

KENYA'S CONSTITUTION AND CHILD TRAFFICKING AS A SECURITY THREAT

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Human trafficking also referred to as modern-day slavery is seen as a security threat. Traditional security approaches to human trafficking call for analysis of trafficking as a threat to the Kenyan state and to Kenya's control of its borders. Traditional security analyses of trafficking emphasize border security, migration controls, and international law enforcement cooperation. This article discusses three forms of child trafficking: sexual exploitation, forced labor and child soldiers and argues that the newly promulgated Kenyan constitution in chapter three on citizenship has a provision that can be interpreted as encouraging child trafficking.

Key words: *child trafficking, Kenyan constitution, international law*

1. INTRODUCTION

Human trafficking also referred to as modern-day slavery is a gross violation of human rights, has been condemned globally and should be a relic of the past and is also a security threat [1]. Yet this modern form of slave trade persists and continues to grow. Traditional security approaches to human trafficking call for analysis of trafficking as a threat to the state and to state control of borders. Child trafficking is a demand driven crime for cheap labor during periods of economic growth or decline [2]. Though the international community

has focused on human trafficking, the progress has not been successful probably due to the conception of the problem which ought to form the basis of the law developed to combat human trafficking [3].

Trafficking in persons does not only infringe on the victim's human rights and freedom of movement, but is also a threat to human security. The individual victims of trafficking endure atrocious living and working conditions that physically injure, psychologically traumatize and, in some cases, cost victims their lives. Often bonded by debt, victims can be subjected to physical torture and sexual abuse [4].

The vice of trafficking in persons has a negative impact on the human security of communities from which victims are recruited because it creates an environment of violence, crime and fear. Trafficking in persons separates families, erodes social bonds and support networks, and undermines the economic prospects of communities. Furthermore, facilitated by large-scale international organized criminal networks that are linked to illicit trade in arms and narcotics, trafficking in persons can also compromise state security and impede human development by weakening the rule of law and threatening public safety [5].

The phrase "human trafficking" has been used to address a wide variety of crimes and human rights abuses associated with the recruitment, movement and sale of people into a range of "exploitative" and/or "slave-like circumstances." The basic problem with the present "human trafficking paradigm" is that many of the elements and definitions used to define this social phenomenon are often limited in their scope and do not adequately reflect the totality of the problem [6]. Trafficking might be defined in a number of ways as a legal problem; a human rights problem; a security problem; a child labor problem; a migration problem or a combination of one or more of these. Likewise, depending on how a given person defines the problem, his/her definitions will dictate what solutions are proposed for example legal problems require legal solutions. Likewise, few attempts have been made to develop usable conceptual frameworks that allow for the many variables to be encompassed under a single umbrella [7].

2. METHODOLOGY

The sensitivity of this study required that primary and secondary researches be employed. Primary data involved interviewing agencies involved against child trafficking like Maendeleo Ya Wanawake (MYWO), The Federation of Women Lawyers, Society for the Advancement of Women Studies and the Single Mother Association of Kenya, the Widows and Orphans Welfare Society of Kenya, The United Women Muslim Association, Kenya National Commission on Human Rights, Children Department in Kuria, Gender Violence and Girl Child Network in Migori County and Womankind Kenya.

Thus, 130 people were interviewed and they expressed their views concerning the nature of human trafficking and in particular child trafficking in Kenya. Secondary data entailed a critical analysis of the existing literature on the subject under discussion. Consequently, the authors of this paper conducted an extensive library research on newspapers, reports, journals, books, Internet, magazines, Conference proceedings, Government/corporate reports on the subject.

3. SOME DEFINITIONS

3.1. A Child Defined

The *United Nations Convention on the Rights of the Child* Article 1, states that a child is a person below the age of 18, unless the age of majority is attained earlier under the national law applicable to the child [8]. Protocol to Prevent, Suppress and Punish Trafficking in Persons,

Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime (2000) Article 3 (d) states that a child shall mean any person under eighteen years of age [9]. Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (2000) Article 2 (ILO No. 182.) Says the term child shall apply to all persons under the age of 18 [10]. Convention on the Rights of the Child (1990) Article 1, States that a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier [11]. World Vision International [12] asserts that a child is defined as anyone below the age of 18. Although the Convention on the Rights of the Child allows for an adjustment to this standard through national legislation, World Vision takes 18 as the legal limit in reflection of standards recognized in international law (including in ILO Convention No. 182, the Convention on Trafficking and the jurisprudence of the Committee on the Rights of the Child).

3.2. Trafficking

According to UNICEF [13] trafficking is a term used to describe the illegal trade across borders of goods especially contraband, such as drugs for profit. The concept has been expanded to cover the illegal transport of human beings, in particular women and children for the purpose of selling them or exploiting their labour. Anti-Slavery International [14] says human trafficking involves the movement of people through violence, deception or coercion for

the purpose of forced labour, servitude or slavery-like practices. It is slavery because traffickers use violence, threats, and other forms of coercion to force their victims to work against their will. This includes controlling their freedom of movement, where and when they will work and what pay, if any, they will receive. Child Wise [15] define trafficking as the transporting of a person from one place to another through means of deception, kidnapping, actual, threatened or implied violence, and/or the abuse of individuals actual or perceived by a person in a position of authority. The term trafficking implies a profit arising from the transportation of the child, which can occur across borders and from rural to urban areas. The Global Alliance Against the Trafficking of Women [16] define trafficking as the recruitment and transportation of (a) person(s) within and across national borders, by means of violence or threat of violence, abuse of actual or perceived authority arising from a relationship, or deception, in order to subject them to the actual and unlawful power “of (an)other person(s). Scholars have pointed out the continuing difficulty of measuring trafficking, given the range of actions and outcomes covered by the term. As O’Connell et al [17] explain, 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 like recruitment, transportation 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.

3.2.1. Child Trafficking

Global March Against Child Labour [18] says child trafficking refers “*to any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration*”. This category is qualitatively different from the others in that it refers to the process that puts children in a situation of commercial exploitation. Many of them end up working as slaves, prostitutes and soldiers.

The most common international law definition is the one contained in Article 3 of the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, Supplementing the *United Nations Convention against Transnational Organized Crime* [19].

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

(b) 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;

(c) The recruitment, transportation, transfer, harboring 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; and

(d) “Child” shall mean any person under eighteen years of age.

Human trafficking has emerged as an issue of global concern in recent years: facilitated by porous borders and advanced communication technologies, it has become increasingly transnational in scope and highly lucrative. Children are trafficked for sexual exploitation, labor, transplant of organs and illegal adoption. Regardless of the initial purpose, all child victims of trafficking are highly vulnerable to sexual abuse and exploitation because they are removed from support structures such as their families and communities.

When it comes to trafficking in children, it does not matter if there was use of force, coercion or deception because children are not able to give informed consent to their exploitation. Trafficking can occur across borders or within a country. In the case of international trafficking, traffickers can more easily manipulate and exploit their victims as they may be punished for having entered a country illegally, or are at a disadvantage because of their

ignorance of the local laws, culture and language. The trafficking in children within a country is less common than cross-border trafficking, although it does occur from rural to urban areas. Children who have been trafficked across borders may continue to be trafficked within the destination country to avoid detection [20].

In the case of cross-border trafficking, the countries involved can be classified as countries of origin, countries of destination and transit countries. Some countries fall under all three categories. Kenya, for example, can be considered a country of origin, destination and transit country. The Government of Kenya does not fully comply with the minimum standards for the elimination of human trafficking [21]. The trafficking of children manifests itself in three main forms: Sex Trafficking, Forced Labor and Child Soldiers.

3.2.2. Sex Trafficking

The most heinous of the various forms of child trafficking is sex trafficking. Similar to the other forms of child trafficking, the victims of sex trafficking are forced, coerced or deceived into the trafficking network. Specifically, child sex trafficking is the recruitment, transfer, harboring, or receipt of persons 18 and younger for the purpose of sexual exploitation, prostitution or commercial sex act. There are two major subcategories of child sex trafficking, which are the Commercial Sexual Exploitation of Children (CSEC) and Child Sex Tourism [22].

Commercial sexual exploitation of children consists of criminal practices that demean and threaten the

physical and psychosocial integrity of children. The Declaration and Agenda for Action against Commercial Sexual Exploitation of Children is a groundbreaking instrument that defines the commercial sexual exploitation of children as: "A fundamental violation of children's rights. It comprises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object [23]."

3.2.3. Forced Labor

In many countries, it is legal for children to engage in light work. In fact, most national laws and international organizations recognize the legality of moderate forms of child labor. Today, there is a growing concern for the safety and well-being of children who are involved in the worst forms of child labor [24]. The worst forms of forced child labor include instances when a child is subjected to debt bondage, servitude or slavery through extreme force, coercion or fraud. Any child, regardless of location or station in life, who is subjected to these unfortunate conditions is a victim of human trafficking [25].

3.2.4. Child soldiers

Child soldiering is a harsh form of trafficking that entails the unlawful recruitment of children through force, coercion or fraud for labor or sexual exploitation in conflict areas. The majority of child soldiers are between the ages of 15 and 18; however, some are as young as seven or eight, which is illegal under international law. Once abducted, children are used as

porters, cooks, servants, combatants or spies. Young women are often forced to marry or engage in sexual relations with the male soldiers [26]. In the worst cases, child soldiers were forced to commit murder of their own family or community. Perhaps one of the most unfortunate aspects of this type of child trafficking is that the perpetrators of this crime are not just individuals of society, but government forces, paramilitary organizations or rebel groups. In 2007, the United Nations estimated that 57 armed groups and forces were using children, increased from 40 in the prior year [27].

4. CHILD TRAFFICKING IN KENYA

Human trafficking in Kenya is nothing new. The largest number of missing persons inside Kenya is represented by girls. Most are younger than sixteen-years-of-age. Another disturbing portion of trafficked children are new-born babies. Even though mothers have asked for information about their missing children, numerous cases in missing babies continue to go unaddressed and unsolved by Kenyan authorities [28].

It is estimated that more than 20,000 children are trafficked annually. The practice of child trafficking and prostitution is rampant due to private villas, especially at the Coast, with the country being regarded as a 'hot' sex tourism destination. [29]

Pumwani Maternity Hospital in Nairobi was investigated for involvement in the 2004 theft of over twenty new-born babies who mysteriously disappeared from the

hospital. During the investigation eighteen babies were discovered with adults that did not have matching DNA. With eighty to one hundred births daily, the spectre of human trafficking at the hospital is alarming. Missing babies are being taken from compromised mothers. Most trafficking targets are babies whose mothers are living in extreme poverty. Others are from mothers who have died while giving birth [30].

Mary Deya of Gilbert Deya Ministries was arrested in November 2004 in Nairobi and charged with stealing children [31]. Ten children, none of whom had any genetic connection to the Deya family, were found at Mr Deya's House [32]. Twenty babies have been placed in foster care in Kenya after DNA tests showed they had no connection to their alleged mothers [33]. Rose Atieno Kiserem, a former pastor with Deya's ministry was jailed along with Mrs Deya. Upon her release from jail, Kiserem confessed that the 'miracle babies' were "a hoax created by the Deyas and their accomplices to deceive me and other God fearing people" [34].

Under Kenyan law, a missing person is considered dead if they have been missing for more than seven years. This law puts some missing children out of the jurisdiction of legal protection after they have been missing the allotted time and declared dead as cases, if any case has been filed, are closed. In spite of laws prohibiting trafficking, trafficking of infants and newborns in Kenya has been rising substantially inside the country [35].

Kenya is a source, transit, and destination country for men,

women, and children trafficked for forced labor and sexual exploitation; children are trafficked within the country for domestic servitude, street vending, agricultural labor, and sexual exploitation; men, women, and girls are trafficked to the Middle East, other African nations, Western Europe, and North America for domestic servitude, enslavement in massage parlors and brothels, and manual labor. According to All CIA World Fact books [36] Kenya is placed on the Tier 2 Watch List due to a lack of evidence of increasing efforts to combat severe forms of trafficking.

Tier 2 Watch List countries do not fully comply with the minimum standards for the elimination of trafficking but are making significant efforts to do so, and meet one of the following criteria:

1. they display a high or significantly increasing number victims,
2. they have failed to provide evidence of increasing efforts to combat trafficking in persons, or,
3. they have committed to take action over the next year.

4.1. Kenya as a Source Of Child Trafficking

This phase includes arrangers, Investors and Recruiters who facilitate the child trafficking operations in the child's country of origin. Arrangers and Investors are essentially the ringleaders of a trafficking operation. They are the people that finance and oversee the entire criminal organization and its activities. The nature of this function is elusive, and lower level employees and the people being trafficked rarely know the identity of these persons.

4.2. Kenya as a Transit Point

In the international child trafficking, the recruited children are passed off to Transporters as they leave the country. Transporters are elicited with the responsibility of accompanying the trafficked person to their destination country, where there is generally another transporter waiting to deliver the trafficked person to their final destination city if necessary. These individuals must be sophisticated and have some law enforcement knowledge in order to be able to quickly change their operations or route in reaction to border surveillance.

When the trafficked child arrives in the destination country through the assistance of Transporters, Corrupt Public Officials and Informers, they are taken by Guides and Crew Members. The function of these individuals is to accompany the children from the point of entry in the destination country to each of their transit points until they reach their final destination. Once the children arrive at their final destination, they come into contact with debt collectors. The duty of these individuals is to collect fees from the victims, often by means of violence or extortion. This is the point when debt bondage often appears. Many times the victims, especially children, do not have the required funds so they are forced to "work off their debts" through forced labor or sex.

After successful delivery of the trafficked children, people are engaged to cover the trail of traffickers and money involved in order to secure the elusiveness of the operations. There are two different job functions in this stage, which are Money

Movers and Supporting Personnel and Specialists. Money movers must cover up the trail of cash, which may be reinvested into other criminal activities or dispersed through a series of intangible transactions. Supporting Personnel and Specialists serve to tie up the loose ends of the trafficking operations.

5. KENYA'S CONSTITUTION AND THE LOOPHOLE ON CHILD TRAFFICKING

Kenya does not prohibit all forms of trafficking, though it criminalizes the trafficking of children and adults for sexual exploitation through its Sexual Offenses Act, enacted in July 2006, which prescribes penalties that are sufficiently stringent and commensurate with those for rape, however the Employment Act of 2007 outlaws forced labor and contains additional statutes relevant to labor trafficking [37]. Kenya Counter Trafficking in Persons Act, 2010, In Article 3(5) of this Act provision for hefty penalties is accorded if a person is found guilty of human trafficking. The person is liable for imprisonment for a term not less than 30years or to a fine of not less than Ksh.30 million or both and upon subsequent conviction, to imprisonment for life. [38] Regardless of these gains made through Sexual Offenses Act, enacted in July 2006, The Employment Act of 2007 and Kenya Counter Trafficking in Persons Act, 2010, we argue that *Chapter Three* of the *Constitution* section 14 and sub section (4) on Citizenship negates these gains made on child trafficking:

Citizenship by birth

14. (4) *A child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth* [39].

According to Okere, the chairperson of Gender Violence and Girl Child Network in Migori County, cases of child trafficking across the Kenya-Tanzania border are rife. *"It is difficult to identify traffickers as some pose as owners of orphanages and homes for the destitute. Some pass through the border claiming the children belong to their relatives."* She also adds: *"She received two children who were directed to her home after escaping from their captors. The children hailed from Tanzania and they managed to hand them over to their country's authorities with the help of police."* She says most of the female victims end up working in discreet brothels in Kuria, Migori and Transmara districts as well as Isebania border [40].

Womankind Kenya is a non-governmental organization operating out of Garissa, in the North Eastern Province. It estimates that the number of trafficked girls from Garissa and Somalia into Nairobi at 50 weekly [41]. In Kenya's Coast Province, 10,000 people are trafficked into the country annually. In the Rift Valley Province, 200 illegal migrants enter Kenya from Somalia, Sudan, Ethiopia, Tanzania and Uganda every week to work as cattle herders, domestic laborers and commercial sex workers. From Nairobi, girls may

be sent to the coastal, tourism-heavy city of Mombasa for the purposes of sex tourism [42].

The above examples show how this problem has been difficult to eradicate. *Chapter Three* of the *Constitution section 14* and *sub section (4) on Citizenship* will encourage child traffickers across the borders especially Somalia to bring in the children through our porous borders and later the corrupt government officers uses *Chapter Three* of the *Constitution section 14* and *sub section (4) on Citizenship* to legitimize the trafficking.

Another loophole in section 14 sub section (4) is the phrase “appears” in that appearance can be deceitful because other factors like environmental, economic, social, psychological and political factors do contribute either positively or negatively to the appearance of an individual for example a child who is malnourished can appear to be either younger or older than the actual age. This is elaborated by Theories of Development by different scholars as discussed below;

6. CHILD DEVELOPMENT

The study of child development is often divided into three main areas. These include physical, cognitive, and social-emotional development. Development refers to change or growth that occurs in children. It starts with infancy and continues to adulthood [43]. Different names are used to describe young children at different ages. From birth through the first year, children are called infants.

Toddlers are children from age one up to the third birthday. The term preschooler is often used to describe children ages three to six years of age. Physical development refers to physical body changes which occur in a relatively stable, predictable sequence and it is orderly not random. It includes changes in bone thickness, vision, hearing, muscle, size and weight. Cognitive development, sometimes called intellectual development, refers to processes people use to gain knowledge and has Language, thought, reasoning, imagination, Identifying colors and knowing the difference between one and many are examples of cognitive tasks [44].

The third area of development is called social-emotional development. These two areas are grouped together because they are so interrelated. Learning to relate to others is social development. Emotional development, on the other hand, involves feelings and expression of feelings. Trust, fear, confidence, pride, friendship, and humor are all part of social-emotional development. Other emotional traits include timidity, interest, a person’s self concept and self-esteem and pleasure [45].

6.1. Erikson’s Stages of Development during Early Childhood

According to researchers in the field, there are four stages of development in early childhood, as presented in **Table 1**.

Table 1. Erikson's Stages of Development during Early Childhood

Stage	Approximate Age	Psycho-social Crisis
I	Birth – 18 months	Trust versus mistrust
II	18 months–3 years	Autonomy versus shame and doubt
III	3–5 years	Initiative versus guilt
IV	6–12 years	Industry versus inferiority

Starting from Erikson's description of the [46] the fourth Stage with has ages between 6-12 and characterized by Industry Versus Inferiority we focus our interest on Kenya's Constitution Chapter 14. (4) A child found in Kenya who is, or appears to be, less than eight years of age is captured in this stage. Erikson [47] argues that the major crisis of this stage occurs between six and twelve years of age. At this time, children enjoy planning and carrying out projects. This helps them learn society's rules and expectations. During this stage, children gain approval by developing intellectual skills such as reading, writing, and math. The way family, neighbors, teachers, and friends respond to children affects their future development. Realistic goals and expectations enrich children's sense of self. Children

can become frustrated by criticism or discouragement, or if parents demand too much control. Feelings of incompetence and insecurity will emerge. This is corroborated by [48] Cognitive Development Theory corresponding to Erikson's fourth stage, during the ages of seven to eleven when concrete operations begin. Children develop the capacity to think systematically, but only when they can refer to actual objects and use hands-on activities. Then they begin to internalize some tasks. This means they no longer need to depend on what is seen. They become capable of reversing operations. For example, they understand that 3 + 1 is the same as 1 + 3. When real situations are presented, they are beginning to understand others' points of view. This is further confirmed by Vygotsky's [49] description of the age levels Crisis at age 7. The three scholars corroborate our argument that in Kenyan Education system, most children start their schooling at the age of six. This in essence means that the child is able to speak, knows the parents and the country of citizenship. Therefore, alluding to the fact that "*A child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth*" will encourage child trafficking into the country and hence encourage insecurity in the Country.

6.2. Effects of Trafficking on Children

Trafficking deprives child victims the privilege to exercise their wide range of rights, including the right to

belong/identity, the right freedom, education, to rest and leisure as well as the right not to be subjected to torture, or cruel and inhuman degrading treatment. When children are first recruited to be trafficked, they may leave home peacefully or by deception or violence, as well as abduction and application of drugs to secure children's obedience. The harm inflicted on trafficked children depends on the form or forms of exploitation to which they are subjected.

7. CONCLUSIONS

Actions to combat trafficking in children must address the conditions that make children vulnerable and target punitive measures against the traffickers rather than the victims. Looking into the future of child trafficking and its prevention, there are many things that need to be done. The governments of the world need to pass policies and laws that combat the demand for child trafficking instead of the supply. Currently, most governments that have anti-trafficking legislation have laws or policies aimed at limiting the flow of illegal migration, which often only serves to exacerbate the situation further, as it forces traffickers to become more elusive. Other issues with current legislation include legal loopholes due to inadequate definitions of trafficking, and that they are not focused on catching the trafficker or the customers of the trade. Under current legislation, the clients of child trafficking remain nameless and faceless, while the child is made out to be the villain, instead of the victim. [50] Legislations that

are more appropriate would aim at stemming the demand for children by focusing on the clients who drive to demand and the traffickers who respond to the demand.

Child trafficking is an organized criminal industry that is not going to go away overnight. The current slavery problem is far more extensive. We must use our voices and determination to call on governments to increase restrictions and regulations, and to change our society's perception in order to fight for the abolition of child trafficking. Child trafficking may never be completely eradicated from our culture, but each life saved from the horrors of child trafficking means a better future for all of us because children are our future.

8. RECOMMENDATIONS

A. The Kenyan government should strengthen laws defining and criminalizing trafficking, and establish and equip institutions to implement the laws. The government has a responsibility to vigorously investigate and prosecute traffickers and those who aid or protect them. The Kenyan government should eliminate demand by punishing the persons who pay, profit, and/or perpetuate these crimes. Development of more holistic and sensitive planning policies that incorporate child protection policies are needed in response to an increase in commercial development, international visitors, and child sex tourism. Better coordination, research methodology, data gathering, and the sharing of information across governments, regional organizations, non-governmental organizations are

needed to monitor the movement of registered international sex offenders. Equal emphasis should be placed upon the capture and prosecution of locals, foreigners, and government officials alike, which contributes to the atmosphere of impunity.

B. The Kenyan government should establish community-based structures at the border towns to counter the vice in the regions through public awareness campaigns and monitoring of the children's movement along and across the borders. Create integrated and holistic policies that approach trafficking as a human security threat to give the issue more international gravitas and national prioritization.

C. The government should train more officers and use all the legal tools at disposal to facilitate effective extradition for prosecution of traffickers. Anti-trafficking interventions must address prevention, protection and assistance, including return and resettlement.

D. Strategies to prevent trafficking must address the macroeconomic policies in both developed and developing countries that generate the push and pull factors in labor migration and thus, where that movement is illegal, directly promote trafficking.

Governments including those in industrialized countries that commit to combating trafficking must consider the possibility that, in a globalized world, their own policies contribute directly to the phenomenon they seek to eliminate. The current contradictions in trade policy are a case in point. Economically marginalized people, particularly women, in developing countries are unable to realize their

human right to a decent livelihood in their own country partly due to global inequities in trade. On the one hand, the economic liberalization promoted by industrialized countries exposes them to competition from imports in local markets. On the other, their own products continue to face trade barriers in the markets of those same industrialized economies. The result is strong pressures in those poor countries to migrate to the industrialized economies in search of the means for livelihood, often becoming victims of trafficking in the process.

REFERENCES

[1] Bravo, Karen E. Exploring the Analogy Between Modern Trafficking in Humans and the Trans-Atlantic Slave Trade, 25 B.U. INT'L L.J. 207, 270–271 (2007).

[2] Caraway, Nancie. Human Rights and Existing Contradictions in Asia-Pacific Human Trafficking Politics and Discourse, 14 TUL. J. INT'L & COMP. L. 295, 295 (2006).

[3] Haynes, Dina F. (Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act, 21 GEO. IMMIGR. L.J. 337, 342 (2007).

[4] Lederer, E. M. (2009, September 9). Economic Crisis May Boost Human Trafficking. Retrieved March 30, 2010, from Miami Herald: <http://www.miamiherald.com/2009/09/11/1227842/economic-crisis-may-boost-human.html>

[5] Human Security at the United Nations Newsletter-Issue 6 (Winter 2009/ 2010) <http://ochaonline.un.org/humansecurity>

[6] Beare, Margaret E., 1999, 'Illegal Migration: Personal Tragedies, Social

Problems, or National Security Threats?', in: Williams (ed.), *Illegal Migration and Commercial Sex: The New*

Slave Trade, London/Portland: Frank Cass Publishers, pp.11-41.

[7] The Declaration and Agenda for Action were adopted by 122 governments at the First World Congress against Commercial Sexual Exploitation of Children in Stockholm, Sweden, in 1996. As of 2006, 161 countries worldwide have adopted it.

[8] The United Nations Convention on the Rights of the Child Article 1. Entry into force 2 September 1990

[9] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organised Crime, Article 3 (d) 2000

[10] Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Article 2. (ILO No. 182.) Entry into force 19 November 2000.

[11] The United Nations Convention on the Rights of the Child Article 1. Entry into force 2 September 1990

[12] World Vision International, 'Public Policies'. January 2003.

[13] UNICEF. <http://www.unicef.org>. Accessed: January 2004.

[14] Anti-Slavery International, 'What is trafficking?'

<http://www.antislavery.org>. Accessed: December 2011.

[15] Child Wise (2003) Trafficking <http://www.ecpat.org>. Accessed: December 2011.

[16] The Global Alliance Against the Trafficking of Women 2004. <http://www.inet.co.th/org/gaatw> Accessed: December 2011.

[17] O'Connell Julia., Davidson and Bridget Donelan, "Review of the Evidence and Debates on the "Demand Side of Trafficking," (Save the Children: Stockholm, 2003).

[18] Global March Against Child Labour, *Out of the Shadows: A*

Worldwide Report on the Worst Forms of Child Labour. India. 2000.

[19] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organised Crime, Article 3 (d) 2000

[20] Ranjan, P. (2001) Credit constraints and the phenomenon of child labor. *Journal of Development Economics*, 64(1), 81.102.

[21] "Kenya". Trafficking in Persons Report 2008. U.S. Department of State (June 4, 2008).

[22] Kumar K.C., B., Subedi, G., Gurung, Y. B., & Adhikari, K. P. (2001) Nepal, Trafficking in Girls With Special Reference to Prostitution: A Rapid Assessment. ILO-IPEC, Geneva.

[23] Trafficking in Persons Report 2009. (2009). Retrieved January 6, 2010, from United States State Department: <http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm>

[24] Dessy, S. E. & Vencatachellum, D. (2003) Explaining cross-country differences in policy response to child labour. *Canadian Journal of Economics*, 36(1), 1.20.

[25] Trafficking in Persons Report 2009 (2009). Retrieved January 6, 2010, from United States State Department: <http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm>

[26] ILO-IPEC (2002b). *Unbearable to the Human Heart: Child Trafficking and Action to Eliminate It*. International Labor Organization: Geneva.

[27] Trafficking in Persons Report 2009 (2009). Retrieved January 6, 2010, from United States State Department: <http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm>

[28] Njeru, Gitonga (2011) Women News Network on human trafficking in Kenya

[29] Okoth Dann (16/12/2011) Human trafficking rife despite end of slavery <http://www>.

standardmedia.co.ke/InsidePage.php?id=2000048461&cid=4&

[30] Njeru, Gitonga (2011) Women News Network on human trafficking in Kenya.

[31] Mwinzi, Bernard (November 26, 2009) Daily Nation. <http://www.nation.co.ke/News/-/1056/813340/-/vnh6es/-/index.html>. http://en.wikipedia.org/wiki/Gilbert_Deya Retrieved 11 April 2010.

[32] Jon, Douglas (1 April 2010) "Miracle babies' pastor in UK despite extradition". BBC. Retrieved 9 April 2010.

[33] Miracle baby' a victim - judge. news.bbc.co.uk. 12 November 2004. Retrieved 11 April 2010 http://en.wikipedia.org/wiki/Gilbert_Deya

[34] Mwinzi, Bernard (November 26, 2009) Daily Nation. <http://www.nation.co.ke/News/-/1056/813340/-/vnh6es/-/index.html>. http://en.wikipedia.org/wiki/Gilbert_Deya Retrieved 11 April 2010.

[35] Njeru, Gitonga (2008) Corruption Kenya drives rise in girl-child trafficking.

[36] All CIA World Factbooks (18 December 2003 to 18 December 2008) Trafficking in Persons Report <http://www.nationmaster.com/country/kenya/crime>.

[37] "Kenya". Trafficking in Persons Report 2008. U.S. Department of State (June 4, 2008).

[38] Human Trafficking in Kenya – Probit of an Emerging New Trend, Published on July 6, 2011) <http://smilekenya.com/138/human-trafficking-in-kenya>.

[39] The Kenya Constitution 2010

[40] Miruka Kenan and Oluoch Nick (01/11/2011) Child traffickers using church <http://www.standardmedia.co.ke/InsidePage.php?id=2000046003&cid=658>.

[41] The Christian Post (Wed, Nov. 02 2011) Girls Trafficked into Kenya from East African Countries <http://www.soschildrensvillages.ca/news/news/child-protection-news/child-trafficking-news/pages/girls-trafficked-kenya-east-african-076.aspx>

[42] The Christian Post (Wed, Nov. 02 2011) Girls Trafficked into Kenya from East African Countries <http://www.soschildrensvillages.ca/news/news/child-protection-news/child-trafficking-news/pages/girls-trafficked-kenya-east-african-076.aspx>.

[43] Erikson, Erik H. (1993) [1950] *Childhood and Society*. New York, NY: W. W. Norton & Company. p. 242.

[44] Piaget, J. (2000). "Commentary on Vygotsky". *New Ideas in Psychology*, 18, 241–259.

[45] Erikson, Erik H. (1959) *Identity and the Life Cycle*. New York: International Universities Press.

[46] Erikson, Erik H. (1968) *Identity, Youth and Crisis*. New York: Norton.

[47] Erikson, Erik H. (1993) [1950] *Childhood and Society*. New York, NY: W. W. Norton & Company. p. 242.

[48] Piaget, J. (1983) "Piaget's theory". In P. Mussen (ed). *Handbook of Child Psychology*. 4th edition. Vol. 1. New York: Wiley.

[49] Vygotsky, L. S. (1978) *Mind in society: The development of higher psychological processes*. Chapter 6 Interaction between learning and development (79-91). Cambridge, MA: Harvard University Press.

[50] International, E. (2009) *Stop Sex Trafficking of Children and Young People*. Retrieved January 30, 2010, from ECPAT: http://www.ecpat.org.uk/downloads/Full_Report_Global_Child_Trafficking_for_Sexual_Purposes.pdf