



## Comparative Analysis of Oathtaking Method, Strategy and Impact on the Victim-centered Approach

GLORIA FAITH EHIEMUA, VALENTINE E. OBINYAN  
University of Benin, Benin City, Nigeria

**Abstract.** Oath-taking is an instrument of native judiciary used in human trafficking to further a desire to migrate using illegal means and for protecting the gains of such transactions. In human trafficking, consent given under native oath is disregarded and undermined as “not true” while the complexity of oathtaking in the processes used for the prosecution of traffickers is put simply, as a lack in an understanding of the African worldview. This work argues that the complexity of oathtaking in the processes used for the prosecution of traffickers does not arise from a lack of understanding of the African worldview per se but from the inadequacy of the victim-centered approach in dealing with victimless crime. In examining the efficiency of oath in preventing crime in human trafficking, it contradicts the assumption that oathtaking solely furthers crime in human trafficking and continues discussions on the oath as a means of preventing crime in the past and some parts in contemporary times. Therein, enabling a comparism between different methods accepted as best practice to preventing crime in a particular time and space This work moves discussions on power dynamics in human trafficking beyond the notion that conflict is just a struggle between people or parties of unequal influence, wealth and status. Finding shows that the failure of the victim-centered approach to respect human freedom and self-determinism is self-defeating as it contributes immensely to the use of traffickers for achieving the desire to migrate

### 1. Introduction

The plight of migrants and the effect of migration have drawn much attention to the problem of illegal and undocumented migrants in the 21st century. Governments in developed nations agreed that the increased rate of illegal and undocumented entries from developing countries into places designated as receiving countries is worrisome. However, eradicating trafficking of persons has been difficult

because of the dehumanising condition that necessitates emigration and makes victims vulnerable to traffickers. In human trafficking oath-taking is commonly associated with the Nigerian trafficking syndicate and regarded as a cultural/religious practice used by traffickers to “bind” women and girls especially to forced prostitution. Most scholars present it as an instrument of psychological import which is used to manipulate and coerce women and girls to remain in prostitution. However, van Dijk (2001) and Jorgen (2016) described it as “a seal to an agreement.” A disagreement occurs when an instrument of coercion is projected and as a seal to an “agreement” simply because agreement depicts consent while coercion indicates the absence of an agreement. Historically, it is held that the oath was used in premodern times as a means of preventing crime and obtaining truth.

In Nigeria, a study (Onyima, 2015) on traditional social control mechanisms and traditional methods of social control in Afikpo North LGA of Ebonyi State Nigeria recognised the oath as a mechanism of social control used to prevent crime and obtain truth. Accordingly, Anyacho and Ugal (2009) described “oathtaking (inu iyi or ala isi) as “a strategy for establishing truth and guilt and discouraging dishonest attitudes and (wicked) evil actions in the society.” Msuyi (2019) described the oath “as a pact with the gods and an insurance that the crime of stealing will not occur.” Anyacho and Ugal, (2009) observed that oath-taking is regarded as ungodly, fetish and evil in recent times because of the acceptance and influence of other religions such as Christianity. However, the study carried out by Onyima (2015) indicated a strong belief in the efficiency of the Oath with 22.6% respondents agreeing that it is very successful in carrying out its functions, 62.4% agreed that it has been successful in executing its functions only 3.2% of the respondents held the view that it is not very successful while 2.2% did not respond. Research

shows that in the West, a decline in the acceptance of the oath as an efficient means of preventing crime and obtaining truth is also tied to the waning influence of religion in public life. Rutgers (2013) stated that the perception that oath is dwindling can be found even in very ancient literature: the phoenix started to lose its divine feathers around 600BC when it was no longer regarded as an absolutely trustworthy, divinely warranted guarantee of truth and trust...the faltering value of oath was attributed to a loss of absolute faith in gods, as witnessed for instance among Plato and his contemporaries. Overtime, oath has steadily become replaced by contracts as means to secure promises in everyday transactions. The question is, in what ways did the compartmentalization of religion influence discussions on oath as an instrument of psychological coercion used only for manipulation and exploitation in human trafficking

### 1.1 The Oath in African Belief System

Oath taking is an indigenous belief system widely practiced among natives and used for executing judicial functions. At times, it involves invoking the presence of a deity as witness to a transaction. Oath taking before justice deities is integral to the native judicial system operational in traditional societies and demands total adherence to agreements and pacts made. because of its ability to create a willingness to comply with the moral dictates underlying the relationship involved. It was applied to dispute management, marriages, business and friendship. Oath taking in itself, aims at preventing and discouraging deviant acts by punishing offenders. The role of oath as exploitative is furthered by an impression that juju (Charms), oath taking and rituals are one and the same. However, these are different components of a religious belief system which overflows into another at some point yet, have different functions. In Nigeria, charms are generally referred to as juju. It is one of the components of traditional religion and medicine that forms an important aspect of life for adherents of African traditional religion because of the functions in the life of believers. It is called *ukhuumwun* among the Benin people of Edo State, who differentiates between a good charm and a bad charm. The use of bad charm is considered evil and prohibited. However, good charms are believed to be useful means through which supernatural forces are tapped for protection and defence against attacks from enemies, forestalling evil forces, facilitating gains of desired ends, attaining prosperity, increasing popularity, success in love affairs and restoration of peace (Aghahowa, 1996). From a general perspective, charms are objects with powers believed to have been invoked through incantations or/and observations of specified rituals. Sacrifices on the other hand, are carried out to appease deities.

These sacrifices are associated with rituals which involve the use of specified objects as sacred emblems of symbolic significance. Africans believe that by offering sacrifices and performing certain rituals, they can gain favour and protection of the gods and ancestors who in turn, bless their endeavours (Aghahowa, 1996). The purpose of sacrifices and rituals is to create and maintain relationships between groups of people, the person who performed the rituals and their deities. Africans believe in a world of spirits which is made up of spirit beings that include the Supreme Being, deities or divinities, ancestors, spiritual forces. Divinities and deities are next to the Supreme Being and act as functionaries in charge of special portfolios. Examples of these divinities include as Ogun, Aiyelala and Ogwugwu that are known to be fiery justice divinity and deities

### 1.2 The Notion

According to Emevwo Biakolo (1998), “the anthropology of Levy-Bruhl marked a watershed in the understanding of the other” Levy Bruhl’s theory emphasises a mystical participation which he sees as a pattern of thought that is difficult for the rational mind to comprehend. An understanding of the “other” was a problem for Europeans who discovered Africa and needed to forge a relationship with them in the 15th-18th centuries. Early writers in African studies impressed it on the minds of their audience that Africans are a primitive and backward people. They portrayed them as uncultured for practicing a belief system that is deemed ancient, fetish, harmful to self. The need to liberate Africans from a Dark age was emphasised and vigorously pursued by Europeans in later years who introduced their culture as a best practice method while undermining the belief systems and knowledge of Africans as inferior, irrational, illogical and incompatible with modernity. However, further study of the African people and their culture led some European writers like Levy Bruhl (1923) to conclude that even when the African belief contrasts with existing knowledge and contradicts the law of non-contradiction which holds that A cannot be A and B at the same time and make an acceptance of invisible entities believed to be dead but active in the ordering of human society illogical and irrational yet, unlike his contemporaries who project Africans as ignorant and gullible, he held that Africans are intelligent and introduced relativity to discussions on evolution. In his view, the differences in thought pattern between Africans and Westerners does not indicate the absence of intelligence as presupposed by earlier writers on Africa but rather, projects a thought pattern that poses a challenge to Western thinking and knowledge and calls for further investigation. He agreed with Hegel on the need to abstract from pure abstractions the logic which when

sublated into rational processes, would lead to scientific break-throughs. In his perception, mystical participation exhibits a singularity that holds a promise of new discoveries in a modern world. The notion that the western world is more sophisticated and superior in knowledge than the African world and knowledge, permeate discussions on oath-taking in human trafficking wherein, the oath is presented as a fetish cultural belief and practice peculiar to Africans. The impression of Africans as a primitive people still in the stages of ignorance, gullible and open to deceit colors debates on women and girls' acceptance to be trafficked for prostitution which characterises narratives on the Nigerian trafficking syndicate portrayed as one of the challenges faced by the European police in the fight against human trafficking. In the rationality of the West, the role of oath in human trafficking cannot be comprehended and needs to be clarified through an investigation of the African worldview. Research on oaths in human trafficking concentrates on the rituals and gives an impression of it as fetish and evil. Scholars agreed that the use of oath by the Nigerian human trafficking syndicate is a hindrance in the struggle for emancipation of women and girls especially from sexual slavery. It is held that the oath is a psychological means used by traffickers in the manipulation and exploitation of women and girls in prostitution who fear the consequences for breaking the oath and remain bound to their traffickers who they obey and are submissive to. However, the insufficiency of this explanation could be seen in the inadequacy of this approach to address the complexity of oath in the judicial process used in prosecuting traffickers

### 1.3 Human Trafficking

Human trafficking or trafficking in persons are umbrella words covering various forms of trafficking such as, sex trafficking and forced labour. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000), requires that three elements must be met in order for the action to be considered trafficked persons under the Act. Human trafficking is defined as:

*The recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, of fraud, of deception, of the abuse of power or position of power or of vulnerability or the giving of payments or benefits to achieve 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

Sex trafficking is the severe form of human trafficking. The Trafficking Victims Protection Act defines it as "Trafficking in which commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age." Recently, the requirement of force, fraud or coercion has been expanded to include, non- physical forms such as psychological coercion (Sangalis, 2011).

According to Report, 60 percent of street prostitutes in Italy are women and girls from Nigeria, mainly trafficked for sexual exploitation (Global Monitoring Report on the State of Action against Commercial Sexual Exploitation of Children, Nigeria, 2007). In London, over 80 percent of the young people that the NGO Africans Unite Against Child Abuse (Africa) works with as victims of trafficking are of Nigerian origin (Global Monitoring

Report, 2007). Report states that women and girls- primarily from Benin City in Edo State subjected to forced prostitution are trafficked mainly in Italy but as well in Spain, Scotland, the Netherlands, Germany, Turkey, Belgium, Denmark, Finland, France, Sweden, Switzerland, Norway, Ireland, Slovakia, the Czech Republic, Greece and Russia (International Movement Against All Forms of Discrimination and Racism, 2015).

Different types of trafficking include, commercial sex act, slavery, involuntary servitude, peonage and debt bondage (OVCTTAC). The crime of human trafficking involves a trafficker using force, fraud, or coercion to make an individual perform labour or engage in commercial sex. Human trafficking involves severe violence against victims and host other crimes that include gang activity, drug operations, property crimes, organised criminal operations, and other violations of law at State, Federal and International levels (OVCTTAC).

### 1.4 Oath-taking in Human Trafficking

Africans are described as "very religious people" according to a survey by the US-based Pew Research Center (2010), 87% of the respondents to a questionnaire in Nigeria on the rate of religiosity, claimed that religion is very important in their lives. Whether as Christians, Muslims or Traditionalists, Africans are "notoriously religious". Accordingly, Mbiti describes the African as one who carries his religion along with him wherever he goes. an attitude that is put down to, an intertwining between culture and religion which makes it difficult to separate spirituality from the physical. Whether as traditionalists, Christians or Muslims, Africans' belief in spirit beings as real is projected into the way

they talk about God and spirits as impacting their everyday living. In sex trafficking narratives, oath taking and the rituals associated with it feature prominently in narratives on human trafficking in Nigeria. The use of oath taking and victim's search for traffickers to assist in transportation arrangements are peculiar to human trafficking in Nigeria. Report reveals that trafficked persons from Nigeria, sell their properties in order to raise some amount of money to give to traffickers as part payment for a deal agreed to (SEEDS, 2005) while others submit documents of buildings as collaterals (SEEDS, 2005). Traffickers also known as sponsors invest money in their efforts to secure travel documents and arrangements. Therefore, they reach agreements with trafficked persons on the mode of payments using a legal framework which could involve lawyers and signing documents that formally bind victims to arrangements made

### 1.5 The Oath as Means of Group Support

In Africa, oath taking is regarded as a covenant fellowship between man with man and man with deity. Traditionally, it was used to solve social problems such as disputes and to strengthen relationships between friends or in marriage. In human trafficking, it is observed that "once a woman agrees to go to Europe, she is taken to a shrine where the pact of emigration is confirmed and sealed through oath taking" (Jorgen, 2006). In the shrine, some items are collected from the victims. These are symbolic objects of significance, used for ritual purposes. They include victims' hair from the head, pubic hair, armpit hair, finger nails, toe nails, blood, and menstrual blood or used underwear stained with menstrual blood (Van Dijk, 2001). It is believed that these personal items represent the medium linking the priest with the victims and becomes the bodily contact needed to mete out punishment of madness or death, in the physical absence of a victim that derails. Packets given to victims contain objects of charm intended to embody personal and spiritual power, beauty and sex appeal, protection and success, and make the women attractive to men (Van Dijk, 2001). It is believed that the soap and powder enhance beauty and make victims attractive to "sexual clients" and turn out high patronage. Some items given to the victims are symbolic. Pieces of twisted metal represent Ogun, the god of iron, a fiery justice deity. The kola nut symbolises a pledge to faithfulness and loyalty to the agreements reached. The use of oath for personal gains shows a compliance and twist to narratives on oath as a means of psychological coercion which creates fear of the consequences of breaking the oath. For Jorgen (2006) the oath acts as, "a seal to an agreed pact."

## 2. Principles of Oath Taking

A common use of Oath taking is in building cohesion among people. Therefore, it centres on solving disputes or keeping intact, mutually reached agreements presented before it. Its major task is to preserve and protect relationships from degenerating and disintegrating. It is not concerned with the originating motive of an arrangement made but establishes the agreement on the strength of an existing cordial relationship between the parties involved by providing values that promote harmony and prevent behavioural tendencies that can destabilise the equilibrium. The general principles of oath taking serve as guidelines against as well as, form the basis for punishment from the deity. Thus, parties involved in oath taking are advised to strictly abide by the following general principles.

### 2.1 Principles of Fidelity

Oath taking requires fidelity to the agreements made. Therefore, it demands that all parties involved in oath taking must fulfil their part of the agreement:

#### No Harm Principle

Oath taking requires love and trust for one another from parties involved in a covenant relationship. Therefore, it demands that every member involved in oath taking must look out for the good of one another and prevent harm from befalling any member of the group or the group itself

#### One for all: all for One Principle

Oath taking establishes a union that binds one party to another in covenant, creating a "we feeling" that should be protected at all times. Therefore, through cooperation they are able to achieve a common good.

#### The Principle of See but Say Nothing

Members are encouraged to keep all they see and hear in the group within members of the group. They are not to divulge information about the oath taking or the group to non-members. This makes it difficult for members to betray trust imposed on them.

Oath-taking uses the values of self-control and discipline as a strategy for maintaining harmonious relationships and preserving agreements. Through discipline and self-control, parties involved in oath-taking remain faithful to the agreement made, become dependable, reliable and trustworthy even in the face of temptation.

### 2.2 Arguments for Oath taking in Human trafficking

In Nigeria, human trafficking is regarded as a commercial venture that involves risks and benefits therefore, it is a game of chance (Adeniji, 2005) that comes with terms and conditions wrapped up in agreements and sealed off on oath. Therefore, the trafficked person recognises the oath as a bond based on an existing agreement between the parties which is either built up (in case of dispute) or built on (in case of friendships or business). Its goal is to achieve a harmonious relationship by sustaining agreements reached through crime control and justice. Among Nigerians, it is expected that the parties involved in oath-taking know the implication of taking an oath before a deity and should decline any offer pertaining to taking an oath before deities if he or she is uncertain of his/her abilities to carry out the rules to the letter. Accepting oath taking as a condition for sponsorship therefore, signifies consent and a willingness to work by the rules. It is held that Oath taking acts as a guarantee and reassures victims and traffickers alike of the commitment to the promises made and as such binds both traffickers with victims to the arrangement and promises made

### 2.3 Functions of the Oath in Human Trafficking

- Legitimizes
- Oath taking in human trafficking seals and makes sacred agreements reach as well as arrangements made when the priest, an authority and representative of the gods is involved in witnessing before the gods to the agreements and arrangements reached.
- Integrates
- The shrine, oath taking, and rituals are striking symbolic objects intended to communicate the need for cooperation between the trafficked and trafficker in order to achieve an ideal harmonious co-existence.
- Preserves
- Religion in human trafficking preserves the agreements reached through fear of repercussions for breaching arrangements. Therefore, the parties involved keep hope alive that their desires would be met.
- Binds
- Religion in human trafficking gives a sense of belonging and creates a feeling of oneness in the struggle of survival and binds the trafficker and the victim to the agreement reached.
- Builds Virtuous Character
- Religion even in human trafficking is prescriptive. It makes rules to regulate the behaviour of the parties involved and develop in them, traits of character that makes loyal, faithful and submissive

### 2.4 Drivers of Oath taking in Human Trafficking

Factors that drive oath taking in human trafficking are grouped into pull and push factors as follows:

#### Push Factors

i. Clandestine nature of trafficking in persons  
Trafficking in persons is both an international and domestic crime. As such, traffickers hide their identity and activities from law enforcement. In their interest, prevent betrayals to avoid confrontation of any sort with the law.

ii. A need to curb criminality among parties in group agreement

Human trafficking is a transaction that is based on promises. The trafficker promises to help the trafficked person get into another country outside Nigeria if certain payments are made to facilitate transactions. The trafficked person is not sure if the trafficker would do what he promised even after collecting some amount of money. The need to repress criminal conduct and betrayals among members of the group, made traffickers apply oath taking to human trafficking.

iii. Protection of individual and group interests

When Oath is taken, it is binding on both the trafficked and trafficker. This assures each person involved that promises will be kept and rekindles hope of attaining set goals. Thus, oath taking helps in preserving arrangements and protecting personal interest

#### Pull Factors

Traffickers are drawn to oath taking because it is believed to be effective. However, belief in the efficiency of the Oath taking is nourished by the following practices:

##### i. Belief in African Traditional Religion

African traditional religion has certain beliefs and practices that suit the purpose of traffickers who exploit these to their advantage. Africans have a strong belief in the world of spirits, trust in the authority of priests, the shrine, rituals and the emblems of worship are held as sacred and reinforce the belief that a delicate balance exists in the universe between the visible world and the invisible world. Oath taking is firmly rooted in the religious belief that the spirit world is powerful so that it can bless those who are faithful, obedient and submissive or punish offenders for deviating from collective morality with diseases and death. The general notion is that oath taking is efficient because deities are incorruptible, just and fair

##### ii. Myths on Deities (gods)

Stories on deities portray deities as powerful spirits that punish offenders with illnesses, diseases such as madness and death. It is believed that they have eyes

everywhere that enable them to see when a crime is committed and know the offenders. In their nature as spirits, they are not restricted by time or space and can be everywhere so that they can reach and punish any offender even if she/he lives in the remotest part of the world. This gives the impression that nobody can escape punishment from the deities when they err particularly, as deities are directly accountable to the Supreme Being and incorruptible.

### **iii. Concept of Justice**

Africans believe that justice is fair and served when the offending party is punished for derailing from agreements and expectations. Therefore, deities believed to punish betrayals, and those who derail from agreements are regarded as effective and the method efficient. Sex trafficking on the other hand, is a transaction based on promises and cannot be guaranteed. Therefore, traffickers take advantage of the belief in the efficiency of oath taking and the reward and punishment approach-typical of any judicial system, to foster commitment to agreement and discourage betrayals.

## **2.5 Effects of Oath-taking in the Fight against Human Trafficking**

According to the United Nations (2023), “detection rates fell by 11% in 2020 and convictions plummeted by 27%, illustrating a worldwide slowdown in criminal justice response to trafficking”. Nigerians believe that the oath is a potent instrument of power which has the ability to inflict diseases and death on those who transgress or deviate from the rules and principles guiding the promises made. Trafficked persons from Nigeria claim that a fear of the consequences for breaking the oath and the promises they made before departure prevents them from divulging information on traffickers’ and their activities. Law enforcement officers, on the other hand indicate that refusal to assist or cooperate with law enforcement officers in their investigations prevent enforcement officers from carrying out their dutiful role of identifying, arresting and detaining people who break the law. It has been observed that the fear of the consequences of breaking the oath also prevent trafficked persons from witnessing the crime of trafficking which impacts on the victim-centered approach that relies on trafficked person’s testimony and witnessing as evidence of crime (OVC). In human trafficking narratives, the oath is presented as furthering crime and an obstacle to obtaining a fair hearing and justice. this assumption contradicts the notion of oath in pre-modern times as a means of preventing crime and obtaining truth and calls for investigation to how the perception of the oath as a means of preventing crime and obtaining truth among Nigerians who still rely on the effectiveness of the indigenous system of fighting crime in warding off criminality such as betrayals in contemporary times

## **2.6 Arguments against Oath taking in Human Trafficking**

Oath taking applied on human trafficking victims, involves the use of supernatural practices that make victims believe that a bad event will occur if the oath is broken. Therefore, trafficked persons remain at the mercy of traffickers who make decisions for them and control their earnings. Values that underlie oath taking strategy, promote silence. Meanwhile, information on traffickers is vital for the prosecution and conviction of traffickers. Without information on traffickers, their activities remain hidden from public knowledge and law enforcement. Thus, traditional oath taking ceremonies are considered as psychological abuses that coerce victims into remaining in the servitude of traffickers. Psychological coercion snuffles the voices of and gross injustices done to victims. Trafficking in persons and human rights

Human trafficking is an offense that not only violates state and federal law, but it also violates international human rights laws. Trade in human beings dehumanises trafficked victims who are objectified as commodities to be bought and sold. Marino (2008) identifies ways in which a person is treated as an object as, instrumentality, denial of autonomy, inertness, fungibility, violability, ownership and denial of subjectivity.

### **Instrumentality**

Instrumentality occurs in human trafficking when traffickers treat their victims as a tool for his/her purposes. In human trafficking, objectification begins with, luring or deceit of victims with an intention to make monetary gain from such.

### **Denial of Autonomy**

Traffickers treat victims as lacking in autonomy and self-determination. For instance, victims are always monitored by traffickers when indebted to traffickers; they cannot afford to live a free life because of a pressing need to pay off the debts. Thus, she has little or no control over the number of sexual clients she would have to attend to in a day neither does she have the freedom to refuse certain sexual partners

### **Denial of subjectivity**

Traffickers treat victims as something whose experience and feelings need not be taken into account. Traffickers lock up victims for days sometimes without food. They threaten to kill or in some cases, do bodily harm to victims who cannot repay the debts they owe

## Violability

Traffickers treat victims as lacking in bodily integrity, as something permissible to break up, smash or break into. Trafficking involves various abuses, including rape. Victims are raped to break down their resistance and prepare them for sex work

## Ownership

Traffickers treat victims as something owned that can be bought and sold. At times, victims are resold.

### 3. Universal Declaration of Human Rights and Human Trafficking

The Universal Declaration of Human Rights (“UDHR”) is a legal document adopted by participating countries in the United Nations and establishes fundamental human rights universally protected. The UDHR applies when human rights have been blatantly disregarded and the end results are heinous acts that shock the conscience and prevent mankind from enjoying universal freedoms. Thus, human trafficking violates Articles 1,3,4,5 and 13 of the UDHR

Article I grants all human beings the right to be born free and equal in dignity. Human trafficking is a violation of Article I because while those who are taken are born free, they are not equal in dignity since these individuals are used for nefarious sexual activities (Norah, 2019).

Article 3 grants everyone the right to life, liberty and security of person. Forcing trafficked individuals into marriages, labour, and other activities negates the freedom of liberty granted under Article 3 because these persons lost their agency in choosing their partner and freedom of making decisions over themselves (Norah, 2019).

Article 4 bans the holding of a person for the use of slavery or servitude, as well as slave trade in all forms. The act of trafficking in persons violates the right of the trafficked person under Article 4. Trafficked persons are held under slave-like conditions (Norah, 2019). Passports are confiscated and they are made to enter into numerous exploitative forms of prostitution, forced labour or services, slavery or practices similar to slavery or indentured servitude. Human traffickers involve victims in a host of other crimes that include gang activity, drug activity, drug operations, property crimes, and organized criminal operations.

Article 5 protects people from cruel, inhuman treatment and punishment. Victims of human traffickers suffer inhumane treatment. Some are raped, beaten and may even have their organs removed; and last,

Article 13 grants all humans the right to freedom of movement. Human traffickers prevent those taken from freely moving. Trafficked persons lose autonomy and the liberty to move from one place to another when their passports are seized and they are made to remain in one place, out of public knowledge. They are closely monitored when allowed to go out. Human trafficking violates the UDHR because victims’ basic rights are ignored (Norah, 2019).

## 4. Victim-Centered Approach

The victim centered approach is defined as, the systematic focus on the needs and concerns of a victim to ensure the compassionate and sensitive delivery of services in non-judgmental manner (OVCTTAC). Trafficking Victims Protection Act (TVPA) is the legal framework that provides the main components for combating human trafficking as Protection, Prosecution and Prevention also known as 3Ps. Best practice places victims at the centre of the process of combating human trafficking crime and prioritizes the needs of victims in order to reduce trauma and victimization.

### 4.1 Principles of Victim-Centered Approach

- **Identifying Trafficked Persons as Victims of Crime:** Trafficked persons are potentially victims of organised crime and may have serious security concerns not only to their persons but there may also be security risks to their family members (IOM, 2018).
- **Trafficked Persons should not be Treated as Criminals:** Victims’ rights and needs are at the core of the victim centered approach. Victims of human trafficking are provided humanitarian assistance and psychosocial support including, shelter, counselling, education, medical and psychosocial assistance. The aim is to protect victims from being re-victimized, gain their confidence to cooperate with law enforcement, witness against those who victimized them and assist law enforcement in the process of prosecuting traffickers.
- **Trafficked Persons should not be Treated only as Source of Evidence:** Trafficking cases require evidence of force, fraud or coercion. Therefore, victims not only serve as useful sources of information but are also viable witnesses to the crime of human trafficking. Therefore, they play a crucial role in human trafficking investigations and prosecutions. In many trafficking cases, only victims can explain the coercion and control that are basic

elements of crime (OVCTTAC). However, they should not be treated only as a source of evidence. Cooperation from victims is the key factor of success in any trafficking in person's investigation and prosecution.

### 5. Conflicting Interests and Contrasting Methods

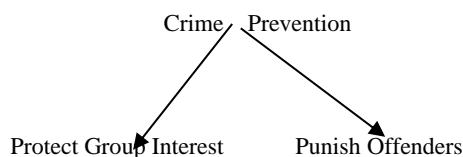
Karl Marx defined conflict as a struggle between parties of unequal status and power. In narratives on human trafficking, feminists project conflict as arising from an inequality between sexes in society where males who are privileged above females benefit more from the subjugation of women in traditional roles as caregivers. Therefore, they fight for the rights of women and girls while calling on the government to punish men who patronise prostitutes since there will be no supply without demand. The government on the other hand, has the responsibility of meeting with the needs of the citizenry by providing an environment conducive for the enjoyment and fulfilment of human rights therefore, conflict for it, arises from an inequality in power between the trafficker and the trafficked person who the trafficker exploits and oppresses. However, from the perspective of the law giver and enforcer, conflict is conceived as a struggle to resist being convicted and sent to prison and as such, stands for all the complexes of activity that operate to bring the substantive law of crime to bear (or

avoid bringing it to bear) on persons who are suspected of having committed crimes (Packer, 1964) also referred to as the criminal process. For this work, conflict is defined as the struggle between two methods at par but using different value-systems in fighting criminality in human trafficking therein, expanding the concept of conflict in human trafficking beyond inequality in power and status to differences in worldviews within a globalised world where migration enabled the oath an indigenous method of preventing and obtaining truth to meet and confront the victim-centered approach used in fighting crime and obtaining truth in human trafficking. it is observed that when two methods at par but using different values systems are pitted together, they compete and struggle against each other for recognition

### 6. The Supremacy Battle

In the legal process, two kinds of criminal process models are recognised as, the crime control model and due process model. In the fight against criminality in human trafficking, two types of value systems have been recognised as, the crime control model and due process model and associated with oath-taking method and the victim-centered approach respectively. The oath which employs the crime control method has an underlying value system that emphasises the repression of criminal conduct as the most important function to be performed by the criminal process.

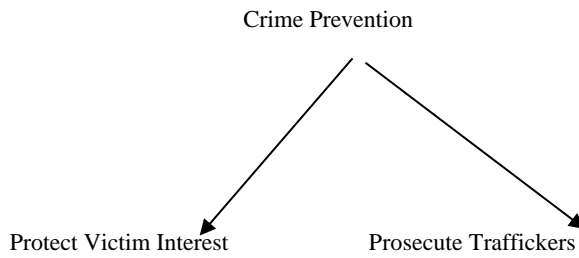
Figure 1 Diagram illustrating Oath-taking Approach



Therefore, it pays attention to absolute adherence to the principles guiding the oath and commitment to obligations. Oath taking usually recognises an existing agreement between the parties which is built up (in case of dispute) or built on (in case of friendships or business). Its goal is to achieve a harmonious relationship by sustaining agreements

reached through crime control and justice. However, it finds unacceptable the presumption of innocence. The victim-centered approach exhibits the due process method. It proposes the legal guilt doctrine which states, "An individual is not to be held guilty of crime merely on showing that in all probability, based upon reliable evidence, he did factually what he is said to have done. Instead, he is to be held guilty if and only if these factual determinations are made in procedurally regular fashion and by authorities acting within competencies duly allocated to them" (Packer, 1964) therefore, it accepts with considerable equanimity a substantial diminution in the efficiency with which criminal process operates in the interest of preventing official oppression of the individual (Packer, 1964).

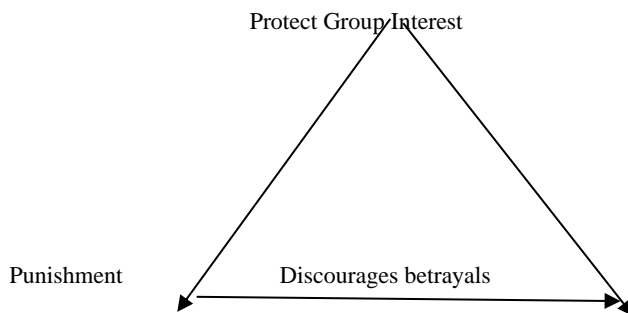
**Figure 2.** Diagram illustrating the Victim Centred Approach in Human Trafficking



**7. Assessing Oathtaking Strategy and the Victim-Centered Strategy**

In human trafficking, an impression is given that trafficked persons are intimidated, oppressed and exploited therefore, the expectation is that trafficked persons would resent their oppressors for punishing them and be offended enough to want to see them punished for their crimes. An opportunity which the victim-centred approach affords them by prioritizing their experiences and elevating their position as witnesses who testify against traffickers who oppressed and afflicted them. It is expected that trafficked persons who feel offended by the act of cruelty meted out on them would cease on this opportunity to see the trafficker pay for his actions. However, in trials held in Europe, it is reported that victims go into fits and trances in the witness box due to fear of juju (Finnish Immigration Services). Reports from Nigeria also indicate that when traffickers are arrested, victims fail to show up in court to testify against them for fear that they would die if they violate the oaths (Mojeed, 2008). Fear of the consequences for breaking the oath has therefore been attributed to reprisal attacks and harm to loved ones in countries of departure. While this may be one of the reasons eliciting fear, in Nigeria, the fear of the consequences for breaking the oath is understood differently and made in reference to the belief in deities' ability to punish betrayal and offenders by inflicting sickness, madness or death on such persons. The fear of invoking the wrath of the gods on oneself or the family comes from the belief that deities are so powerful and unstoppable that neither time, space or distance could not prevent them from inflicting harm on someone that derails. It is also held that deities as spirit beings are so powerful that nothing could be hidden from them so they know when there has been a betrayal or not. With that, no one that derails escapes being seen and punished by the gods

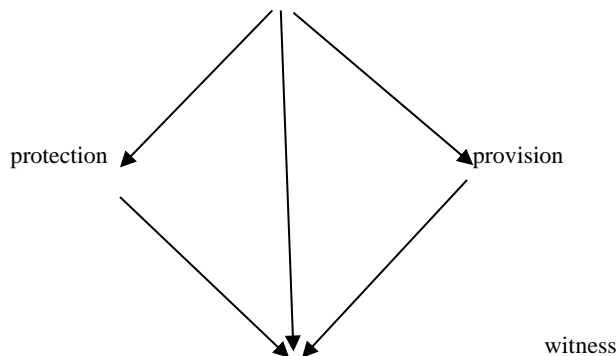
**Figure 3.** Diagram Illustrating Oath-Taking Strategy



The perception of deities as powerful, incorruptible and efficient make a generality of the people prefer to deviate from man-made laws than rules set out as guide by the gods. While this may seem irrational since the existence of deities or spirit beings cannot be proven, this work would compare strategies used by both the oath and victim-centered approach in ascertaining, if the oath would have been efficient if belief in gods were absent.

In the victim-centered approach, trafficked persons are elevated as viable participants in all stages of the criminal justice process and their impact statements are upheld as lending a strong and active voice in the disposition of criminal cases (IOM, 2018). Therefore, the victim-centered method concentrates on provisions of shelter and protection of trafficked persons in exchange for information.

**Figure 4.** Diagram Illustrating Victim Centered Strategy



The oath on the other hand, concentrates on character dispositions and instills values of self-control, self-discipline, loyalty and commitment to a common purpose which nullified selfish, individualistic tendencies that predisposed trafficked persons to criminality. While the values in the victim-centred approach created a situation of dependency, oath-taking fostered values that encouraged an independent status. So that, whether the trafficker was there or not, the trafficked person would continually be loyal

**8. Impact of Oath-taking Strategy on the Victim-Centered Approach**

Oath taking builds self-control and silence on issues of importance concerning the group. Parties involved in the oath taking process are required to keep the secret of the group secret. In discouraging flippancy with promises of punishment, this method prevents betrayals resulting from detailed discussions about the group with non-members which makes

- i. it difficult for law enforcement agents to get information that would help them in identifying traffickers, detecting their operations and activities
- ii. It makes it difficult for trafficked persons to testify against traffickers as witnesses to the crime of trafficking

Oath-taking measures make the victim-centered approach less effective in fighting crime in the following ways

- i. Attacks the dependent posture on victims’ witnessing
- ii. Creates attitudes that contradict enforcement procedures and make law enforcement less efficient. Thus, it creates confusion for law officials who in the course of duty, come in contact with these “victims” who refuse to cooperate with investigation
- iii. It renders criminal justice less effective and with records of low prosecution

**9. The Utilitarian Problem in Oath taking Approach**

The central purpose of the justice system is to deliver an efficient, effective, accountable and fair justice process to the public. However, the Nigerian human trafficking syndicate has been identified as contributing to challenges faced by law enforcement.

Trafficking in persons is a crime against humanity and its impact goes beyond the victim because it undermines national security. Reports state that human trafficking is one of the fastest growing criminal businesses, third behind illegal sales of arms and drugs deals (Global Monitoring Report). In some countries like Nigeria, migrants pay traffickers to get them across borders and attempt to get into foreign countries through the Mediterranean Sea or Sahara Desert. At times, they do not get to their destination alive. The United Nations 2011 report estimated that almost 21 million persons globally, including 11.4 million women are trapped in what some people call modern day slavery (Voronova and Radjerovic, 2011).

However, oath taking in human trafficking does not allow a balance that is essential in judicial process and necessary for societal good and harmony because it promotes silence that shrouds the activities of traffickers and protects the trafficker from prosecution. Silence on activities of traffickers makes trafficking in persons a low-risk business that enables a trafficker to remain undetected while carrying out an illegal activity. The use of oath taking in human trafficking, forces women and children to submit to the most atrocious offenses against their persons. According to the global report on trafficking (2018), “in all of the sex trafficking cases reported to UNODC, traffickers controlled the victims and forced them to hand over either all or a significant portion of their profits”. Traffickers also

used other method as well such as imposing large 'debts' when victims had travelled to their place of exploitation, extracting 'fines', for a range of insignificant or invented misconduct, and/or obliging women engaged in commercial sex in streets to pay a daily fee for right to occupy a particular location (ECPAT, 2007). Trafficked victims especially, women and children are vulnerable to violence and abuses which violates their fundamental human rights. Thus, trafficking in persons is a crime that should be reported and traffickers prosecuted in order to deter other traffickers and prevent the vulnerable from becoming a victim of traffickers.

### 10. Conclusion

Although findings contradict the view that oath-taking in human trafficking is solely used to further crime, it appears like the construction of all trafficked persons as victims makes it easier to adopt the victim approach in combating human trafficking but this denies the consent of trafficked persons to other arrangements accepted by them as binding. With this, a situation in which trafficked persons who do not consider themselves as victims, lured, forced or coerced are labelled victims of crime. On this basis, they are co-opted as witnesses in a judicial criminal process that might convict the trafficker who they see as a "saviour" for rescuing them from the shackles of poverty. According to Packer (1964, Dan Vijk, 2011) offenses that do not result in anyone feeling that he/she has been injured always present a greater problem to the criminal process than does the crime with an ascertainable victim. The problem with the refusal of trafficked persons to cooperate with investigation and with the enforcement of justice goes beyond the emotion of fear to an application of an approach in human trafficking that is inadequate for dealing with victimless crime

### 11. Recommendations

The victim-centered approach is inadequate and can only deal with certain aspects of crime in human trafficking. therefore, it should be modified and broadened to include:

- i. consent
- ii. victimless crime

### References

Agbu Osita, (2003). Corruption and Human Trafficking: The Nigerian Case. in Adeleke Adeeko, Nkiru Nzegwu, Olufemi Taiwo (eds.), *West African Review*, Africa Resource Center, Inc. [www.africaknowledgeproject.org/.../320](http://www.africaknowledgeproject.org/.../320).  
 Aghahowa, O.D. (1996). Ancestor Cult and a Vehicle for Stability and Development

among the Bini- People of Edo State Nigeria. An Unpublished PhD Thesis Department of Religious Studies, Edo State University, Ekpoma  
 Baujard, A. (2013). Utilitarianism and Anti-Utilitarianism. <https://www.halshs.archives-ouvertes.fr/halshs-0090689>  
 Beauchamp, Tom.L (1991). *Philosophical Ethics*. 2<sup>nd</sup> Edition, New York: McGraw-Hill  
 Carling Jorgen (2006). Migration, Human Smuggling and Trafficking from Nigeria to Europe. [publications.iom.int/.../free/MRS23.pdf](https://publications.iom.int/.../free/MRS23.pdf)  
 ECPAT (2007). Global Monitoring Report on the Status of Action against Commercial SexualExploitation of Children  
 Emevwo Biakolo (1998). "Categories of Cross-Cultural Cognition and the African Condition" in P.H Coetzee and A.P.J Roux (Eds.) *The African Philosophy Reader*. Routledge, New York  
 Finnish Immigration Service. (2015). Human Trafficking of Nigerian Women to Europe [www.migri.fi/.../60332-suuntaus-al-200415.pdf](http://www.migri.fi/.../60332-suuntaus-al-200415.pdf).  
 Friescendorf Cornelius (2009). *Strategies Against Human Trafficking: The Role of the Security Sector*. National Defence Academy and the Austrian Ministry of Defence and Sports, Vienna [www.dcat.ch/.../trafficking%20complete](http://www.dcat.ch/.../trafficking%20complete).  
 IMADR (2015). Human Trafficking on Nigeria. Briefing Paper for the Special Rapporteur on Trafficking in Persons, especially in Women and Children  
 Internet Encyclopaedia of Philosophy 2014. Act and Rule Utilitarianism. <https://www.icp.utm.edu>.  
 IOM (2018). Investigating Human Trafficking Cases using Victim Centered Approach  
 Marino Patricia. (2008). The Ethics of Sexual Objectification: Autonomy and Consent. *Inquiry* 51.4345364.  
 Mojeed Musikilu. "Voodoo Aids Human Trafficking". *The Punch*. 24 October 2008. [punchng.com](http://punchng.com)  
 Norah Msuyu (2019). "Traditional Juju Oath and Human Trafficking in Nigeria: A Human Rights Perspective". *DeJure Law Journal* (online), vol.52, no.1, pp.138-162. <http://dx.doi.org/10.17159/2225-71602019/v52a9>.  
 Okojie E., Obehi; Obehi Okojie; Kokunre Eghafona; Gloria Vincent-Osaghae; Victoria Kalu (2003). Trafficking of Nigeria Girls to Italy: Report of Field Survey in Edo State Nigeria.  
 Olagbegi, O.B. (2006). Human Trafficking in Nigeria: Root Causes and Recommendations, UNESCO, Paris.

- unesdoc.unesco.org/images/.../147844e.pdf.
- OVC. Understanding Human Trafficking: Victim Centred Approach. <https://www.ovcttac.gov-eguide>.
- Packer Herbert (1964). *Two Models of the Criminal Process*. University of Pennsylvania Law Review, Vol.113, no 1.
- Refworld (2008). Protection of Victims of Trafficking in Nigeria. www. Refworld. Org/pdfid/485f6b882.pdf.
- Sangalis Theodore (2011). “Elusive Empowerment: Compensating the Sex Trafficked Person under the Trafficking Victims Protection Act, 80” *Fordham L.Rev.403*. www. Ir.lawnet.fordham.edu/.../viewcontent.cgi.
- State Economic Empowerment and Development Strategy (SEEDS) 2005 Annual Report on Edo State.
- UNODC 2018 Global Report on Trafficking in Persons
- Van Dijk. (2011). “Voodoo on the Doorstep: Young Nigerian Prostitutes and Magic Policing in the Netherlands”. *Africa: Journal of the International Africa Institute*. Vol. 71, No.4.
- Voronova, S., Radjenovic, A. (2016). The Gender Dimension of Human Trafficking. European Parliament. www. Europarl.europa.eu/.../EPRS\_...