of human trafficking. The provision of the law in Austria with regard to the crime of human trafficking is supposed to be taken care of by the following criminal laws:¹²¹

- “(1) Wer Sklavenhandel treibt oder sonst einer anderen Person in Form von Sklaverei oder einer sklavereiähnlichen Lage die persönliche Freiheit entzieht, ist mit Freiheitsstrafe von zehn bis zu zwanzig Jahren zu bestrafen.
- (2) Ebenso ist zu bestrafen, wer bewirkt, daß ein anderer versklavt oder in eine sklavereiähnliche Lage gebracht wird oder daß sich ein anderer in Sklaverei oder eine sklavereiähnliche Lage begibt.”
(§ 104 StGB Sklaverei).

This law against human trafficking came into force in the middle of 2004 and is not only related to but should be understood in the context of the provision of the law on Grenzüberschreitender Prostitutionshandel:

- “(1) Wer eine Person, mag sie auch bereits der Prostitution nachgehen, der Prostitution in einem anderen Staat als in dem, dessen Staatsangehörigkeit sie besitzt oder in dem sie ihren gewöhnlichen Aufenthalt hat, zuführt oder sie hierfür anwirbt, ist mit Freiheitsstrafe von sechs Monaten bis zu fünf Jahren, wenn er die Tat jedoch gewerbsmäßig begeht, mit Freiheitsstrafe von einem bis zu zehn Jahren zu bestrafen.
- (2) Wer eine Person (Abs. 1) mit dem Vorsatz, daß sie in einem anderen Staat als in dem, dessen Staatsangehörigkeit sie besitzt oder in dem sie ihren gewöhnlichen Aufenthalt hat, der Prostitution nachgehe, durch Täuschung über dieses Vorhaben

119 EEA means Europäischer Wirtschaftsraum (EWR).

120 See also: http://www.bmi.gv.at/cms/bmi_niederlassung/. Accessed on 27. July 14.

121 See: [http://www.jusline.at/Strafgesetzbuch\(StGB\).html](http://www.jusline.at/Strafgesetzbuch(StGB).html). Accessed on 27. July 2014.

verleitet oder mit Gewalt oder durch gefährliche Drohung nötigt, sich in einen anderen Staat zu begeben, oder sie mit Gewalt oder unter Ausnützung ihres Irrtums über dieses Vorhaben in einen anderen Staat befördert, ist mit Freiheitsstrafe von einem bis zu zehn Jahren zu bestrafen.”

(§ 217 STGB Grenzüberschreitender Prostitutionshandel)¹²²

The provision of this law is more or less abstract and can pose some difficulties in practice. With regards to the phrase: “Wer eine Person (Abs. 1) mit dem Vorsatz [...]” (Sub section (2) of the § 217 StGB), it will be difficult to legally determine or prove what an intention is (Guggenheimer et al. 2009, p. 70). Only evidence based on concrete action can be presented in prosecution of offenders. Without proper information and training there are bound to be cases whereby migrants that have nothing to do with human trafficking are apprehended. This could lead to treatment that may result in the abuse of fundamental human rights of the individuals involved.

The new law on resident permits, which came into force on the 1st day of January 1998, provides the possibility of granting resident permits and protection to the victims of human trafficking. This law as consolidated in 2009 states as follows:

“Zur Gewährleistung der Strafverfolgung von gerichtlich strafbaren Handlungen oder zur Geltendmachung und Durchsetzung von zivilrechtlichen Ansprüchen im Zusammenhang mit solchen Handlungen kann Drittstaatsangehörigen, insbesondere Zeugen oder Opfern von Menschenhandel oder grenzüberschreitendem Prostitutionshandel, eine Aufenthaltsbewilligung aus humanitären Gründen für die erforderliche Dauer, mindestens jedoch für sechs Monate, erteilt werden.”

(NAG § 72 Abs. 2).

In other words, permission to stay in Austria is to be granted to migrants if there is a cogent reason for that. For example, in the case of oppression, exploitation or danger of abuse, even if the migrant is not legally a resident in the country of Austria, permission to stay is to be granted if that will protect him or her from further violence or abuse. In order to grant any privilege to the victims, they must first be identified. This identification means that there should be adequate training of personnel to avoid confusing ordinary illegal migrants with victims of human trafficking.

The issue of basing the possibility of granting a resident permit to victims of human trafficking on their readiness to cooperate with the authorities should

122 Ibid.

be discouraged. This should rather be based on the rights of the victims, their vulnerability and needs. In spite of the provision of the law that the victims of human trafficking should not be deported arbitrarily, it is often reported that the victims that are identified during raids and police controls are detained and eventually deported without referring them to the intervention's post that is recognized by the government. Concerning such cases of deportation of the victims of human trafficking, it is reported: "Kommen sie bspw. durch Razzien oder Ausweiskontrollen mit der Polizei in Berührung und verfügen über keine oder gefälschte Aufenthaltsbewilligung, führt sie das gängige Prozedere in die Schubhaft, von wo aus sie normalerweise nach drei Wochen in ihr Herkunftsland abgeschoben werden." (Guggenheimer et al. 2009, p. 74). The provision of NAG § 72 Abs. 2 (see above) should always be applied in such a way as to create room for the freedom of the victims, and their protection should also be guaranteed. The resident permit granted to them in this situation should be such that can give them access to the labour market in Austria.

The fact that the provision of NAG § 72 Abs. 2 (see above) presents the granting of resident permit to the victims of human trafficking as 'a privilege of mercy' to be determined by the minister is highly criticized by (Lateinamerikanische exilierte Frauen in Österreich – Interventionsstelle für Betroffene des Frauenhandels (LEFÖ-IBF)). According to LEFÖ-IBF, when the granting of a resident permit to the victims is left to the decision of the minister(in), the possibility of a positive result could depend on the willingness of a victim to witness against the offenders (Geggengerheimer et al. 2009, p. 74). This puts the victims in further danger of revenge from the traffickers, especially when there is no adequate provision for their protection from the government. Furthermore, for the decision to grant the resident permit to lie on one person's choice of action may be inimical to a positive outcome.

It is therefore recommended that once the victims are identified, there should be protection for them against deportation until their status is legalised. They are to be given legal rights based on their fundamental human rights and not on the basis of 'privilege of mercy' by the responsible authority. The victims should be well informed of the possibility of getting legal backing and advice from LEFÖ-IBF irrespective of their native languages. This will enable them to be aware of the facilities that exist in their favour and how to take advantage of such. The Austrian law should recognize, in addition to international regulations, other regional regulations that are in place to fight the crime of human trafficking. Two such regional regulations are from the Organization of Security and Cooperation in Europe (OSCE) and the European Commission.

7.3.2 Organization of Security and Cooperation in Europe (OSCE)

The OSCE attaches importance to efforts geared towards the prevention of the crime of human trafficking. In its efforts to prevent the crime, OSCE member states focus attention on activities that are related to the prevention of the crime in general. Narrowing down the three strategies as thematically developed by OSCE (see Chapter 7.2.1), OSCE observes that with public enlightenment, people are informed about the risks and dangers of migration and are forewarned of the possibility of falling victims to human trafficking. The collection of data and research activities will help governments and stakeholders to grasp the scope and dynamism of human trafficking in different countries. The third form of prevention, as cited by OSCE, which focuses on development helps to create alternatives to those prospective migrants who may fall victim to human trafficking in the future. The creation of economic opportunities for people in countries of origin will discourage people who may want to migrate. Nicolas Sarkozy, as the Interior and Town minister of France in 2006 made the statement: “How can we restore confidence in Africa’s youth and persuade them that they don’t need to emigrate in order to have a future?” (Sarkozy 2006, online version). One of the main concerns in that statement is how to establish the mechanism and opportunities in Africa so that Africans who risk their lives migrating to Europe can find what they are looking for in Africa. Most of the countries of the OSCE implement the prevention programme of public enlightenment and education more than prevention through data collection, research and economic development. All three are valid approaches to the prevention of the crime of human trafficking in general but each of them requires a different programme of action (Clark 2008).

7.3.3 Brussels Declaration (European Commission) – A Step Forward in the Anti-Trafficking Campaign

From 18–20th September 2002, more than 1000 participants from the EU Member States and neighbouring countries came together in Belgium for the European Conference on Preventing and Combating Trafficking in Human Beings. The meeting was in response to the global challenges posed by the crime of human trafficking in the 21st Century. The main objective of the conference, which was initiated by the European commission under the STOP II Programme, was to analyse the trend of the crime and respond with appropriate policies and actions. The analysis of the crime, during the conference, was based on the numerous experiences of experts, governmental agencies and NGOs in the fight against human trafficking. The outcome of the conference was “The Brussels Declaration

on Preventing and Combating Trafficking in Human Beings” (The Brussels Declaration, online version).¹²³

Owing to the need for a comprehensive European strategy in the fight against human trafficking, The Brussels Declaration was developed to further the co-operation between countries to develop effective measures and best practices to prevent and combat trafficking in human beings.

The 19 Point Agenda of The Brussels Declaration are arranged under four sub-headings thus:

- “Mechanisms for Co-operation and Co-ordination
 - Prevention of Trafficking in Human Beings
 - Victims Protection and Assistance
 - Police and Judicial Cooperation “
- (Brussels Declaration 2002: online version; sub-headings).¹²⁴

The last three correspond to the “Trafficking Protocol”: prevention, protection and persecution (see Chapter 7.2).

The Brussels Declaration emphasizes the need to develop mechanisms to fight the crime of human trafficking and such will have to be concrete and comprehensive. There is the need for international co-ordination and exchange of information among stakeholders. Direct contact with authorities is recommended instead of some procedures that may be complex (The Brussels Declaration 2002, par. 1). There should be periodic meetings among experts that should be formed. These should be engaged in regular monitoring and evaluation of both the trafficking trend and anti-trafficking policies to be able to meet the challenges that the crime poses.

The Brussels Declaration places great emphasis on ‘prevention’ of the crime. European strategies should address, among many other things, the entire trafficking structures, beginning from the countries of origin, and extending to transit and destination countries. The Brussels Declaration states: “The development of a broader policy on migration management can offer a substantial contribution in reducing and preventing trafficking in human beings. Furthermore, root causes of trafficking, including not the least, unemployment, poverty, gender inequalities, including the status of girls, social and cultural attitudes, and the demand for sexual services ... must continue to be at the forefront of the

123 European Union, Brussels Declaration on Preventing and Combating Trafficking in Human Beings, 29 November 2002, 14981/02, available in: <http://www.refworld.org/docid/4693ac222.html>. Accessed 19 August 2014.

124 In: <http://www.refworld.org/docid/4693ac222.html>. Accessed 19 August 2014.

long-term efforts to fight human trafficking effectively.” (The Brussels Declaration 2002, Introduction). In addressing the issue of gender inequalities, European policy should include the prohibition of all gender-based and patriarchal structures. While rendering support programmes, especially for the countries of origin, European policy should recommend and encourage projects that are based on equal opportunities for all and are free from gender discrimination. In effect “support programmes should aim at the strengthening of efforts to tackle poverty and further marginalisation, particularly amongst the most vulnerable groups of the populations, including women and the girl child...” (The Brussels Declaration 2002, par. 7, point 5).

The Brussels Declaration recognises victims of human trafficking as victims of a serious crime and recommends that they should be seen as such, noting that “they should not be re-victimised, further stigmatised, criminalised, prosecuted or held in detention centres for offences that may have been committed by the victim as part of the trafficking process.” (Brussels Declaration 2002, par. 13, point 7). They need to be protected through various ranges of support measures including provision of accommodation, health care and legal counselling. Part of their protection should include offering them the opportunity to take advantage of the provisions of their basic human rights and to enjoy the social amenities that the government provides. Human trafficking violates the human rights of the victims, and so respecting their human rights should be an integral part of the anti-trafficking campaign by the governments and NGOs. They should not be subjected to any mandatory routine checks and their human rights should be recognised and respected. Respect for the rights of the victims should be at the forefront of efforts geared towards their protection. This should not be given on the condition that the victims should serve as a witness against the traffickers. The Brussels Declaration recognises the importance of victims’ witnesses in the prosecution of the traffickers as well as the risks involved and recommends that “a process of continuous risk assessment should be developed with the IO, IGO or NGO providing the shelter or other forms of assistance – at the point at which the victim decides to become a witness or an intelligence source.” (The Brussels Declaration 2002, par. 14, point 6).

Governments are expected to form coalitions in the field of legal cooperation. With the police and judicial cooperations the inadequacies in the legislative structures will be greatly reduced. Traffickers should be adequately prosecuted, and this makes it necessary that the national and international legislative responses should be in place to serve as a basis for severe penalties for the offenders. It is recommended that the law should allow for an investigation into the financial transactions of suspects. All wealth received through trafficking should

be legally confiscated and the victims should have rights to demand compensation (The Brussels Declaration 2002).

There are some lapses in The Brussels Declaration, and in view of that there is the need for some supplementary additions to be made. This is part of the critical examination of this work which evaluates the strategies used by stakeholders in the anti-trafficking campaigns. This work examines the following paragraphs thus:

- “All organisations involved in the provision of assistance to victims should further develop networking and exchanges with a view to ensuring the promulgation and implementation of best practices, including accessibility of information on the availability of both governmental and non-governmental facilities and resources, ‘safe house’ accommodation and specialist support measures...” (Brussels Declaration, Art. 4, point 1).

An addition needs to be made to this paragraph in which governments should be asked to create a conducive atmosphere for the NGOs and governmental agencies that work with victims of human trafficking to carry out their function. The role of governments in this regard should include financial obligation and ‘freedom from interference’.

- “A crucial component in the comprehensive counter-trafficking response will be further research and analysis of the ‘demand’ side of the trafficking process and an examination of methods by which the demand of clients can be effectively reduces.” (Brussels Declaration, Art. 8, point 3).

“Awareness raising campaigns aiming at the ‘demand’ side of the trafficking process should be developed as part of a comprehensive process of reducing trafficking effectively.” (Brussels Declaration, Art. 10, point 5).

There should be strict laws prohibiting the demand for and supply of the services of ‘sex workers’ and not soft ones as contained in Art. 8, point 3, and art. 10, point 5 (see above) which seek only to set those measures necessary for the reduction of the demand of the clients. When the demand is removed then the supply will also stop. There should also be strict laws aimed at abolishing the supply.

- In addressing the measures for administrative controls of anti-trafficking campaigns as contained in Art. 11, which include coordination amongst governmental agencies and countries, security checks and exchange of information on travelling migrants, monitoring of internet data movement and information and strict control of labour in countries of origin, it should be categorically stated that any measure or measures in this regard must adhere

strictly to the dictations of the fundamental human rights as contained in the UDHR of 1948

- “Removal of victims of trafficking should be avoided in cases where it is necessary for their protection or where they can contribute to the investigation against the trafficker.” (The Brussels Declaration, Art. 14, point 1).

The sentence could be counter productive in the anti-trafficking campaign because in determining the best practices, the protection of the victims should not only be considered in terms of short term safety but in terms of long term safety. In this case, victims should not be deported on any grounds whatsoever. Without proper protective strategies, the tendency that the victims may suffer some repressive tortures in the hands of traffickers is high and they may, in worse cases, become vulnerable again and can be re-trafficked.

- “Access to short-term residence permits for those victims that agree to cooperate with the criminal justice system of the state concerned must be made available.” (Brussels Declaration, Art. 14, point 5).

The victims’ right to protection and assistance according to ‘The Palermo Protocol’ should be based on the fact that they are victims who need help and assistance and not on their readiness to participate in the whole prosecution process as can be inferred from the Brussels Declaration Art. 14, point 5 (see above). In this case it should be added that ‘any victim’ of human trafficking should enjoy these rights irrespective of his/her willingness to testify or usefulness as a prosecution witness.

The European Commission proposes, through the Brussels Declaration, measures to fight human trafficking which include those aimed at protecting the already identified victims.

Care should be taken not to suppress these proposals through repressive immigration policies that sometimes include criminalization of the victims of human trafficking. Some countries do lay more emphasis on protecting their territorial integrity, thereby neglecting the protection of the victims of human trafficking. Such negligence worsens the plight of the victims. Anti-trafficking campaigns by the European countries should not be used or seen as strategic policies designed to combat illegal migration but rather as measures that tend to repress the crime of human trafficking through the prevention of the crime, the protection of the victims and the prosecution of the offenders.

7.4 Enforcement of the Trafficking Protocol in Nigeria – The Journey so far

Though Nigeria can be seen as a country of origin and transit for human trafficking, the effect of this crime is widespread. There is some legislation in Nigeria against human trafficking and related offences but one of the major challenges these laws face is the corruption that is rampant in the country. Nigeria ranks 144 out of 177 countries that were pooled in Corruption Perception Index 2013 and scores thereby 25/100 (Transparency International Corruption by Country 2013). Osita Agbu of the Nigerian Institute of International Affairs (NIIA) writes: “To say that corruption is rampant in Nigeria is to restate the obvious. Corruption in Nigeria, as it presently manifests, should more appropriately be termed endemic or systemic.” (Agbu 2003, online version). When the majority of the citizens suffer due to improper governance, the temptation to migrate is high and vulnerability is also high. That Nigeria is termed a corrupt nation is based on the fact that transparency and the system of governance are below expectation. “In Nigeria, we have seen the development of a vast system of institutionalized political corruption sometimes emanating from the very top and pervading all governmental institutions, with perverse influence on the rest of society.” (Ayua 2001, p. 15). Another obstacle to the fight against trafficking in human beings in Nigeria is the abuse of the rights of the victims by the law enforcement agents, especially when they are sent back to the country from the countries of destinations. These government agents, through their actions, technically discourage those victims who may want to come back on their own when they get the chance. Agbu opines that “it has been revealed that the Nigerian Police, instead of counselling and enhancing the rehabilitation of the victims, further aggravate the predicament of these women by subjecting them to persecution and extortion while they are in holding cells. This development can only be counter-productive to the efforts at curbing this crime against humanity.” (Agbu 2003, online version).

However, in spite of the corrupt practices in the country and the negligence of the government in handling the problem of human trafficking, some efforts have been made and are still being made to fight the crime. Nigeria has some anti-trafficking laws and some provisions are made in the law to punish those who are convicted of this crime. Some such laws are as follows:¹²⁵

125 These four are chosen because of their direct dealing with the particular aspects of the crime of human trafficking as presented in this work.

- “Section 11 – exportation/importation of persons – life imprisonment
- Section 12 – Procurement of persons for illicit intercourse with another person – 10 years imprisonment without option of fine
- Section 13 – Causing/encouraging seduction/prostitution of any person less than 18 years – 10 years imprisonment
- Section 16 – Promoting foreign travel for prostitution – 10 years imprisonment
- Section 21 – Buying or selling a person for a purpose
- Section 22 – Unlawful forced labour
- Section 23 – Traffic in slaves
- Section 24 – Slave dealing.”

(Federal Republic of Nigeria. 2003. “Trafficking in Persons (Prohibition) Law Enforcement and Administration Act”).¹²⁶

There are some agencies that are well underway in getting involved in the fight against this crime of human trafficking in Nigeria and understand the implications of their activities. Some of these agencies examined for the purpose of this work are the: National Agency for the Prohibition of Trafficking in Persons (NAPTIP); Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) and Nigerian Institute of International Affairs (NIIA).

7.4.1 National Agency for the Prohibition of Trafficking in Persons (NAPTIP)

The National Agency for the Prohibition of Traffic in Persons (NAPTIP) came into existence on the 26th of August, 2003 through the enactment of The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003. The agency is the government of Nigeria’s concrete national response to the crime of trafficking in human beings as well as a response to the international call for action against this crime. Nigeria’s international obligation to join in the global action against this crime demands an establishment that will fulfil this duty and one can further say that NAPTIP is a fulfilment of that. On 13th December, 2000, Nigeria became a signatory to the Transnational Organized Crime Convention and its trafficking in Persons Protocol. This Protocol expects the State parties to legislate against all practices and activities of exploitation of individuals and criminalize such practices:

126 In: <http://www.placng.org/new/laws/T23.pdf>. Accessed on 3. December 2014.

- “1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
 - (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
 - (b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
 - (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.”
 (UN 2000 Trafficking Protocol, art. 5)

Since its inception, NAPTIP has been actively engaged in the fight against human trafficking though it has its own shortcomings. In addition to the actual practical actions against trafficking in persons, NAPTIP has also endeavoured to keep a database of its findings and analysis. This database falls short of the international standard but it is a step towards standardization. Periodic reports on the activities of the agency are made available publicly on its website. To be able to function efficiently, NAPTIP has a standard working structure.

The department of Public Enlightenment is one of the oldest departments of the Agency and has been active since it came into existence; it is one of the core departments in the Agency. Its main work is awareness and sensitization programmes. This task is carried out by this department in collaboration with the six zonal offices around the country. Owing to the nature of this work and its importance, the department of Public Enlightenment works in collaboration with the Federal Ministries of Information and National Orientation Agency, Women and Youth Development, Employment, Labour and Productivity, and also with the Ministry of Education. The method of work includes, open campaigns, seminars, workshops, media, publications, strategic collaborations, production of sensitization materials and posters, traditionally appropriate means of information, drama and role plays, and visitations. All these are geared towards warning the people and educating them on the dangers of trafficking, and how to identify a likely trafficking situation.

7.4.2 Women Trafficking and Child Labour Eradication Foundation (WOTCLEF)

The Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) was founded by Amina Titi Abubakar in 1999.¹²⁷ Its main aim is the elimination of trafficking in person and other related crimes “through advocacy, assistance for trafficked persons, vulnerable children, collaboration with relevant stakeholders, capacity development, research and monitoring the implementation of relevant legislation.” (WOTCLEF Mission Statement, online version).¹²⁸

Being a humanitarian organization it is dedicated to fighting human trafficking, child labour and abuse of the rights of women in society. The Foundation expanded and opened an office in Florida in 2005 to address this issue of human trafficking and child labour in the US.

Among the many other activities of WOTCLEF, the following are directly geared towards the fight against the crime of human trafficking:

- “Public Enlightenment and Sensitization
- Information Education and Communication Materials
- Youth Development
- NYSC Community Development Scheme
- Advocacy
- Victims Assistance”

(WOTCLEF Activities, online version)

Relying on the appeal to human conscience, WOTCLEF organises public sensitization campaigns with the aim of prevention of the crime of human trafficking through workshops, seminars, regional tours, mass media and literature, development schemes aimed at empowering women and youth towards self reliance and character building. Through the provision of necessary services to the victims including legal assistance WOTCLEF advocates for a more human right based approach to the protection of victims.

Other on-going activities of WOTCLEF are in the areas of a rehabilitation centre, youth program, and massive campaign against child labour and domestic servitude.

127 Amina Titi Abubakar is the wife of the former Vice President of Nigeria Atiku Abubakar.

128 In: <http://www.wotclefng.org/index.php/about/wotclef-nigeria>. Accessed on 4. December 2014.

7.4.3 National Institute For International Affairs (NIIA)

This institute does not engage directly in the fight against human trafficking. As an institution of national and international policy, it studies the concerns of many governmental agencies and the entire public on issues of trafficking in persons. Research is an important aspect of combating trafficking in persons because it makes for an easy identification of the causes of trafficking and factors of vulnerability and helps in the development of theories that could be applied in empirical forms as solutions to the problem. Mike Dottridge writes: "Research on trafficking in human beings is vital. It allows for the identification of factors that cause trafficking or enable it to happen as well as for the monitoring of the effects of anti-trafficking measures designed to prevent trafficking as well as to assist trafficked persons." (Dottridge 2008, p. 123).

Human trafficking is a crime that is so vast and so dynamic in nature that it required combined efforts to combat it. These efforts should be in the form of international, cross border, multidisciplinary and bilateral cooperations. The objectives of NIIA which are contained in the Mission Statement for the Institute are:

- i. To encourage and facilitate the understanding of international affairs and of the circumstances, conditions and attitudes of foreign countries and their peoples.
- ii. To provide and maintain means of information upon international questions and promote the study and investigation of international questions by means of conferences, lectures and discussions, and by the preparation and publication of books, reports, or otherwise as may seem desirable so as to develop a body of informed opinions on world affairs.
- iii. To establish contacts with other organizations with similar objects.

To achieve these objectives, the Institute is charged with promoting the scientific study of international politics, economics and jurisprudence."

(NIIA Mission Statement, online version).¹²⁹

Through the promotion of scientific study in the areas of international politics, sociology, economics and jurisprudence, the Institute will be able to achieve these aims and objectives. Through its research and publications, NIIA is able to advise and inform the government on various issues including issues connected with human trafficking and migration. It is to be suggested that scholars working with NIIA should work alongside law enforcement agents by making the result of their research on trafficking available to them directly to avoid any political manipulation or tone being given to it. They should be given access to the victims that are already known for more information while bearing in mind

129 In: <http://niiinet.org/mission-statement/>. Accessed on 17. July 2014.

that the right to privacy of these victims should be respected. The data collected from NIIA could be of help to the government in the allocation of funds for anti-trafficking activities. While collecting data and making conclusions, it is advisable that NIIA should provide the methodology used to avoid gaps in data and numerical discrepancies.

7.5 Economic Community of West African States (ECOWAS) on Human Trafficking

The Economic Community of West African States (ECOWAS) was established on May 28, 1975 with the signing of the Treaty of Lagos. It is a regional group comprised of 15 countries of the West African region.¹³⁰ Its main objective is to ensure a 'collective self-sufficiency' for all the member states. The main languages of the community are English, French and Portuguese. Nigeria has played an important part in the implementation of ECOWAS initiatives against human trafficking.

It is reported that human trafficking in the states of ECOWAS is on the increase perhaps because of free movements of citizens of member states (UNODC 2006.). Trafficking of children between Nigeria and Benin Republic has been widely reported by UNICEF. Owing to the fact that there is a free movement of citizens of ECOWAS countries within the region, there is an increase in inter-regional crimes including trafficking in human beings. It is necessary to note that ECOWAS has a whole set of plans for action against human trafficking. The department of Humanitarian Affairs has the sole responsibility of implementing the ECOWAS action plan against human trafficking and other abuses against human rights. Within this department of Humanitarian Affairs there are two divisions: Humanitarian Division, and Social Affairs Division. Within the Humanitarian Division there are two units: Disaster Management, and Emergency Response Team. Within the Social Affairs Division there are five units: Trafficking in Persons Unit, Health Programmes Unit, Labour Programmes Unit, Child Protection Programme Unit and Capacity Building for Public Service Programme Unit (see ECOWAS in <http://www.ecowas.int/>). Trafficking in Persons Unit is directly involved in the fight against human trafficking, and the other units act only as

130 The Republic of BENIN; BURKINA FASO; The Republic of CAPE VERDE; The Republic of COTE D'IVOIRE; The Republic of GAMBIA; The Republic of GHANA; The Republic of GUINEA; The Republic of GUINEA BISSAU; The Republic of LIBERIA; The Republic of MALI; The Republic of NIGER; The Federal Republic of NIGERIA; The Republic of SENEGAL; The Republic of SIERRA LEONE and TOGOLESE Republic.

collaborators in the action. The unit engages itself in many activities aimed at countering trafficking within the sub regions covering the locations of member states. It oversees the implementation of the Joint ECOWAS/ECCAS Plan of Action on human trafficking.

7.5.1 The ECOWAS Plan of Action

The Heads of State of the ECOWAS countries adopted this ECOWAS Plan of Action on the Fight against Trafficking in Persons in Dakar Senegal in 2001 during their 25th Ordinary Session and was established with the full support of UNODC. Its application was extended twice – first, it was extended to the year 2005 and latter to the year 2011.¹³¹

The Action Plan tackles the problem of human trafficking in the region of ECOWAS and serves as an impulse towards the discovery of workable and effective methods to fight this crime. During the establishment of this strategy, the member states adopted measures which will help in preventing the crime, identifying and protecting the victims and prosecuting the traffickers. Trafficking in persons does not only occur in the ECOWAS sub-region of the African continent but in all the regions as well. To this effect, the ECOWAS Plan of Action was extended to other African non ECOWAS states because human trafficking occurs in those regions. “In accordance with this aim, in the year 2006 ECOWAS and Economic Community of Central African States (ECCAS) Member States adopted a Joint Plan of Action to Combat Trafficking in Persons and signed a Multi-lateral Cooperation Agreement covering the 26 nations in West and Central Africa. The Joint Plan of Action further elaborates on the key areas of strategic intervention in the ECOWAS Plan of Action, now extended to 2011.” (Didigu 2008, UN.GIFT, online version).¹³² Other plans of Action include:

- A call on states to ratify all international instruments and domesticate them accordingly in line with the national situation.
- Legal framework and policy development.
- Protection, assisting and integration of victims; prevention and awareness campaigns; collection and exchange of data and analysis of the data.
- Training and formation of agents.

131 See: <http://www.ecowas.int/>. 3. December 2014.

132 Didigu Henrietta, Acting Director of the Department of Humanitarian and Social Affairs, ECOWAS, Presentation on the Implementation of the ECOWAS Plan of Action on the Fight Against Trafficking in Persons, at the Vienna Forum to fight Human Trafficking, UN.GIFT, Vienna, 13–15 February 2008.

- Proper identification methods e.g., birth registrations, travel documentations.
 - Monitoring and evaluation of the strategies.
- (see ECOWAS Plan of Action against Trafficking in Persons 2002–2003).¹³³

There are a number of tools for the implementation of the ECOWAS/ECCAS Plan of Action which resulted from the implementation of the original ECOWAS Plan of Action. These include according to Didiugu:

- Model law against trafficking in persons.
- Model national task force against trafficking in persons.
- Model Bilateral Agreement on Cooperation and Mutual Legal Assistance.
- Guidelines for the Protection of the Rights of Child Victims of Trafficking.
- Model of child trafficking monitoring system for West and Central Africa.
- Tools for International Cooperation.

(Didiugu 2008, UN.GIFT, online version)

The efforts made so far by ECOWAS are tremendous and there is an insistence by ECOWAS that all the member states should establish a national Action Plan and Task Force to help in the fight against human trafficking. So far not all the member states have implemented this directive.

Table 4: ECOWAS countries with a National Action Plan and National Task Force

| Country | National task force | National Action Plan |
|---------------|---------------------|-------------------------|
| Benin | yes | ? |
| Burkina Faso | yes | yes |
| Cape Verde | no | no |
| Côte d'Ivoire | yes | yes but not yet applied |
| Gambia | yes but informal | yes |
| Ghana | yes | yes |
| Guinea | yes but informal | yes |
| Guinea-Bissau | no | no |
| Liberia | yes | yes |
| Mali | yes | yes |
| Niger | yes | being drawn up |

133 In: http://www.unodc.org/pdf/crime/trafficking/Minimum_Plano_CEDAO.pdf. Accessed on 27. November 2014.

| Country | National task force | National Action Plan |
|--------------|---------------------|----------------------|
| Nigeria | yes | yes |
| Senegal | yes but informal | no |
| Sierra Leone | yes | no |
| Togo | yes | yes |

(The table above shows the extent the member states have gone in carrying out this instruction by ECOWAS as at February 2008. cf. Didigu 2008).

7.6 Cooperation among Nations and Non – governmental Organizations (NGOs) on Issues of Human Trafficking (Bi- and Multilateral Arrangements)

The crime of human trafficking has an organised criminal network behind it. The availability of the illegal markets facilitating the demand for and supply of the victims and the actions and policies of governments which are weak are among the factors that cause trafficking in human beings to exist. This is not to undermine the efforts of those governments who have established rules and laws against the crime – punishing the offenders and protecting the victims. International agreements and corresponding supports are needed in the process of anti-trafficking campaigns. Kangaspunta et al. (2008) write:

“Given that investigations of trafficking networks and prosecutions of traffickers can be complex processes cutting across jurisdictions, it is essential that effective cooperation between law enforcement agencies is an integrated part of any strategy to combat trafficking. Such cooperative mechanisms can take the form of direct bilateral or multilateral cooperation, information sharing and cooperation during investigations and criminal proceedings.” (Kangaspunta et al. 2008, p. 32).

The call for a broader, flexible and comprehensive response to trafficking in human beings can be better achieved when the action is taken both nationally and internationally. Kangaspunta et al. (2008) report that “Some of the best results in the prosecution of traffickers have been obtained when the law enforcement and prosecution agencies have effectively worked together both locally and across borders.” (Kangaspunta et al. 2008, p. 31). Governments and all involved in the fight against human trafficking are encouraged to enter into agreements with one another. The UN General Assembly encourages bilateral, sub-regional, regional and international agreements, as well as initiatives, including regional initiatives aimed at addressing the problem of trafficking in women and girls (UN General Assembly Resolution 2001: A/RES/55/67). The UN Convention against Transnational Organized Crime stipulates the guidelines for such cooperation. Such

actions and agreements should not only be taken or made in Europe and Nigeria but should also be intensified across the globe. Such cooperation should include the following:

“Law enforcement cooperation” (UN Convention against Transnational Organized Crime, Article 27);

“Collection, exchange and Analysis of Information on the nature of organized Crime” (UN Convention against Transnational Organized Crime, Article 28);

“Training and technical Assistance” (UN Convention against Transnational Organized Crime, Article 29);

“Implementation of the Convention through economic development and technical Assistance” (UN Convention against Transnational Organized Crime, Article 30);

“Prevention” (UN Convention against Transnational Organized Crime, Article 31);

“Conference of the parties to the Convention”
(UN Convention against Transnational Organized Crime, Article 32)

The EU and African countries have resolved to work together in the fight against human trafficking. In 2004 there was a conference in Addis Ababa where the EU and African countries adopted the ‘Ouagadougou Action Plan’ against human trafficking which stipulates above all that in the fight against human trafficking, efforts must be made to respect the human rights of the victims which should include their protection. The NGOs should strive to cooperate with each other and with the governments of the world including the UN to develop better and effective ways of fighting the crime of human trafficking. NGOs received status in the original UN Charter which allows them to provide some input into social and economic matters but not in political or security issues. Article 71 of the charter reads that Economic and Social Council of the UN can “make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence.” (UN Charter art. 71)

The advantages of these bi- and multilateral agreements are enormous. The implementation of the Convention by countries and stakeholders could be an effective way of removing many obstacles that stand in the way of bringing justice to the victims and prosecuting the traffickers. It will enhance extradition of offenders if necessary, provide appropriate legal assistance to the victims irrespective of boundary, ease the complications involved in arresting the traffickers and enable the proceeds from the crime of trafficking to be confiscated accordingly.

7.7 Other Measures

7.7.1 Decriminalization of the Victims of Human Trafficking

Though a lot has been done in the fight against human trafficking, governments should not consider victims of human trafficking as criminals who have violated immigration laws and therefore deserve to be punished, but rather as victims who need to be decriminalized. The international human rights laws have a double function: reinforcement or endorsement of the national support for human rights, and supplementing the national human rights' law when the latter fails (Galtung 1994). Victims of human trafficking deserve special treatment because of the fact that they are victims of a crime committed against them by other persons. The Human Rights model does not view the victims as criminals but as victims who need help and support rather than persecution and punishment (Mattar 2006; Ivana-Yuko 2009). Supporting the view of Mattar, Ivana-Yuko maintains that the Human Rights model aims at the rights of the persons who are victims of human trafficking and not at the immigration law of a country that may have been violated: "The human rights model provides that people trafficked into a State's borders are viewed as victims of a crime rather than criminal defendants, and are deserving of assistance and protection." (Ivana-Yuko 2009, p. 29). Even when the victims are illegal in a country they should, for the mere fact of being victims, be decriminalized and the traffickers should be prosecuted (Smith & Mattar 2004; Ivana-Yuko 2009, p. 31). Many countries place the crime of human trafficking on the same level with the crime of drug and weapon smuggling which threatens the security of a country, and seen as such, both the victims and offenders are seen as criminals who deserve punishment (Nautz & Sauer 2008). In criticising this situation, it is advocated that the victims of human trafficking should not receive punishment as offenders but should be treated as victims who need support: "Gehandelte Menschen sollten nicht in erster Linie als illegale MigrantInnen, sondern als Opfer ausbeuterischer Netzwerke betrachtet werden." (Nautz & Sauer 2008, p. 90). This is in line with the call by the UN general assembly on all the governments of the world to "criminalize trafficking in women and children, in particular girls, in all its forms, to condemn and penalize all those offenders involved, including intermediaries, whether their offence was committed in their own or in a foreign country, while ensuring that the victims of those practices are not penalized." (UN General Assembly Resolution 2001: A/RES/55/67, No. 6; see also No. 13). The COE states it very clearly in its resolution that victims of human trafficking should not be punished on the grounds of being in a country illegally. The COE, as a matter of fact, recommends that

victims should be helped both medically and legally (Council of Europe: Treaty Series, Nr. 197, art 12; see also Nautz & Sauer 2008; Shelley 2010).

Further efforts should be made to sensitize the local communities to recognize the rights of the victims of human trafficking, avoid the way they are being traduced, and increase their acceptance. Laws criminalising trafficking in human beings should exclude the victims because they are already under a persecutory situation from the traffickers. UNHCR describes the persecutory situation in a broad way which amounts to a violation of human rights: “inherent in the trafficking experience are such forms of severe exploitation as abduction, incarceration, rape, sexual enslavement, enforced prostitution, forced labour, removal of organs, physical beatings, starvation, the deprivation of medical treatment. Such acts constitute serious violations of human rights which will generally amount to persecution.” (UNHCR Guidelines on international protection: HCR/GIP/06/07, No. 15). The process of their decriminalisation should include the possibility of granting them asylum, if they so wish, or the chances of having their immigration status legalised. This could be seen as being appropriate because of the compelling reasons that may arise out of the trafficking experience, for example:

- The victim may be experiencing an ongoing traumatic psychological problem which may render return to his or her home country intolerable.
- The victims may face the possibility of being ostracised in his or her home country.
- The possibility of reprisal from the traffickers may be high in their home countries owing to a lack of adequate security; the victims may, owing to lack of security, be re-trafficked.

(UNHCR, Guidelines for international protection: HCR/GIP/06/07, No. 18).¹³⁴

Further actions should be taken to help them reintegrate into society after decriminalising them. The UN calls upon governments and all concern to “allocate resources, to provide comprehensive programmes designed to heal, rehabilitate and reintegrate into society and communities victims of trafficking, including through job training, legal assistance and health care.” (UN General Assembly Resolution 2001: A/RES/55/67, No. 9)). The victims who have suffered greatly at the hands of the traffickers should not be made to suffer further. They are to be given support and all stakeholders should guarantee their security and protection.

134 UNHCR reports: “in addition, the victims may also fear ostracism, discrimination or punishment by the family and/or the local community or, in some instances, by the authorities upon return.” (UNHCR, Guidelines for international protection, HCR/GIP/06/07: No. 18).

In order to achieve this, the law enforcement agents of all countries should avoid arresting, punishing and deporting them (Shelley 2010; Lindner 2010; Hulan 2012).

7.7.2 Global Networking

Global networking in the fight against human trafficking can be easily achieved with the help of the existing technologies that the global community is enjoying in this modern century. Global networking means the sharing of anti-trafficking information, policies and strategies amongst countries and organizations that have stake in the fight against human trafficking. Global networking helps the stakeholders to make efforts in the exchange of information and enable them to cooperate to achieve a greater result.

7.7.2.1 Advantages of Global Networking

Interventions in matters of confrontation with the traffickers can be achieved effectively if there is an alliance between the countries of origin, transition and destination. In addition to the advantage of global networking the following can also be included:

- Steady exchange of ideas which helps to observe and adapt adequate strategies to counter the dynamics of the traffickers.
- Extensive explanation and exposition of the risks involved in migration.
- Identification of the families of the victims to protect them from oppression and revenge.
- Coordination of rehabilitation projects for the victims.

Through global networking the business of human trafficking can be followed by law enforcement agents and other organizations that have a stake in the anti-trafficking campaign. Global networking has an enormous importance in the fight against human trafficking because it gives people with the same cultural background the opportunity to participate in the fight against human trafficking in two ways. First, being of the same cultural background and sharing the same mentality, it is easy for people to discover when an activity is suspicious. For example, through the information received from global networking the British police were able to follow the tip they received and arrived at a small village within a town in Romanian that was used as a depot for children that were going to be trafficked (Shelley 2010). Second, it is easier for the victims to speak and establish trust with their natives than with foreigners. This is especially necessary in the attempt to rehabilitate the victims. With global networking, it will be

easier to alert and invite personnel from the countries of origins to help in the process of the rehabilitation of the victims (Huland 2012). To understand the culture, mentality and language of the victims is very important in dealing with them. Shelley writes: “Without the language skills or the cultural knowledge, it is extremely difficult to identify the human smuggling and trafficking, which often goes on within closed immigrant communities. Moreover, without the ability to converse with the victims and win their trust, the possibility of successful prosecutions is extremely limited.” (Shelley 2010, p. 225).

Global networking is very important for all those involved in the anti-trafficking campaign. The Brussels Declaration underscored this: “All organisations involved in the provision of assistance to victims should further develop networking and exchanges with a view to ensuring the promulgation and implementation of best practices.” (Brussels Declaration 2002, art. 4).

7.7.2.2 Factors militating against Global Networking (Disadvantages)

Most of the times stakeholders refrain from sharing information on human trafficking with each other owing to security reasons and to maintain their status rating in the anti-trafficking evaluation. Mark Latonero writes that “the reasons behind the lack of information sharing are complex and include competing visions, values, missions and funding sources. Other challenges to an organization’s ability to share information include privacy concerns, victim’s rights, public safety, national laws, limited resources and communication technology gaps.” (Latonero 2011, p. 31).¹³⁵

There are different opinions about the meaning of human trafficking and to the extent one can go in the explication of the term. Given these differences in opinions in different countries and organisations, it is very difficult to set a goal and a common guideline to fight the crime of human trafficking globally. Further differences in the laws and constitutions of countries hamper global networking in the anti-trafficking campaign. Just as language, culture and mentality are very important in coordinating the affairs of stakeholders in anti-trafficking campaigns, they can also be factors that could keep those involved in the fight disunited.

135 This was a commentary on the report by a research team sent to Mekong Sub-region (i.e. Cambodia, Thailand, and Vietnam) by Annenberg Centre on Communication Leadership & Policy in August 2010 and March 2011. They were to assess the possibility of using communication by organizations in the fight against human trafficking. The team met with more than 20 representatives of government and NGOs who confirmed that lack of communication hampers their efforts in the fight against human trafficking.

In the rehabilitation of the victims and other efforts aimed at preventing the root causes of human trafficking, the developing countries receive subventions and capital assistance to build up their economy under the platform of global networking and support. Owing to corruption and lack of checks and balances among the government officials, such subventions and funds are, most of the times, not used for what they are meant for.

7.7.3 Closing the Economic gap between Nations

To discourage people from being eager to migrate, more opportunities for employment, social and economic progress should be provided in the countries of origin. Otherwise, their eagerness to migrate could, in some cases, be a reason for them being vulnerable to human trafficking. In order to achieve these, there should be more strategic policies to improve on education, health and social amenities in the countries of origin, like Nigeria. The economic disparities between countries and the poverty among the people could be seen as crucial problems. This condition appears to motivate people to seek an opportunity elsewhere. Reduction of the disparities through policies that would lead to economic growth should be the aim of the stakeholders. This should be a priority because, as Phil Marshall puts it "... it is this inequality, this disparity, coupled with the rise of consumerism that, as much as poverty, drives migration. For if the expectation of better opportunities were not available elsewhere, there would be less cause to migrate." (Marshall 2001, occasion paper No. 1). One of the ways to cover the economic gap could be through the funding of development projects by Western/developed countries for the underdeveloped ones. Such funding should also be for empowerment programmes which could be directed toward social problems like poor health care services, illiteracy and unemployment (Clark 2008). Unfortunately, the support programmes provided by the developed countries have little results, especially when very little funds are provided for diverse developmental projects. It would be better if funds were culled together for major projects that would affect the lives of many people and alleviate poverty. Many people will be inclined to migrate irrespective of the economic situation. Vulnerability to human trafficking will reduce if those migrating are not doing so out of compulsion or because of poverty. Whatever the case, when people move across borders, their migration needs to be managed to avoid abuses which include human trafficking.

7.8 Migration Management

With the globalization of the world's economy, there is an increase in the output of goods and services and movement of capital, technology and information without a corresponding movement of labour. Once the movement of labour is strictly tightened with laws there is bound to be illegal or irregular migration. This places the migrants at a high risk of being vulnerable to human trafficking with the consequence of being exploited. In developing measures to prevent the crime of human trafficking the issue of demand for cheap labour should be put into consideration. Demand necessitates the supply of the victims. Migration is bound to happen because people move in search of opportunities in the areas of socio-economic, human security or leisure aspects of life. Because migration is a rational human reaction to needs, it becomes necessary to develop means of managing the movement of people in such a way as to reduce the risks of being vulnerable to human trafficking. This could be done through educating people on the dangers and realities involved in any illegal movement, provision of laws and policies on labour and enforcing them, recognition of the basic rights of migrants, and provision of information to the migrants on how to protect themselves against any act of cruelty (Marshall 2001).

In the management of migration by the authorities of different countries and some NGOs, measures of identification of victims of human trafficking should be put in place. The UNHCHR has developed a checklist to be used as a guide for the identification and management of victims of human trafficking (see Guidelines on Victims Identification, Tool 6.3, in appendix 4)¹³⁶

In migration management, authorities should know that there are not many differences between migrant smuggling and human trafficking. The fact that the presence of force, deception and exploitation characterizes human trafficking, the absence of them does not necessarily mean an absence of human trafficking in migration management. Sometimes these factors may be absent yet human trafficking is taking place: "While the additional elements that distinguish trafficking from migrant smuggling may sometimes be obvious, in many cases they are difficult to prove without active investigation." (See Guidelines on Victims Identification, Tool 6.3, Guideline 2 in appendix 4). Countries and NGOs are therefore obliged to see that such investigations are carried out under certain conditions and with due diligence to ensure that victims are identified and that their rights are respected.

136 In: https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-3.pdf. Accessed on 20. July 2014.

In migration management, operational raids¹³⁷ could be applied by law enforcement officials as a way of combating human trafficking. In operational raids, victims held in captivity by their traffickers and exploiters are rescued if they are found. Care should be taken to avoid terrifying the victims during such raids. Dottridge writes: “In the course of some raids, both trafficking victims and others have experienced further trauma...” (Dottridge 2008, p. 111). Operational raids should not be carried out without adequate planning. Such planning should involve a reliable gathering of intelligence information on location, activities and people who are suspected of trafficking activities as well as, if possible, the victims who are held in captivity or are exploited. To avoid frightening the victims, especially if there are women among them, NGOs and women law enforcement agents should be visibly involved in such raids. It is highly discouraged that the victims should be detained or held in police custody. Such detention could further traumatize them. In Italy, Catholic nuns are engaged in victim assistance and protection. These nuns could be part of operational raids in the sense that they could be called in immediately after such raids to help in the rehabilitation services.

7.9 The Role of Religion

The fight against human trafficking should be a comprehensive activity that is all encompassing. This means that all segments of society – from rural dwellers who are illiterate to the legislators in the parliaments – should be involved. On this note, the religious communities can be of some help in anti-trafficking campaigns. Kangaspunta et al. (2008) write: “This diverse religious community transcends class, education, race, sex, and nationality; every society in the world entails religious communities. This enormous potential for the role that religious leaders and faith-based organizations can play at the local, national, regional and global levels must be harnessed as a matter of priority.” (Kangaspunta et al. 2008, p. 29).

Pastors and religious leaders could play some roles in this direction by emphasising the points that human trafficking is real and evil and raise awareness of the possibility of becoming a victim especially to the most vulnerable in their congregations. They can address the factors that lead to vulnerability and empower the marginalized. It has been discussed that one of the factors that cause vulnerability is gender inequality (see Chapter 3.6.2). Religious leaders can tell

137 This is an action whereby the law enforcement agents, for example, police, task force or civil defence corps, enter locations of suspected trafficking activities with force. Such entrances are never done without, first of all, obtaining permission from appropriate authority.

their congregation that patriarchal dominance which renders women vulnerable to human trafficking is an unacceptable male chauvinism which should be stopped. People are less likely to be vulnerable to trafficking if they enjoy equal status and help to support each other (e.g. being members of a group that has a common religious bond).

Using the platform of the pulpit, pastors could “mobilize members of their community against trafficking and can act as a voice to influence government policy with respect to trafficking.” (Kangaspunta et al. 2008, p. 29). In this sense, they should not only speak out against factors that render people vulnerable, but also assist in the protection of the victims through a rehabilitation and recovery process. This is because most of the victims suffer stigmatization. Pastors could instruct their communities to approach victims with compassion especially the repatriated ones.

Given the fact that trafficking in human beings involves victims and traffickers from all forms of religions, there is the need for religious leaders to engage in a common interfaith dialogue and agreement to fight it with one voice. If this is done, the message could be passed on to the members easily. This is one of the prompting factors that necessitated a unanimous adaptation of an Interfaith Declaration against Human Trafficking in South Africa on 5th October 2007. This declaration recognizes the advantages religious leaders have on their pulpit. The religious bodies have:

- “Captured, multi-skilled and professional resourceful audience;
- Unparalleled infrastructure and related supportive resources;
- Principled and trusted moral leaders of society, who are capable of speaking truth to any poser anytime, anywhere.”

(Kangaspunta et al. 2008, UN.GIFT, overview, p. 30).

It is to be noted that the Vatican has entered into an agreement with major religious groups around the world in what is termed the Global Freedom Network (GFN) to fight human trafficking (Scaramuzzi 2014, online version). This memorandum of agreement was signed by the Pontifical Academies of Sciences and Social Sciences and the Church of England and Sunni Islam with a representative of Cairo’s Al-Azhar University in attendance. To further their intentions in fighting human trafficking and modern day slavery, GFN enabled the world’s major religious leaders to gather for the first time in the Vatican on 2 December 2014 to sign a joint declaration to eliminate modern day slavery. In his address Francis said: “Therefore, we declare on each and every one of our creeds that modern slavery, in terms of human trafficking, forced labour and prostitution, and organ trafficking, is a crime against humanity. Its victims are from all walks

of life, but are most frequently among the poorest and most vulnerable of our brothers and sisters. On behalf of all of them, our communities of faith are called to reject, without exception, any systematic deprivation of individual freedom for the purposes of personal or commercial exploitation; in their name, we make this declaration.” (Francis 2014, online version).¹³⁸ The GFN has stated already from the outset to declare that to allow the crime of human trafficking to go on will be “a grievous assault on our common humanity and a shameful affront to the consciences of all people.” (Scaramuzzi 2014, online version). The joint effort of these religious groups will help in the anti-trafficking campaign.

138 <http://www.news.va/en/news/religious-leaders-gathered-in-the-vatican-for-the>. Accessed on 5. December 2014.

8 Conclusion

The crime of human trafficking involves a process. People are being recruited or abducted in the country of origin and transferred through transit countries to the destination countries for the purpose of either labour exploitation or sexual exploitation or both. However, human trafficking can occur within a single country. This is known as internal trafficking (Kangaspunta et al. 2008; UN.GIFT, overview p. 1). The traffickers take advantage of an individual's vulnerability to recruit or abduct them. Factors that render the victims vulnerable to the traffickers are complex. Some of these factors relate to the conditions in the home countries of the victims; such as, poverty, gender inequality, political situation, illiteracy, unemployment. Some of the factors relate to the countries of transit or destination; such as, lack of legal status, state of being stranded, dependency, lack of language. At any stage, traffickers "can be involved in various functions as, for example, recruiters, transporters, or exploiters and various activities during different stages of the trafficking process, including forging documents, corruption and the withholding of their victims' documents." (Kangaspunta et al. 2008, p. 1). There is also a network of criminal groups who can be involved at different levels and stages of the whole trafficking process. There are also the beneficiaries of the crime and this includes the different businesses that utilize the services of the victims through labour exploitation and the men who patronize the brothels for the services of the trafficked women and girls.

Despite the fact that global attention has been given to the crime of human trafficking, the continuous existence of the crime still remains a reality, with low risks and high profits for the traffickers. The ordeal the victims go through is nevertheless cruel. There are a lot of factors that are responsible for proliferation of the crime and to proffer a solution to that "we need to improve our knowledge of its nature, the underlying conditions, as well as the profiles of traffickers and victims." (Kangaspunta et al. 2008, p. 1).

There should not be any reliance on one effort in the anti-trafficking campaign. The fight should be a collective one and the action should be aimed at the different stages of the crime from recruitment to exploitation. To fight the crime, the root causes should not be left aside. In this case, governments should recognise their role in the anti-trafficking actions. They should increase their role in the provision of social services and poverty alleviation programmes and enact laws that are strict in the prosecution of the offenders but considerate in the treatment of the victims. The Austrian Report on anti-trafficking strategy listed

the following as part of the measures to be taken in the fight: (see Chapters 7.3.1 & 7.3.1.1).

In this work, practices and policies that are already in place and those that are to be introduced are analysed. The Universal Declaration of Human Rights and other numerous prevention initiatives of the United Nations to combat human trafficking are given attention and the preliminary conclusion is that victims of human trafficking, in so far as they are identified as victims, should be decriminalized and the traffickers punished as criminals. Owing to the nature of the crime, which is international in nature, the efforts at combating it require a broader action that should encompass global involvement. In the opening statement of the Palermo Protocol, it is stated that the countries have come together to give a global response to a global challenge. The statement goes on to read: "If crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means. If the enemies of progress and human rights seek to exploit the openness and opportunities of globalization for their purposes, then we must exploit those very same factors to defend human rights and defeat the forces of crime, corruption and trafficking in human beings." (Trafficking Protocol 2000, Foreword).

The Trafficking Protocol with its emphasis on prevention, prosecution and protection is presented as a guide in any effort to fight human trafficking. Prevention has been conceptualized as all the efforts that should be geared towards fighting the crime and reducing vulnerability. Thus: "Focus is placed on what constitutes vulnerability to trafficking as a prerequisite for the development of valid prevention programmes." (Kangaspunta et al. 2008, p. 7). Policies and actions to fight human trafficking should also be appropriate to address the problems of vulnerability. Any failure in this direction will amount to missing the link between the crime of human trafficking and its root causes. Thus the causes of vulnerability are discussed extensively in chapter 3, where it is established that prevention and reduction of vulnerability, in the first place, are better approaches to anti-trafficking campaigns thus: "Theoretically, prevention should therefore aim to eliminate trafficking before it occurs by reducing the factors that make individuals vulnerable to being trafficked." (Kangaspunta et al. 2008, p. 7).

Inclusion of global efforts, empowerment of the vulnerable people and reduction of factors that cause vulnerability are among the basic principles of prevention as presented in article 9 of the Trafficking Protocol (see Trafficking Protocol 2000, Article 9). Increased awareness of the possibility of harm and dangers involved in illegal migration will induce people to think otherwise. Awareness alone without

the provision of alternatives or consideration of those factors that render people vulnerable, in the first place, will not have a great effect. As such, “indicators of conditions of vulnerability will need to be developed in the following areas: children; gender; poverty; social and cultural exclusion; limited education; political instability, war and conflict; social, cultural and legal frameworks; movement under duress; and demand.” (Kangaspunta et al. 2008, p. 8). These numerous causal factors influence the individual in making decisions which sometimes lead to trafficking and exploitation. In order to remedy these, part three of this work advances a set of measures designed to fight trafficking in human beings thus:

- Prevention of the original causes
- Women emancipation
- Gender equality
- Awareness campaigns
- Enlightenment against the belief in the efficacy of juju (or black magic)

In this work, prevention strategies are presented as initiatives targeted at those vulnerable people that are at risk. The recommended actions are aimed at strengthening social protection for the people both in the countries of origin and the destination. In the countries of origin, preventive measures have addressed a lot of causal factors and taken several forms with the main action being campaign and creation of awareness which involve the “use of information to alert people to the risks entailed in leaving home or seeking work abroad (or to alert parents to the risks their children run, if they are sent to work elsewhere).” (Dottridge 2008, p. 114). In line with the measures emphasized by Dottridge, preventive measures should focus on campaigns and creation of awareness. It is recommended that efforts should be made in promoting economic advancement in the countries of origin to cover the gap between the developed world and the developing world (see Chapter 7.7.3). Such economic advancement may reduce the tendency for people to migrate for economic reasons. Dottridge writes: “Many initiatives assume that increasing income-generating opportunities in a community as a whole or improving women’s income in general will be sufficient to reduce emigration and trafficking.” (Dottridge 2008, p. 115). The challenge this measure may face is that such schemes geared toward poverty alleviation may not directly get to the people who are at high risk of being trafficked owing to corruption. Education is recommended as a measure to be taken in the fight against human trafficking. Illiteracy is one of the causal factors that put people at the risk of being vulnerable to the traffickers, and efforts are to be made to bring people out of superstition, which is a factor that keeps the Nigerian victims loyal to their traffickers and captors (see Chapter 5.2.5). In the destination countries, recruitment of workers and

working conditions are to be monitored with appropriate legislation especially in the informal economic sectors because this is the sector with a high rate of trafficking cases (Kangaspunta et al. 2008). Thus, it is recommended that there should be checks for abuse in the employment sectors by making, when possible, laws that should be applicable to employment in private domestic houses. Laws could be used to tackle the demand for the services of trafficked victims.

In 2002 the United Nations Convention against Transnational Organized Crime was adopted with the intention of promoting cooperation amongst nations in the fight against human trafficking. The convention advocates measures to be used in collecting evidence against the human traffickers in order to successfully prosecute them. It is a veritable tool in the prosecution process and can be used to facilitate extradition of the offenders and legal assistance for the victims. In fact, the “broader use of the international cooperation provision of the Convention, coupled with bilateral and multilateral agreements or arrangements to enhance the effectiveness of relevant mechanisms, are recommended to ensure that an appropriate legal framework is in place to pursue traffickers.” (Dottridge 2008, p. 113).

Under international law, the rights of the trafficked persons are clarified with international guidelines. This is elaborated in this work whereby the practices of governmental and intergovernmental agencies are looked into. It is recommended that practices concerning protection, assistance and care of the victims should be guaranteed and the trafficked persons should be kept safe and given legal assistance, shelter, physical and psychological care pending the time of recovery. Legalization of the migration status of the victim by either giving him/her a permanent residency or a temporary one has been a major challenge for some countries: “Significant tensions exist between initiatives designed primarily to enforce the law against traffickers and those designed to uphold the human rights of trafficked persons.”

(Kangaspunta et al. 2008, p. 12). In respect of the human rights of the victims, the suggestion that a “reflection period” should be given to victims to enable them have the time for reflection and decision making is supported in this work. (see Chapters 7.2.2 & 7.2.2.1). The period of time granted to the victims to reflect on the next step to take in the recovery process should vary and not be static, and in cases where the victims decide to testify against their traffickers, they should be updated regularly about the progress of the prosecution and be allowed to stay at least until the end of the trial or even beyond that (Dottridge 2008). With regard to the issue of a resident permit, it is suggested that the provision of the UDHR on the right of abode should be applied, whereby “(1) Everyone has the

right to freedom of movement and residence within the borders of each state.” (see UDHR 1948, art. 13 (1)). Supporting the provision of the UDHR on the right of abode, the Trafficking Protocol obliges the destination countries to desist from the action of deporting the victims to their countries of origin without considering the potential risks they may face at home. The victims of human trafficking as such should be accorded the right to reside in the country in which they were exploited if they so wish. Article 7 of the Trafficking Protocol states: “(1) ... State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.” (Trafficking Protocol 2000, art. 7 (1)).

It is thus inordinate to return the victims of human trafficking after being identified as such to their home countries. Reports have revealed that the tendency of their being victimized and stigmatized is high and returning them home arbitrarily may decrease their chances of recovery and jeopardise their safety in their home countries. The recovery of the victims of human trafficking can be a long-term process without guarantee of success. They may suffer further harm and in extreme cases may be re-trafficked.

The challenges the Trafficking Protocol faces are discussed and the absence of a definition of what the term “victim of human trafficking” is was indicated. It could be seen that the Protocol contains a lot of references to victims of human trafficking but did not in itself define who a victim is. This leads to many inconsistencies in the legislations of some countries on the subject of human trafficking. Some countries see trafficking for sexual exploitation as a crime but do not see labour exploitation as such (Clark 2008, p. 61). To address these challenges, there should be a general consensus on the definition of ‘victims of human trafficking’. It is by understanding what human trafficking is that we can seek to find solutions to it as a problem. In order to respect the human rights of the victims while bearing their protection in mind, they should be properly informed of all the policies, facilities and actions designed to help them. Their contact with these provisions should be arranged through the relevant authorities and any legal handling of their situation should be done with their consent (Bericht des Menschenrechtsbeirates zu Identifizierung und Schutz von Opfern des Menschenhandels 2012). It is recommended that the officials of government agencies and NGOs who are in the position to handle cases of human trafficking should be properly instructed on the need to respect the human rights of the victims so as to avoid abuses. There should be decrees to this effect and everybody who is involved should be instructed accordingly to observe it:

“Dieser Erlass sollte auf geeignete und nachvollziehbare Weise allen BeamtInnen – insbesondere den in den Polizeianhaltezentren tätigen, sowie jenen, die regelmäßig an Bordellstreifen, Rotlichtstreifen, „Schnellrichterstreifen“ oder ähnlichen Einsätzen teilnehmen, und den mit fremdenpolizeilichen Aufgaben befassten – bekannt gemacht und in Schulungen vermittelt werden.” (Bericht des Menschenrechtsbeirates zu Identifizierung und Schutz von Opfern des Menschenhandels 2012, pp. 80–81).

The theme ‘Human Trafficking’ should be part of the regular training of law enforcement agents. Instructions on how to identify and fight the crime should be part of an ongoing formation in the institutions of both higher and lower learning. This will bring to the consciousness of everybody the reality of the crime.

All countries that have laws which criminalize the victims of human trafficking are called upon to enact new ones that decriminalize the victims if such is not the case, provide for their assistance and prosecute the offenders. The victims should not be punished because of their illegal status in a country or, as the case may be, because of illegal prostitution. This privilege includes immunity from deportation: “Opfer des Frauenhandels müssen von Ausweisung, Abschiebungs- und Aufenthaltsverbot ausgenommen werden. Geheimprostitution darf keinen Abschiebungs- und Ausweisungsgrund darstellen.” (Boidi et al. 1996, p. 117). The victims should be given the opportunity to settle in the destination countries where they were exploited and the chances of employment should be given to them. However, the measures to be taken in the lands of origin are discussed and among them are campaign initiatives to enlighten those who are likely to be vulnerable to traffickers when migrating. Cooperation among NGOs and governments, funding of poverty alleviation programmes, rectification of international laws and declarations, and migration management are among the measures to be taken in the fight against human trafficking.

The crime of human trafficking, like the old slavery, affects many people in a negative manner each year and should be seen as a modern day slavery practice. It should be everyone’s concern to find practicable measures to fight it. This work is a contribution to that.

Appendix 1

(U.S. State Department Report 2009, online version):¹³⁹

Trafficking in Persons (TIP) Report 2009

“Initial Consent:

A person may agree to migrate legally or illegally or take a job willingly. But once that work or service is no longer voluntary, that person becomes a victim of forced labour or forced prostitution and should accordingly receive the protections contemplated by the 2000 UN TIP Protocol. Once a person's work is recruited or compelled by the use or threat of physical violence or the abuse or threatened abuse of the legal process, the person's previous consent or effort to obtain employment with the trafficker becomes irrelevant. A person may agree to work for an employer initially but later decide to stop working because the conditions are not what they agreed to. If an employer then uses force, fraud, or coercion to retain the person's labour or services, the employer becomes a trafficking offender and the employee becomes a victim. In April 2008, this type of misplaced reliance on a worker's initial consent led to the deportation of three Thai victims from a European country because, according to the head of the anti-trafficking police unit in that country, the victims had consented to the employment and had arrived voluntarily in that country as guest workers. The victims in this case discovered their employment conditions were vastly different from what they expected when they initially accepted their jobs and travelled to Europe; further, their employers retained their passports, forced them to sometimes work without compensation, and threatened to turn them over to police if they did not work as they were told.

Prior Work History:

Previous employment choices also do not exclude the possibility that a person may be a victim of trafficking. Some government officials fail to identify victims of sex trafficking because they may have willingly worked in the sex industry prior to being trafficked. Law enforcement may fail also to identify victims of

139 Taken from the U.S. State Department Trafficking in Person Report of June 2009. In <http://www.state.gov/documents/organization/123357.pdf>. Accessed on 24. April 2014.

labour trafficking because they are migrant workers and may have previously worked in difficult conditions, either legally or illegally. Whether a person is a victim of labour trafficking turns on whether that person's service or labour was induced by force, fraud, or coercion.

Wage Payment:

Case law from U.S. criminal cases has established that payment of a wage or salary is not a definitive indicator that the labour or service is voluntary. If a person is compelled to labour through the use of force or coercion—including the use of non-physical forms of coercion such as financial harm—then that work or service is forced, even if he is paid or compensated for the work.”

Appendix 2

Universal Declaration of Human Rights (UDHR)¹⁴⁰

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, 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. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

¹⁴⁰ Only the relevant articles are presented here.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Appendix 3¹⁴¹

„ 9.4 Anregungen zur Verbesserung des Opferschutzes für den Aufgabenbereich des BM.I

- Das Unterstützungs- und Begleitungsangebot für gehandelte Frauen, Männer und Kinder muss bundesweit gewährleistet werden. Das BM.I sollte hierfür nach dem Beispiel der Kooperation mit LEFÖ-IBF weitere vertragliche Partnerschaften nach § 25 Abs. 3 SPG eingehen. Die VertragspartnerInnen sollten auf die Betreuung und Begleitung von Opfern des Menschenhandels spezialisiert sein, sodass auch auf die speziellen Bedürfnisse von männlichen und minderjährigen Opfern des Menschenhandels bundesweit auf adäquate und individuelle Weise eingegangen werden kann.
- Um für Opfer des Menschenhandels den Zugang zu Opferrechten, zu Opferschutz und zu adäquater Betreuung und Begleitung zu gewährleisten, bedarf es einer klaren Handlungsanleitung für BeamtInnen, welche Informationen Opfern wann und in welcher Form mitgeteilt werden müssen. Der Erlass sollte klar regeln, dass Personen, bei denen der Verdacht besteht, dass sie Opfer von Menschenhandel sind, über die Unterstützungsleistungen von geeigneten Opferschutzeinrichtungen informiert werden müssen und mit dem Einverständnis dieser Personen der Kontakt zu den entsprechenden Einrichtungen durch die BeamtInnen ermöglicht bzw. hergestellt werden muss. Zudem muss darauf hingewiesen werden, dass für Opfer des Menschenhandels eine Erholungs- und Bedenkzeit gilt und aufenthaltsbeendende Maßnahmen in den ersten 30 Tagen nicht erlaubt sind. Der Inhalt des Erlasses sollte BeamtInnen in Schulungen vermittelt werden.
- Die Kooperation zwischen dem BM.I und aktuellen Unterstützungseinrichtungen wie LEFÖ-IBF oder der „Drehscheibe“ der Stadt Wien für gehandelte Kinder müssen weiter institutionalisiert werden und Opfer in jedem Fall über die Unterstützungsangebote dieser Institutionen informiert werden.“ (Bericht des Menschenrechtsbeirates zu Identifizierung und Schutz von Opfer des Menschenhandels 2012: 9.4, p. 79).

141 http://www.bmi.gv.at/cms/BMI_MRB/mrb/berichte/files/Bericht_der_AG_Menschenhandel_Endversion.pdf. Accessed on 2. December 2014.

Appendix 4

Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

Recommended guidelines

Guideline 2

“Identification of trafficked persons and traffickers

Trafficking means much more than the organized movement of persons for profit. The critical additional factor that distinguishes trafficking from migrant smuggling is the presence of force, coercion and/or deception throughout or at some stage in the process— such deception, force or coercion being used for the purpose of exploitation. While the additional elements that distinguish trafficking from migrant smuggling may sometimes be obvious, in many cases they are difficult to prove without active investigation. A failure to identify a trafficked person correctly is likely to result in a further denial of that person’s rights. States are therefore under an obligation to ensure that such identification can and does take place.

States are also obliged to exercise due diligence in identifying traffickers, including those who are involved in controlling and exploiting trafficked persons.

States and, where applicable, intergovernmental and non-governmental organizations, should consider:

1. Developing guidelines and procedures for relevant State authorities and officials such as police, border guards, immigration officials and others involved in the detection, detention, reception and processing of irregular migrants, to permit the rapid and accurate identification of trafficked persons.
2. Providing appropriate training to relevant State authorities and officials in the identification of trafficked persons and correct application of the guidelines and procedures referred to above.
3. Ensuring cooperation between relevant authorities, officials and non-governmental organizations to facilitate the identification and provision of assistance to trafficked persons. The organization and implementation of such cooperation should be formalized in order to maximize its effectiveness.

4. Identifying appropriate points of intervention to ensure that migrants and potential migrants are warned about possible dangers and consequences of trafficking and receive information that enables them to seek assistance if required.
5. Ensuring that trafficked persons are not prosecuted for violations of immigration laws or for the activities they are involved in as a direct consequence of their situation as trafficked persons.
6. Ensuring that trafficked persons are not, in any circumstances, held in immigration detention or other forms of custody.
7. Ensuring that procedures and processes are in place for receipt and consideration of asylum claims from both trafficked persons and smuggled asylum seekers and that the principle of non-refoulement is respected and upheld at all times.”

(Recommended Principles and Guidelines on Human Rights and Human Trafficking, online version).¹⁴²

142 In: https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-3.pdf. Accessed on 2. December 2014.

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