



## Baby Factories In Nigeria And Its Coefficients: Examining The Law On The Crime And Its Multipliers

T.A. Yusuf, Esq

Nigerian Law School, Nigeria

### ABSTRACT

What were once vices are now norms. This statement aptly and succinctly describes the prevalence of the crime of operating a baby factory and its coefficient crimes like prostitution, women trafficking, kidnapping, abduction, slave trading and rape among several others in Nigeria. It is opined in this paper that these crimes multiply each other in the sense that the prevalence of one or two serves as catalysts to the other or others to the extent that all are the causes and at the same time the effects of each other which leads to a vicious circle of causes and effects. The penchant for these illicit engagements which were once morally despicable is now becoming a way of life in the country and the alleged justification for same is that they serve as sources of income to ameliorate the harsh economic climate being currently experienced in the country. The income from these activities are also laundered as seed money for legitimate investments. The paper opines that no matter the garb they adorn, these activities are illicit and remain so as long as the law prohibits and penalizes them. The paper examines the law on these crimes and the nexus among them and concludes by suggesting that a strict enforcement of the Anti-trafficking in person's law would be necessary to stem the proliferation of baby factories in the country among other suggestions. The doctrinal research methodology was adopted in the writing of the paper.

**Keywords:** *Kidnapping, Abduction, Rape, Prostitution, Human Trafficking and Slave Trading.*

**Citation:** T.A. Yusuf, Esq (2022). Baby Factories In Nigeria And Its Coefficients: Examining The Law On The Crime And Its Multipliers. *Int J Arts Huma Social Studies*, 4(5), 147-155.

### INTRODUCTION

Nigeria's economy at present is in no doubt in need of viable commercial enterprises that would boost the Gross Domestic Product (GDP) and ensure a favourable balance of trade between the country and sister nations from which the country imports products that are not or cannot be produced locally. However, such enterprises should be licit. Baby Factories, commercial sex and the traffic in women are emerging money spinning ventures in Nigeria albeit being illicit.

An observation of happenings or events in the Nigerian society would reveal that the female gender is mostly the victim of social vices like commercial sex, human trafficking and baby factories and the main reason is to satisfy the immoral and/or material cravings of depraved social delinquents. A baby factory as deduced from media reports [1] is a place where women of child bearing age are kept willingly or detained against their will to be impregnated (with or without their consent) by men employed specifically for that purpose and the babies when delivered are sold. Some of these women or girls are victims of kidnapping, abduction, organized prostitution and human trafficking. The sold babies sometimes end up being adopted illegally, trafficked to other places where they are bred and conscripted into prostitution or forced labour. It is not also unlikely that some of these innocent children may be used towards fetish ends [2].

<sup>1</sup>Obinna Odogwu, 'Police raid Anambra baby factory, rescue 4 pregnant girls' *Daily Sun*(Lagos, 17 March, 2021)5: 'The police have busted a baby factory in Nnewi, Nnewi North Local Government Area of Anambra State, and rescued four pregnant girls kept in the facility by its operator, Gladys Nworie Ikegwuonu. Anambra State Police Public Relations Officer (PPRO), CSP Haruna Mohammed, said Ikegwuonu, who hails from Ohaozara in Ebonyi State, had fled and efforts were being made to apprehend her and her accomplices. Mohammed, in a statement, said that the principal suspect was behind the recent kidnap of a 4-year old child who was returning from school on March 11. The statement read: "It will be recalled that on March 12, there was a report at the Area Command Headquarters, Nnewi, that a four year old child of St Joseph's School, Otolo Nnewi, was returning home from school in company with his siblings when two men on a motorcycle grabbed the child and zoomed off with him. "However, the child was rescued by some commercial motorcyclists who pursued and eventually arrested the suspects at Akammili community, Nnewi. "Preliminary investigations conducted by the police revealed that the suspects who were beaten to stupor by an angry mob one of whom was confirmed dead, were sent by Gladys Nworie Ikegwuonu, presently at large, who also operates a baby factory and a brothel by keeping young girls and getting them impregnated after which she sells the children to her waiting customers'.

<sup>2</sup> In *Lase v State* (2019) All FWLR (pt.983) 119, the appellant and one other accused person were alleged to have kidnapped the deceased, an 18-month old baby who was sleeping with her mother and had subsequently murdered her and removed her body parts. The accused persons were arrested after being fingered by the community's deity and arraigned in the High Court of Ondo State on a 2-count charge of kidnapping and murder contrary to sections 3 and 319 of the Criminal Code.

Trafficking or traffic in persons means the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual reproductive) in forced or bonded labour, or in slavery-like conditions and the removal of organs generally for exploitative purposes [3].

Prostitution is ‘the act or practice of engaging in sexual activity for money or its equivalent; commercialized sex’ [4]. Baby Factories, Women trafficking and prostitution are coefficients of each other in the sense that one multiplies the others. The prevalence of one leads to the prevalence of the others. In other words, one births the other(s). The brothel (which may be operated as such or may be operated under the guise of other legitimate businesses which are used as fronts) is usually the factory while the babies begat therein are the products of the factory.

The aim of this paper is to examine the nexus between the crime of operating baby factories and other crimes that multiply its base value or valuelessness, the law on them and to propound that to curb one of these menaces will necessitate the curbing of the others.

The paper would be discussed under the heads of each of these kindred crimes mentioned above and allusions would be made to human rights issues related to the topic and international treaties on it.

### **KIDNAPPING AND ABDUCTION**

As stated earlier, some of the girls and women that are used to ‘produce’ the babies in baby factories are victims of kidnapping and abduction. Kidnapping and abduction are offences in Nigeria. The Penal Code applicable in the Northern States of Nigeria has copious provisions on the offences of kidnapping and abduction. It provides that whoever takes or entices any person, under fourteen years of age if a male or under sixteen years of age if a female, or any person of unsound mind out of the keeping of the lawful guardian of such person without the consent of such guardian or conveys any such person beyond the limits of the Northern Region without the consent of someone legally authorized to consent to such removal, is said to kidnap such person [5]. The Criminal Code applicable in the Southern States of the Country also contain provisions with similar wordings as that of the Penal Code [6]. Ogbuinya JCA in *Yusuf v State*[7], opines on what constitutes the ingredients of the offence of kidnapping under section 274 of the Penal Code to be that: (a) The victim must be taken or enticed out of the keeping of his or her lawful guardian (b) The victim must be under fourteen years of age if he is a male, or below sixteen years, if she is a female or a person of unsound mind.

In *Edokun v State* [8], the Court of Appeal considered section 364(2) of the Criminal Code in coming to a decision on what constitutes the ingredients of kidnapping and held per Barka JCA that:

It has been accepted that to establish the offence of kidnapping under section 364(2) of the Criminal Code, the following ingredients of the offence must be proved – (1) That the victim was seized and taken away by the accused person (2) That the victim was taken against his consent (3) That the victim was taken away without lawful excuse; and (4) That the victim was unlawfully detained or taken away.

It is also an offence for anyone to forcefully compel or by any deceitful means induce any person to go from any place, and if he does, he is said to have abducted that person [9]. The punishment for anyone convicted for kidnapping or abduction under the Penal Code is imprisonment which may extend to ten years and shall also be liable to fine [10]. In *Ibrahim Shingida V C.O.P* [11], the Court of Appeal per Jones S.P.J. held that the offence of kidnapping is established

---

<sup>3</sup>Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 s.82

<sup>4</sup>Bryan A. Garner et al (ed.), *Black's Law Dictionary*, Ninth Edition (Thomson Reuters)1342.

<sup>5</sup>Penal Code s.271

<sup>6</sup>Criminal Code s.364

<sup>7</sup>(2012) All FWLR (pt. 641) 1478 at 1506

<sup>8</sup>(2018) All FWLR (pt.936) 1522 at 1557.The appellant was alleged to be one of a four-man gang that kidnapped PW1 while driving his car and took him to an unknown destination. The appellant and two other persons were arrested in connection with the kidnap and arraigned in the High Court of Delta State on a 4-count charge of conspiracy and kidnapping. The prosecution tendered in evidence a confessional statement made by the appellant which was admitted after a trial-within-trial. The trial court found the accused persons guilty and sentenced them accordingly. Aggrieved, the appellant appealed to the Court of Appeal contending that his conviction was wrong on grounds that the prosecution failed to prove the charges against him and he had been denied his right to fair hearing.

<sup>9</sup>Penal Code s.272

<sup>10</sup>Penal Code s.273

<sup>11</sup>(1970) N.N.L.R. 113. Ibrahim Shinfida was tried and convicted in a magistrate's court on a charge of kidnapping, punishable under s.273 Penal Code. There was evidence that he was visiting Kilmano village when Maimuna, a girl of about fourteen years of age,

under S.273 only if it is proved that the legal guardian did not give his consent to the taking away of the victim. The Court opined that in the present case the trial magistrate made no finding as to who the legal guardian was. The evidence did not prove the allegation in the charge that Abdu Sarkin, Maimuna's father, was her legal guardian and that since Maimuna was married and about fourteen years of age, her husband may well have been her legal guardian. She was living in his compound. His name was Kallam. Nobody of the name Kallam gave evidence. Thus there was no proof who the legal guardian was, and if it was Kallam, there was no proof that he did not consent to Maimuna being taken away. Some evidence to support Maimuna's evidence that the accused took her away was desirable for a conviction.

In *Halilu Mohamman v Local Government Police* [12], the Court per Jones S.P.J. held that:

The result of the defects in the trial and the judgment which we have mentioned is that we cannot safely support either conviction. The reason why we cannot support the conviction for abduction is that if Appellant was still married to Faji then he had a legal right to take her from where she was, and by force if necessary.

In *Yunusa Dan Yari v Zaria N.A* [13], the court held that the offence of kidnapping is defined by Section 271 Penal Code and for there to be kidnapping the person allegedly kidnapped must be under fourteen years of age if a male and under sixteen years of age if a female or of unsound mind. That in the instant case, there was no evidence that any of the three females alleged kidnapped was under sixteen years of age or of unsound mind. And that the evidence proved the offence of abduction which is provided under section 272 of the Penal Code.

Whoever knowing that any person has been kidnapped or has been abducted wrongfully conceals or confines such person, would be punished in the same manner as if he had kidnapped or abducted such person [14]. In *James Obaje & Anor v His Royal Highness, The Emir of Katsina, Alhaji Muhammed Kabir Usman Katsina & 2 Ors* [15], Ibiyeye J. held that:

With regard to the third issue which touches on abduction, harbouring and breach of fundamental rights, I quite agree with the submission of the learned counsel for the plaintiffs that these are tortious acts and constitutional guarantees which if breached are triable by this Court...I have considered the entire particulars of the writ of summons and arguments of counsel and I have come to the conclusion that the alleged acts of abduction and harbouring cannot be treated in isolation of the marriage complained by the plaintiffs. This is so because these acts are so proximately connected with the type of marriage contracted by the defendants which the plaintiffs are frowning at. Thus, it seems from the particulars of the writ of summons that it is as a result of the inability of the defendants to perform certain undisclosed Idoma matrimonial rites vis-à-vis the marriage of Christiana James otherwise known as Fatima Alhaji Kabir

---

disappeared. Maimuna had been living there with her husband, Kallam. Her parents' compound was in the same village. Nobody saw her go away, but there was evidence that she had left her husband's house two days before and had been brought back by her father. P.W.3. The accused and Maimuna were found at Runawwuri. Accused said he had met Maimuna six months before and that she had been ill and he had agreed to take her back to her family. He was an old man, and already married. Maimuna said it had been the accused who had enticed her away by giving her kolanut. The trial procedure had a number of defects. The magistrate sentenced Appellant to three years imprisonment with hard labour.

<sup>12</sup>(1970) N.N.L.R 98 at 101. Appellant was convicted in an Area Court of the offences of house trespass and abduction. His defence was that the material person was his wife. The prosecution case was that she was his ex-wife. The evidence of divorce was oral evidence and a letter to the trial judge made no specific findings as to the value of the evidence of any of the witnesses.

<sup>13</sup> (1968) S.C.O.P.E 87; (1967) N.N.L.R 85. Appellant was convicted on one charge of kidnapping three women, and on another charge of having sexual intercourse with two women without their consent, as defined in Section 282(1) (b) Penal Code. There was no corroborative evidence of either alleged rape, and the trial court did not warn itself of the danger of convicting in rape cases on the uncorroborated evidence of the person raped. There was no evidence that any of the persons alleged kidnapped were under sixteen years of age or of unsound mind.

<sup>14</sup> Section 277 Penal Code.

<sup>15</sup>(1985) HC.N.L.R 688 at 695 and 697. The 1<sup>st</sup> Plaintiff is a policeman and the 2<sup>nd</sup> Plaintiff was his wife. The 1<sup>st</sup> Defendant was the Emir of Katsina, and the 2<sup>nd</sup> Defendant was the man who purportedly married the Plaintiff's daughter. Sometime on 21<sup>st</sup> August 1982 the second and third defendant approached the Plaintiffs seeking their consent for the 2<sup>nd</sup> Defendant to marry their daughter, Christiana James, and they (the Plaintiffs) duly gave their consent. The parties however disagreed on the mode of Marriage. The Plaintiffs wanted the marriage done in accordance with the Idoma Native Law and Custom while the Defendants opted for the Moslem type. When the parents of Christiana were unyielding, the Defendants according to the Plaintiffs abducted the Plaintiff's daughter from their lawful custody and parental care. The matter was reported to the Police and on investigation the girl was found in the Emir's palace. While still in the Emir's custody, she was converted to Islam, and given in Marriage to the 2<sup>nd</sup> Defendant. The Plaintiffs thereupon commenced an action at the Kaduna High Court claiming from the Defendants jointly and severally the sum of N50,000 for loss of services and expectation from their daughter and violation of their fundamental Human Rights and a nullification of the purported marriage. At the hearing, the Defendants' counsel applied that the action be struck out because the Court lacked jurisdiction in matter of customary marriage. The Defendants countered that even if the jurisdiction of the High Court was ousted on question of Marriage, abduction and breach of fundamental rights were matters within the jurisdiction of the Court. Hence the causes of action could be separated.

Usman Katsina and the second defendant that the plaintiffs have alleged abduction and harbouring against the defendants. In view of this, I find no basis for sustaining the submission of learned counsel for the plaintiffs urging separation of issues. I am of the opinion that there is a fusion of issues and any attempt to separate them will render any attendant action inchoate or partial and it might be to the detriment of the plaintiffs.

The Child Rights Act, 2003 also forbids any person to remove or take a child out of the custody or protection of his father or mother, guardian or such other person having lawful care or charge of the child against the Will of the father, mother, guardian or other person. A person who contravenes the above provision commits an offence and is liable on conviction; where the child is unlawfully removed or taken out of the Federal Republic of Nigeria, with intention to return the child to Nigeria, to imprisonment for a term of fifteen years, or with no intention to return the child to Nigeria, to imprisonment for a term of twenty years. Where the child is unlawfully removed or taken out of the State in which the father, mother, guardian or such other person who has lawful care of the child is ordinarily resident, the culprit would be liable to imprisonment for a term of ten years, or in any case, to imprisonment for a term of seven years [16]. In *The State v Nweke Obor* [17], the issue was whether one parent could be guilty of removing or taking away a child from the custody of the other parent? Oputa, J. opined on this issue thus:

Section 371(a) of the code uses the expression 'any person'. It is my view that either a wife or husband comes within the ambit of that expression. Also, 'any' parent may refer to either the husband or the wife as the case may be. Where the other elements of an offence under section 371(a) exist, I do not see any logical or compelling reason to hold that a wife or a husband cannot with intent to deprive the other parent of the possession of a child fraudulently take away such a child. There is abundant evidence before me that P.W.1, Casmir Odive, is the father of the three children mentioned in this information. He is 'any parent'. He was deprived of the possession of these children by his wife, Christiana Ezeagbo Odive. It cannot be in doubt that the said Christiana answers to the definition of 'any person' used in section 371(a).

The Child Rights Act also prohibits the buying, selling, hiring or otherwise dealing in children for the purpose of hawking or begging for alms or prostitution, etc. Specifically, it provides that no person shall buy, sell, hire, let or hire, dispose of or obtain possession of or otherwise deal in a child. A child shall not be used for the purpose of begging for alms, guiding beggars, prostitution, domestic or sexual labour or for any unlawful or immoral purpose or as a slave or for practices similar to slavery such as sale or trafficking of the child, debt bondage or serfdom and forced or compulsory labour. Nor shall a child be used for hawking of goods or services on main city streets, brothels or highways or for any purpose that deprives the child of the opportunity to attend and remain in school as provided for under the compulsory, Free Universal Basic Education Act. A child should also not be procured or offered for prostitution or for the production of pornography or for any pornographic performance. It is equally illegal to procure or offer a child for any activity in the production or trafficking of illegal drugs and any other activity relating to illicit drugs as specified in the National Drug Law Enforcement Agency Act. A person who contravenes this provision of the Act commits an offence and is liable on conviction to imprisonment for a term of ten years [18].

The Act also provides against the abduction of children. It provides that any person who knowingly and without lawful authority or reasonable excuse takes or keeps a child to whom the relevant section of the Act applies away from the person responsible for the child or induces, assists or incites a child to whom the section applies to run away or stay away from the person responsible for the child, commits an offence under the section and would be liable on conviction to a fine not exceeding seventy thousand naira or imprisonment for a term not exceeding three years or to both such fine and imprisonment [19].

In the *State v Amina E. Eyo & 2 Ors* [20], three accused persons were charged jointly and severally with the offences of kidnapping and conspiracy. The prosecution led evidence to show that the 1<sup>st</sup> and 2<sup>nd</sup> accused were members of staff of

---

<sup>16</sup>Child Rights Act, 2003 s. 27(1) and (2)

<sup>17</sup>(1972) ECSNLR (Vol.II) 4 at 6-7.P.W. 1, Casmir Odive, was married to one Christiana Ezeagbo Odive, both by native law and custom and under the ordinance, they had four children, three of these are juveniles under the age of twelve; the said Christiana Odive without the knowledge or consent of P.W.1 removed these children from his and their former home and ran to the accused with the children. The accused received and harboured both mother and children and claimed to be the father of these children and husband of Christiana Odive and then renamed the Children. Christiana herself denied being the wife of P.W.1 and alleged that the children were those of the accused whom she now claims as her husband. The only difficulty in this case is that the original taking away of the children the subject of counts 1, 2 and 3 was done by their mother. The question that now arises is whether a mother can within the contemplation of section 371(a) forcibly or fraudulently take her own child away in such a way as to render any person who receives and harbours that child criminally liable for child stealing under section 371(b)?

<sup>18</sup> Child Rights Act, 2003 s.30

<sup>19</sup> Child Rights Act, 2003 s.47

<sup>20</sup>(1985) HCNLR 585.

Muritala Muhammed Hospital Kano, and the 3<sup>rd</sup> accused was a friend to both of them. On 16<sup>th</sup> February 1981, the 3<sup>rd</sup> accused went to the Hospital pretending to be pregnant. She in company of the second accused went to the nursery of the hospital, and having succeeded in luring out of the way the other people around, snatched a baby from the nursery. Third accused took the baby to the 1<sup>st</sup> accused's house. Earlier in the day, the third accused had under pretended pain of labour induced her brother-in-law to take her to the 1<sup>st</sup> accused's house to deliver. When the husband of the third accused got home in the evening, he was told that his wife had been taken to the 1<sup>st</sup> accused's house. He went there and was told by the 1<sup>st</sup> accused that the 3<sup>rd</sup> accused had delivered a baby boy. He went home with his wife and baby, and there was merriment over the so called new baby. Unfortunately, the baby died that night and was buried at the cemetery the next morning. Inquiries made at the hospital led to the house of the 3<sup>rd</sup> accused. She made a statement incriminating the others. She herself was examined by a doctor and it was discovered that she had not recently been pregnant nor had she just put to bed. The Police exhumed the body of the boy and it was identified by the 3<sup>rd</sup> accused as the baby she gave birth to and by the parents as their son. The 1<sup>st</sup> accused denied ever seeing the 3<sup>rd</sup> accused in her house on that fateful day nor did she tell the husband of the 3<sup>rd</sup> accused that the latter delivered in her house. Their counsel contended that the conspiracy was not proved, the circumstantial evidence not cogent to support conviction and that the prosecution had not proved their case beyond reasonable doubt. However, the court held that since the Hospital authorities did not consent to the taking away of the child, the charge of kidnapping was proved.

### **CHILDREN RESIDING IN BROTHELS**

There are cases of children living with their mothers in Brothels and other places not conducive to the proper upbringing of a child. The law frowns at this and legislates against it. For example, the Child Rights Act, 2003 lists a child development officer, a police officer or any other person authorized by the Minister as being authorized to bring a child before the court if he has reasonable grounds for believing that the child is lodging or residing in a house or the part of a house used by a prostitute for the purpose of prostitution, or otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of the child; is a child in relation to whom an offence against morality has been committed or attempted; is otherwise exposed to moral or physical danger; is otherwise in need of care, protection or control; or is beyond the control of his parent or guardians [21].

### **RAPE**

The relevance of rape to the theme of our discourse is that the women being used to produce babies sometimes are forced to have coitus with men specifically recruited for such purpose by the proprietor or proprietress of these baby factories. It would be apt here to examine a judicial authority on what constitutes the ingredients of rape. In *Mamuda v State* [22], illustrates instances of abduction and rape, crimes that could lead to the crime of operating baby factories or could arise from its operation. The appellant therein, a police constable was arraigned and charged alongside five others at the Kano State High Court, for rape contrary to section 283 of the Penal Code Law. They were alleged to have abducted and continuously raped one Hindatu Sani. The appellant pleaded not guilty to the charge. At the trial, the prosecution tendered the appellant's extra-judicial statement alongside evidence of several witnesses. The appellant on his part, alleged the victim, Hindatu Sani (PW5), consented to the sexual intercourse for a fee of two thousand naira. The Supreme Court of Nigeria in deciding the ingredients the prosecution must establish to sustain a concurrent conviction for rape considered Section 282 of the Penal Code and posited per Muhammad JSC that:

To sustain the concurrent conviction of the appellant by the two courts below under section 282 of the Penal Code Law for rape, the prosecution must prove by credible evidence and beyond reasonable doubt that the sexual intercourse the appellant himself admitted he had with PW5, a woman not his wife, was in any of the following circumstances: (a) Against her will; (b) Without her consent; (c) With her consent, when her consent has been obtained by putting her in fear of death or of hurt; (d) With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married; (e) With or without her consent, when she is under fourteen years of age or of unsound mind.

On whether corroboration is required to secure conviction for rape, the eminent Justice of the Supreme Court enthused that:

It is not a rule of law that an accused person in a charge of rape cannot be convicted on the uncorroborated evidence of the prosecutrix. Indeed the consensus of the judicial decisions on the requirement of corroboration or corroborative evidence is that, although it is desirable as a matter of practice rather than a matter of statute to have such corroborative evidence, the court is nonetheless not hindered from convicting an accused person [23].

---

<sup>21</sup> Child Rights Act, 2003 s. 50(1) (k) –(o)

<sup>22</sup> (2020) All FWLR (pt.1023) 1 at 29.

<sup>23</sup> *Ibid* at 32.

## PROSTITUTION

Prostitution is the act of having sexual intercourse in exchange for a fee. A person that engages in the act of prostitution is a prostitute. Prostitution is sometimes mobile in nature in the sense that the prostitute hawks her 'wares' on the streets and is picked up by her patrons. In Nigeria, such prostitutes are referred to as 'runs girls' or 'friends with benefits'. Prostitution could also be carried on from a residence called a brothel located in a red light district. What is relevant to our discourse here is that unwanted pregnancies are a common by-product of this illicit trade and babies delivered from such pregnancies are sometimes used to feed the baby factory industry.

The Penal Code punishes the business of child harvesting and sale by providing that whoever buys, sell, hires, lets to hire or otherwise obtains possession or disposes of any person under the age of eighteen years with intent that such person be employed or used for the purpose of prostitution or for any unlawful or immoral purposes or knowing it to be likely that such minor will be employed or used for any such purpose would be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine [24].

Prostitution and allied activities are offences in Nigeria and are punished as such. Hence, living on the earnings of a prostitute is equally a crime in Nigeria. People that facilitate and live on the earnings of prostitution are referred to as Pimps. The following cases are judicial decisions on this point.

In *Louis Okoro v I.G.P* [25], Mbanefo, C.J ruled on a case of the offence of living on the earnings of a prostitute thus:

I think that... a person may fairly be said to be living in whole or in part on the earnings of prostitution if he is paid by prostitutes for goods and services supplied by him to them for the purpose of their prostitution which he would not supply but for the fact that they were prostitutes. I emphasize the negative part of this proposition for I wish to distinguish beyond all misconception such a case from that in which the service supplied could be supplied to a woman whether a prostitute or not... It is significant that the only inmates of the two rooms in the hotel are women of easy virtue who on their admission make their living to the knowledge of the appellant from prostitution and pay to him what may fairly be described as exorbitant rent of four shillings per day, i.e., £6 a month for a room which on the evidence does not appear to be let furnished. There is in my view evidence on which it can be said that the appellant was living wholly or in part on the earnings of a prostitute. The appeal is accordingly dismissed.

In *Duru v I.G.P* [26], the Supreme Court of Nigeria held that a Landlord who lets a house, flat, or room to a prostitute for residence in the ordinary way of letting is not guilty of an offence under section 225A (1) (a) of the Criminal Code (E.N). The court held that there was no evidence that the defendant was charging the prostitutes more than the normal commercial rent for rooms in his hotel. In *C.O.P v Annah & Ors* [27], it was held that Section 235 of the Criminal Code must be considered to have been worded advisedly in the substitution of the words "house, room, set of rooms or place of any kind" for the word "brothel" which appears in Section 13 of the Criminal Law Amendment Act, 1885, and that the defendants did "keep a room for the purposes of prostitution" within the meaning of Section 235. The court held that the accused persons should have been convicted.

## HUMAN TRAFFICKING

Most of the women and girls kept as 'layers' in baby factories are not ordinarily resident in the town where the factory is situate. They are usually victims of intra and international human trafficking activities. This is because making a woman who ordinarily resides in the vicinity to suddenly take up residence in a baby factory would raise suspicions.

---

<sup>24</sup> Penal Code s. 278

<sup>25</sup>(1964) Vol. III E.C.S.L.R 78 at 79 to 80. The appellant was convicted by the Magistrate of the offence of knowingly living on the earnings of a prostitute contrary to section 225A (1)(a) of the Criminal Code. He had rented two rooms in his hotel known as the National Hotel, Enugu, to two prostitutes who paid 4s a day for each room. The appellant in his statement to the Police admitted that the women were lodgers who attended to men only for personal satisfaction. In the course of trial a witness for the prosecution turned hostile and in annoyance the Magistrate ordered that the witness be detained for two days. At the end of the case the Magistrate convicted the appellant and sentenced him to £50 fine or four months imprisonment.

<sup>26</sup>(1965) Vol. 4 NSCC 234. The defendant ran a hotel in which four women were staying; the women said they paid 5s. 6d a day and depended on boyfriends. A constable saw men in the evenings go into their room for a while. The defendant agreed the women were lodgers but denied knowing they were prostitutes, and that a lodger who did not pay was turned out. The trial magistrate thought he was exercising influence over the women by letting rooms to them with the threat of eviction if they did not pay daily rents, and convicted him. On appeal, the High Court upheld the conviction. The defendant further appealed to the Supreme Court.

<sup>27</sup>5 N.L.R 69. Certain women were charged before the Police Magistrate, Lagos, with "keeping a place for purposes of prostitution" in contravention of Section 235 of the Criminal Code. It was proved that each was a prostitute and that each had a room or part of a room in which she practiced her profession. The Police Magistrate refused to convict, but at the request of the Police stated a case for the opinion of the Divisional Court.

Penury is a major reason for human trafficking. Many women stranded on the shores of foreign countries were deceived into being trafficked. Poverty compounded by their gullibility made them easy prey to be hoaxed with promises of greener pastures abroad. Those who prey on them and goad them into being trafficked are sometimes their close and trusted friends or relatives [28]. These women end up being killed or deported after being abused physically and mentally. Human trafficking may have a life time negative psychological effect on the victims because of the physical and emotional abuse they are subjected to which may in turn lead them to seeking succor in substance abuse, alcoholism or other temporary but dangerous escape routes [29]. Human trafficking multiples vices like prostitution in the places where the victims are trafficked to as most are forced or find themselves becoming scarlet women in order to survive with the attendant rise in the spread of sexually transmitted diseases and unwanted babies. Such babies now serve as the products of organized or unorganized baby factories which in turn feeds the human trafficking racket [30].

The Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 is a principal legislation against human trafficking in Nigeria. It contains copious provisions against trafficking in persons. The Act penalizes the procurement of persons for sexual exploitation; Abuse, Procurement or Recruitment of Persons under 18 years for Prostitution or other forms of Sex Exploitation; Procurement or Recruitment of Person under the age of 18 years for Pornography or Brothel; Foreign travel which promotes Prostitution or Sexual Exploitation; Procurement or Recruitment of Person for Organ Harvesting; Prohibition of Buying or Selling of Human beings for any purpose; Forced Labour; Employment of a Child as domestic worker and inflicting grievous harm on a child; Trafficking in Slaves and Slave dealing among other offences [31].

In respect of trafficking in women, the Penal Code promulgates that anyone who in order to gratify the passions of another person, procures, entices or leads away, even with her consent, any woman or girl for immoral purpose shall be punished with imprisonment which may extend to seven years and would also be liable to fine [32]. The Code also forbids the buying or disposing of slaves. It provides that whoever imports, exports, removes, buys, sells, disposes, traffics or deals in any person as a slave or accepts, receives or detains against his will any person as a slave would be punished with imprisonment for a term which may extend to fourteen years and would also be liable to fine [33]. It proscribes unlawful compulsory labour by punishing any person convicted for such with a term of imprisonment which may extend to one year or with fine or with both [34].

The Penal Code also provides that whoever, by any means whatsoever, induces any girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person should be punished with imprisonment which may extend to ten years and would also be liable to fine [35]. In *Ellison Ibo v Zaria N.A.* [36], the High Court held that a conviction under this section was wrong where a girl was procured for the purpose of sexual intercourse with the procurer. In *Aya Agee v Zaria N.A.* [37], the High Court followed *Ellison Ibo's* case in declaring that to constitute an offence under Section 275 of the Penal Code, it is necessary to show that the accused procured the girl for illicit intercourse with some person other than himself. In that case, there was clear evidence that the accused himself hid the girl in order to marry her. Importing into Northern Nigeria from any country outside Nigeria any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person is an offence and same shall be punished with imprisonment which may extend to ten years and the convict shall also be liable to a fine [38].

## SLAVE TRADING

Centuries after the crusade against slavery by William Wilberforce [39], slavery is still being carried on globally although not in the form it was during the days of Wilberforce. The following cases are judicial interpretations of

---

<sup>28</sup>Charity Okpolokpo, 'They buy and sell women, girls for money?' *The Guardian* (Lagos, 7<sup>th</sup> May 2015) 20.

<sup>29</sup>*Ibid.*

<sup>30</sup>*Ibid.*

<sup>31</sup>Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 ss. 15, 16, 17, 18, 20, 21, 22, 23, 24 and 25

<sup>32</sup>Penal Code s. 281

<sup>33</sup>Penal Code s.279

<sup>34</sup>Penal Code s. 280

<sup>35</sup>Penal Code s.275

<sup>36</sup>(1962) N.N.L.R 30

<sup>37</sup>(1964) N.N.L.R. 82. The accused was convicted of an offence under s.275 of the Penal Code. The evidence showed that the girl lived with her brother and that the accused wished to marry her. The girl's brother told the accused that he would need to obtain the permission of her parents but told the girl that he was going to give her in marriage to someone else. The girl thereupon ran away to the accused and he hid her in a friend's house for five days. On appeal, it was held that to constitute the offence under s.275, it was necessary to show that the accused procured the girl for illicit intercourse with some person other than himself.

<sup>38</sup>Penal Code s.276

<sup>39</sup>William Wilberforce was a British politician, philanthropist and leader of the movement to abolish slave trade.

provisions of statutes similar to the provisions of the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 stated above on slavery. In *R v Ubi & Anor* [40] it was held that failure to state correctly the sex of a child alleged to be a subject of slavery is fatal, and conviction on that count should be quashed. In *Rex v Okereke Iregbu* [41], the appellant was convicted of slave dealing contrary to section 369 of the Criminal Code. Put shortly, the case against him was that having arranged with the parents of a girl to marry her and having paid part of the dowry, he was allowed to take her to Ikot-Ekpene. He returned without her and gave at least two untrue explanations for her non-return and she has never been found since. After recording his disbelief of the appellant's stories the learned trial Judge ruled that:

I must presume also that this girl was taken or transferred by the accused to be held or treated as a slave. There is no direct evidence to support the case that the girl was taken or transferred to be held or treated as a slave. It is purely a presumption made by the Court, and we do not think it is justified. A Court can make a presumption of this nature when it is a presumption which must irresistibly be made from the evidence, i.e., when there is no other reasonable presumption which fits all the facts. That is not the case here. There are other possibilities which there is nothing to rebut. The facts, for instance, are equally consistent with the appellant having murdered the girl or again with the girl having accidentally drowned, and the appellant being afraid to say so in case he should be charged with murder. The assumption that she has been sold as a slave is, in fact, only one of many which might be made to account for her disappearance. For these reasons we think that the conviction cannot be upheld. We must point out also that no plea is recorded in the proceedings and that though the girl is spoken of as a child, no evidence of her age is recorded. The appeal is allowed, the conviction and sentence are quashed and it is directed that a judgment and verdict of acquittal be entered. The appellant is discharged.

Slave trading illegally changes the abode of a person by coercion or by surreptitious means. This in our opinion makes female victims of slave trading vulnerable to being conscripted into the baby factory industry in the places they are taken to.

## **HUMAN RIGHTS**

The sexual exploitation of a woman is an infringement of her right to respect for the dignity of her person. The Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) provides that every individual is entitled to respect for the dignity of his person, and accordingly no person shall be subjected to torture nor to inhuman or degrading treatment; nor shall be held in slavery or servitude; and no person shall be required to perform forced or compulsory labour. The term "forced or compulsory labour" does not include any labour required in consequence of the sentence or order of a court; any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such; In the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service. It also does not include any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or any labour or service that forms part of normal communal or other civic obligations for the well-being of the community. Neither does it include such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, nor such compulsory national service which forms part of the education nor training of citizens of Nigeria as may be prescribed by an Act of the National Assembly [42].

Detaining a woman in a place to be raped and impregnated to produce babies for sale is also an infringement of her Constitutional right to personal liberty. The Constitution provides that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in appropriate cases as stated in the Constitution itself and in accordance with a procedure permitted by law and in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare [43].

## **INTERNATIONAL TREATIES**

There are also international treaties on human trafficking and slavery like the African Charter on the Rights and Welfare of the child (2001) and the African Charter on Human and People's Rights (1990). However, the Constitution of the Federal Republic of Nigeria (1999) (as amended) provides that no treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly. The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty. A bill for an Act of the National Assembly passed pursuant to the provisions of subsection(2) of section 12 of the Constitution would not be presented to

---

<sup>40</sup>3 W.A.C.A. 194. Slave dealing contrary to section 369(2) of Criminal Code – Sex of child subject of charge wrongly stated in information.

<sup>41</sup>4 W.A.C.A 32

<sup>42</sup> CFRN 1999 (as amended) s.34(1)(a)-(c) and (2)(a)-(e)

<sup>43</sup> CFRN 1999 (as amended) s.35(1)(d)

the President for assent, and would not be enacted unless it is ratified by a majority of all the Houses of Assembly in the Federation [44]. So for any international treaty to have the force of law in Nigeria, such treaty must be domesticated as a local legislation in the country.

## CONCLUSION

This paper has strived to show that the prevalence of baby factories in Nigeria is directly connected to the multiplier effects of other crimes like kidnapping, abduction, rape, prostitution and human trafficking. The law on these crimes has been stated and same is believed would give law enforcement agencies the leverage to enforce these laws against culprits. There should be a strict enforcement of the anti-trafficking in persons' law to ensure that stiffer or maximum penalties are imposed on persons convicted of the crimes of prostitution, baby factories and human trafficking. There should be public enlightenment campaigns on the negative effects of these vices in order to discourage people from engaging in them. Programmes aimed at poverty alleviation should be put in place and assiduously implemented by all levels of government in the country. Likewise, there should be an increase in boarder surveillance in order to nab the unscrupulous elements perpetuating these crimes. Parental care should be encouraged and in appropriate cases enforced by the court so that children and young persons would not be tempted into these atrocities [45]. People particularly women should be encouraged to acquire skills and improve on their qualifications to enhance or bolster their chances of earning legitimate sources of livelihood and government should provide the enabling environment conducive to same [46]. Also, government should ensure that adoption should be in strict compliance with extant adoption laws of the various states of the federation.

Finally, curbing the menace of baby factories in Nigeria would require the strict enforcement of the law against those other crimes that multiply it.

---

<sup>44</sup> CFRN s.12(1)-(3)

<sup>45</sup> Michael Egbejule, 'Trial of parents, guardians of out-of-school children begins Sept. 12, says Obaseki', *The Guardian* (Lagos, 6<sup>th</sup> September, 2022) 8.

<sup>46</sup> Niki Tobi 'Development of the Nigerian Woman', in Niki Tobi (ed) *A Living Judicial Legend' Essays in Honour of Honorable Justice A.G. Karibi-Whyte (CON)* (Florence & Lambard (Nigeria) Ltd) 297 at 317