

CHAPTER ONE

GENERAL INTRODUCTION

1.1. BACKGROUND TO THE STUDY

The idea of "victimless crime" is based on the conviction that certain offences, such as prostitution, involve consenting adults and, as a result, do not directly harm other people. According to existing literatures, crimes like vagrancy, gambling, pornography, drug use, and prostitution are referred to as "victimless crimes" or "crimes without a victim" because, usually, none of the parties involved file a complaint with the police.¹ In other words, victimless crimes entail a situation where participants freely trade goods and/or services and may not perceive themselves as victims or as suffering from exploitative transactions, and they do not file complaints. Three requirements must be met for a specific action to qualify as a victimless crime, according to this definition; there should be mutual consent or a consensual trade of commodities or services; participants should refrain from complaining, and those engaged in transactions should not regard themselves as victims.² Consequentially, victimless crimes are categorized based on the fact that there exists no person that directly bears the harm/consequence of the action carried out.³

However, despite the absence of these direct victims, these acts are still regarded as illegal and criminal under law. This is more so as there are three primary characteristics that can be used to determine whether a crime is victimless: the act must be excessive, it must be indicative of a clear pattern of behaviour, and its negative consequences only affect the individual who committed it.⁴ To put it another way, this is a particular human behaviour that

¹ U. Bakhtadze, 'Is Prostitution a Victimless Crime?' (2013). <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2372009> accessed 17 November, 2024.

² Ibid.

³ D. Moreira, 'Concepts of Victimless Crime'. <<https://www.longdom.org/open-access-pdfs/concepts-of-victimless-crimes.pdf>> accessed 17 November, 2024.

⁴ I. Kulyk, 'Decriminalization of 'Victimless Crime'', (2021). <https://www.academia.edu/49303090/Decriminalization_of_Victimless_Crimes> accessed 17 November,

does not in any way annoy other people but is taboo and condemnatory, which violates social moral standards and in stills fear of its spread. Thus, the major objectives of criminalizing ‘victimless crimes’ includes maintaining moral standards; proponents argue that criminalization helps to uphold societal values and prevent the erosion of moral standards; protecting public health; criminalization is often seen as a means of controlling the spread of sexually transmitted infections (STIs) and other public health concerns associated with prostitution; and preventing exploitation and human trafficking - while the "victimless crime" framework often overlooks this aspect, criminalization is sometimes seen as a way to combat human trafficking and exploitation, although critics argue that it can inadvertently drive these activities underground.⁵ In essence, this viewpoint of victimless crime frequently contends that criminalising such activities would be an infringement on individual liberties and freedoms.

Nevertheless, because the definition of victimless crime does not include injury or the threat of harm that a participant may do, it is still up for debate whether a certain activity can be deemed victimless even if all of these conditions are met or if these acts need be criminalised in the absence of victims. This debate especially rages on in the example of prostitution as a victimless crime.

Prostitution has been given a varied number of descriptions. Some authors view the act as involving “any individual who, by mutual consent, and without emotional ties, grants non-marital sexual access to a number of clients for remuneration which provides part or all of that person's livelihood," while other view it as involving someone who "makes a living wholly or in part by the more or less indiscriminate, willing, and emotionally indifferent provision of sexual services of any description to another, against payment, usually in

2024.
⁵ Ibid.

advance but not necessarily in cash."⁶ From these definitions, this study believes the key aspects of prostitution to be: involves sexual activity; It encompasses a wide range of sexual acts, from intercourse to other forms of sexual contact; exchange for compensation; the defining characteristic is the exchange of sexual services for payment, which can take various forms, including cash, goods, or other favours; and varies in form; prostitution can take many forms, including street prostitution, brothel-based prostitution, escort services, and online sex work. From the foregoing, it is clear that prostitution is regarded as a victimless crime not having an individual that is directly in harm.⁷ As such, it has been argued whether this should be the case? Should prostitution be criminalized as a victimless crime or one involving a victim? Should prostitution be even criminalized considering it is consensual and only criminalised on the basis of morality?

Those that argue for a review of the categorization of prostitution as victimless crime rather than one with victims contend that numerous factors can contribute to individuals entering sex work, including poverty, lack of economic opportunities, social marginalization, and in many cases, coercion and exploitation; and as such, the "victimless crime" framework often overlooks these complexities.⁸ According to them, it fails to recognize that many individuals involved in sex work are particularly vulnerable due to poverty, lack of education, and social exclusion. They may be coerced or exploited by traffickers, pimps, or other individuals or that sex workers face significant health risks, including increased vulnerability to sexually transmitted infections (STIs), including HIV/AIDS, and other health problems.⁹ Thus, making them victims of the crime. Others, on the other hand contends that the law has no business with the criminalization of prostitution as a crime, particularly as it does not harm anyone in the society. These schools of thought believes that rather the prohibition of

⁶ Bakhtadze, (n 1).

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

prostitution has resulted in increased stigma and discrimination against sex workers, making it difficult for them to access healthcare, social services, and other forms of support and a violation the human rights of sex workers, including their rights to bodily autonomy, freedom from discrimination, and access to healthcare.¹⁰

These debates have resulted in the call for an appraisal for the various legislative approaches to prostitution in Nigeria, especially in Edo State. This is more so as just recently; the Edo State government signed an executive banning prostitution in the State.¹¹ More so, the Edo State Trafficking in Persons Prohibition Law, 2018, was enacted and reflects the Nigerian government's efforts to combat human trafficking and protect vulnerable individuals. This law aims to prevent and punish acts of human trafficking, including the exploitation of individuals for sexual purposes. However, as already noted there have been calls in recent times to revisit the legislation prohibiting prostitution in the country, in lieu of the impacts that it has on individual and society as a whole. Hence, this study.

This study will critically examine the Edo State Trafficking in Persons Prohibition Law, 2018, analysing its provisions related to prostitution and assessing its potential impact on the lives of sex workers in the state. It will investigate whether the law effectively addresses the complexities of human trafficking and exploitation while also ensuring the protection of the rights and well-being of sex workers. Also, this study will contribute to a deeper understanding of the complexities of prostitution, the limitations of the "victimless crime" perspective, and the importance of developing comprehensive and human-rights-based approaches to addressing this issue.

¹⁰ Kulyk, (n 4).

¹¹ E. Ikhide, 'Obaseki and Edo Prostitutes,' The Sun. (Lagos, July, 2022), <<https://thesun.ng/obaseki-and-edo-prostitutes/>> accessed 18 November, 2024.

1.2. STATEMENT OF RESEARCH PROBLEM

Prostitution, often referred to as the world's oldest profession, remains a deeply concerning subject across societies, particularly in countries like Nigeria. While some argue that prostitution is a consensual activity between adults and should be considered a victimless crime, others contend that it is intertwined with issues such as human trafficking, exploitation, and societal decay, and should be severely punished. The discourse around prostitution as a victimless crime becomes even more complex when viewed through the lens of legislation and enforcement. In Edo State, Nigeria, prostitution is not merely a societal issue but one that intersects with a broader and more sinister problem: human trafficking. Despite various measures taken to curb trafficking and related activities, including the enactment of the Edo State Trafficking in Persons Prohibition Law, the state continues to struggle with this issue.

Edo State has gained notoriety as a hub for human trafficking in Nigeria, particularly trafficking for sexual exploitation.¹² The state has witnessed significant migration of its citizens, especially young women, to foreign countries under the guise of seeking better economic opportunities, only for many of them to end up in conditions of forced prostitution.¹³ This status quo has resulted in Edo State being labelled as a critical hotspot for trafficking syndicates. The legal framework, as outlined in the Edo State Trafficking in Persons Prohibition Law, aims to address these challenges by criminalizing trafficking, protecting victims, and prosecuting offenders. However, the effectiveness of this law in addressing prostitution as part of the broader trafficking network remains a subject of concern.

¹² Ibid.

¹³ Ibid.

Additionally, the concept of prostitution as a victimless crime complicates the enforcement of such laws. Proponents of this perspective argue that adults engaging in consensual sex work do not directly harm others and, therefore, should not be criminalized. They claim that criminalizing prostitution further marginalizes sex workers, exposes them to violence, and drives the trade underground, making it more difficult to regulate and address associated harms. However, in the context of Edo State, prostitution is often not a matter of individual choice but rather a product of systemic coercion, exploitation, and trafficking. Many women and girls are lured into prostitution through deceptive promises of better livelihoods, only to find themselves entrapped in cycles of abuse and exploitation.

This duality presents a significant challenge for lawmakers, law enforcement agencies, and society at large. The Edo State Trafficking in Persons Prohibition Law seeks to combat trafficking and protect victims, but its effectiveness is undermined by several factors, including weak enforcement mechanisms, corruption, lack of public awareness, and societal stigmatization of victims. Moreover, the law's treatment of prostitution as a criminal offense rather than as a social issue tied to trafficking raises critical questions about its impact on the very individuals it aims to protect.

Furthermore, the societal and cultural context of Edo State complicates the implementation of anti-trafficking laws. Deep-seated poverty, unemployment, and gender inequality contribute to the perpetuation of trafficking and prostitution. Many families view migration, even under risky circumstances, as a pathway out of poverty, making them vulnerable to traffickers. Additionally, cultural norms that stigmatize sex work while ignoring the structural factors that drive individuals into prostitution create a hostile environment for victims seeking help and reintegration into society.

As such this study seeks to critically appraise the impact of the Edo State Trafficking in Persons Prohibition Law on addressing prostitution as a victimless crime. Questions to be answered in this study;

1. Is the Edo State Trafficking in Persons Prohibition Law effective in addressing the issue of prostitution and its link to human trafficking?
2. What is the perception of prostitution as a victimless crime and its implications for law enforcement, policymaking, and societal attitudes in Edo State?
3. What are the impacts of socio-economic factors such as poverty, unemployment, and gender inequality on the prevalence of prostitution and human trafficking in Edo State?
4. What evidence-based recommendations can be proposed for strengthening the Edo State Trafficking in Persons Prohibition Law and improving its implementation to address prostitution and human trafficking more effectively?

1.3. AIM AND OBJECTIVES OF THE STUDY

The aim of this study is to critically examine the impact of prostitution as a victimless crime while appraising the Edo State Trafficking in Persons Prohibition Law, 2018. The objectives of this study are to;

1. Examine the effectiveness of the Edo State Trafficking in Persons Prohibition Law in addressing the issue of prostitution and its link to human trafficking.
2. Determine the perception of prostitution as a victimless crime and its implications for law enforcement, policymaking, and societal attitudes in Edo State.
3. Assess the impact of socio-economic factors such as poverty, unemployment, and gender inequality on the prevalence of prostitution and human trafficking in Edo State.

4. Propose evidence-based recommendations for strengthening the Edo State Trafficking in Persons Prohibition Law and improving its implementation to address prostitution and human trafficking more effectively.

1.4. SCOPE AND LIMITATIONS OF THE STUDY

This study focuses on the examination of prostitution as a victimless crime and its connection to human trafficking within the context of the Edo State Trafficking in Persons Prohibition Law. The study is geographically confined to Edo State, Nigeria, a region identified as a hotspot for human trafficking and prostitution.

The scope of the study includes an analysis of the legal framework established by the Edo State Trafficking in Persons Prohibition Law, with particular emphasis on its provisions relating to prostitution, victim protection, offender prosecution, and enforcement mechanisms. Additionally, the study explores the socio-economic and cultural factors that contribute to the prevalence of prostitution and trafficking in Edo State, such as poverty, unemployment, gender inequality, and societal attitudes toward sex work and trafficking victims.

However, the study has certain limitations. There exist little textbooks, journal articles and secondary data dedicated to examining the subject. Second, the research is limited by its geographical scope, as it focuses solely on Edo State. While the findings may have broader implications for Nigeria and other regions facing similar challenges, they may not fully capture the dynamics of prostitution and trafficking in different cultural and legal contexts.

Lastly, time and resource constraints may limit the ability to conduct extensive fieldwork or engage with a large number of stakeholders, which could restrict the depth of the study. Nevertheless, by acknowledging these limitations, the study aims to approach the subject

with sensitivity, rigor, and transparency, ensuring that its findings and recommendations are both realistic and actionable within the context of Edo State.

1.5. SIGNIFICANCE OF THE STUDY

The findings and insights generated from this research have the potential to benefit various stakeholders, including policymakers, law enforcement agencies, non-governmental organizations (NGOs), academics, and the broader society. Firstly, the study contributes to the existing body of knowledge on prostitution and human trafficking by critically appraising the effectiveness of the Edo State Trafficking in Persons Prohibition Law. By examining the law's provisions, implementation, and impact, the research sheds light on its successes and limitations. This is particularly valuable in a region like Edo State, which has become synonymous with trafficking and exploitation. The study also contributes to a deeper understanding of the legal and social implications of framing prostitution as a victimless crime, a perspective that is often contested in legal, ethical, and policy debates.

Secondly, the study provides practical insights for policymakers and law enforcement agencies. By identifying gaps in the current legal framework and enforcement mechanisms, the research offers evidence-based recommendations for strengthening the Edo State Trafficking in Persons Prohibition Law. This includes strategies to enhance victim protection, improve prosecution of offenders, and address the socio-economic conditions that drive individuals into prostitution and trafficking. These recommendations aim to inform the development of more effective policies and interventions, thereby contributing to the reduction of trafficking and exploitation in Edo State.

Academically, the study serves as a valuable resource for future research on related topics. Its critical analysis of the Edo State Trafficking in Persons Prohibition Law provides a foundation for comparative studies, both within Nigeria and in other regions with similar

socio-economic and legal contexts. The research also contributes to the broader field of criminology, legal studies, and human rights by offering insights into the intersection of law, society, and human behaviour.

Finally, the significance of the study lies in its potential to drive social change. By addressing the root causes of trafficking and exploitation, such as poverty, unemployment, and gender inequality, the research advocates for systemic change that goes beyond legal reforms. It calls for a holistic approach that combines legal, social, and economic interventions to create a safer, more equitable society.

1.6. RESEARCH METHODOLOGY

This essay is set to make use of the doctrinal method of research. Reliance will be placed on the relevant criminal laws applicable in Edo State and Case Laws, as primary sources of authority. Reference will also be made to secondary sources such as books, articles and online publications in providing the contributions of several authors on the subject.

1.7. CHAPTERS OVERVIEW

The first chapter sets the stage for the study by providing a background to the problem of prostitution and its categorization as a victimless crime, particularly in the context of Edo State, Nigeria. It identifies the critical issues of human trafficking and exploitation as interwoven with prostitution, highlighting the significance of the Edo State Trafficking in Persons Prohibition Law. The chapter clearly articulates the research problem, stating why this study is necessary and timely. It outlines the study's aims and objectives, defines its scope and limitations, and discusses the significance of the research in contributing to knowledge, policy formulation, and social change. The chapter also explains the research methodology adopted and concludes with an outline of the subsequent chapters, offering a roadmap for the study.

This chapter provides the theoretical and conceptual foundation of the study. It begins with an introduction and proceeds to clarify essential concepts, such as crime, victims, victimless crimes, and prostitution as a victimless crime. It delves into the nature and forms of victimless crimes in Nigeria, providing an overview of prostitution and its prohibition, with a focus on Edo State. The chapter also discusses the theoretical framework underpinning the study, incorporating criminological and socio-legal theories relevant to understanding prostitution and its regulation. A review of relevant literature examines the impacts of prostitution prohibition, providing insight into the dynamics of the issue and identifying gaps in existing studies that this research seeks to address. The chapter concludes with a summary that ties the literature and conceptual analysis to the research focus.

Chapter Three provides an in-depth analysis of the Edo State Trafficking in Persons Prohibition Law, 2018, focusing on its provisions related to the prohibition of prostitution. It examines other relevant legal frameworks applicable in Edo State, including the Edo State Criminal Law, the Constitution of the Federal Republic of Nigeria, 1999, the Criminal Code Act, the Child's Right Act, 2003, and the Violence against Persons Prohibition (VAPP) Law. The chapter evaluates the effectiveness and limitations of these laws in addressing prostitution and trafficking. It also identifies the challenges hindering the successful enforcement of these legal provisions, such as weak institutional capacity, societal attitudes, and systemic corruption. The chapter concludes with a summary of the findings, highlighting key areas requiring improvement.

This chapter broadens the scope of the study by examining international legislations and best practices in regulating or prohibiting prostitution. It analyses alternative arguments to the outright prohibition of prostitution, such as decriminalization, regulation, and human rights-based approaches. The chapter explores the societal impact of prostitution, weighing the costs

and benefits of various regulatory models. It also considers lessons that Edo State and Nigeria can draw from other jurisdictions in addressing prostitution and human trafficking. The chapter concludes by proposing the most viable path forward for Edo State, integrating global best practices with the state's unique socio-economic and cultural context.

The final chapter summarizes the key findings of the study, synthesizing the insights gained from the preceding chapters. It presents practical recommendations for improving the legal and institutional framework in Edo State to address prostitution and trafficking more effectively. These recommendations include strengthening enforcement mechanisms, addressing socio-economic drivers of prostitution, enhancing victim protection and rehabilitation, and adopting evidence-based policies. The study concludes by reflecting on its significance, limitations, and contributions to knowledge, offering a foundation for further research on prostitution and victimless crimes in Nigeria and beyond.

Through this structured outline, the study provides a thorough analysis of the problem, evaluates the existing legal framework, explores alternative approaches, and proposes actionable solutions to combat prostitution and human trafficking in Edo State.

CHAPTER TWO

CONCEPTUAL FRAMEWORK AND LITERATURE REVIEW

2.1. INTRODUCTION

This chapter situates the research within the on-going scholarly and policy debates on “victimless crimes,” with particular emphasis on prostitution and its contested legal and moral categorisation. It summarises reasons the topic matters in the Edo State context; the intersections with human trafficking, the state’s legislative responses, and the socio-economic drivers that complicate simple legal prescriptions. The chapter sets out how the conceptual clarifications and literature reviewed below will underpin the doctrinal appraisal of the Edo State Trafficking in Persons Prohibition Law, 2018.

2.2. CONCEPTUAL CLARIFICATION

This section clarifies the key terms used throughout the study: ‘crime’, ‘victim’, ‘victimless crime’, and ‘prostitution’. Drawing on leading definitions in criminal law and international instruments, it isolates the essential features that distinguish crimes that produce direct, identifiable victims from those crimes criminalised largely for moral, public-order or public-health reasons. These conceptual precisions provide the analytic lens applied to statutory and case law in later chapters.

2.2.1. CRIME

Different scholars have different opinions about the term "crime." For example, Cross and Jones,¹⁴ stated their opinions that crime is a legal wrong for which the state punishes the perpetrator. According to Russell, a crime is defined by English law as an act or omission involving the violation of a duty that is in the public interest and is punishable by

¹⁴ R. Ross and R. A. Jones, *An Introduction to Criminal Law*, (London, Butterworths, 1972) P. 35

indictment.¹⁵ According to William, a crime is a legal transgression that may lead to criminal proceedings and penalties.¹⁶ To another scholar, Gledhill, a crime is any human behaviour that the government chooses to stop through the use of special legal procedures and the threat of punishment.¹⁷ In other words, crime is defined as a public wrong rather than a private one, and an organisation that represents the community as a whole intervenes between the offender and the victim as a result. Therefore, crime is defined as the worldwide conduct of an act that is considered hazardous or damaging to society, and the public harm that would arise from repeated participation in any given act is the basis for classifying it as a crime. As a result, society takes action to prevent it by establishing particular penalties for every offence.

It must be noted that the term "crime" comes from the Latin "Crimean," which meaning "charge" or "offence."¹⁸ Additionally, different contexts and encyclopaedia (dictionaries) have given an opinion as to what crime is to be viewed as. Halsbury defines crime as, "an unlawful act or default, which is an offence against the public and which renders the perpetrator of the act or default liable to legal punishment".¹⁹ This definition defines a crime as an act that violates the law, and a criminal is an individual who commits an act that violates the law. Also, a crime is defined as "an act or default which prejudices the interests of the community and is forbidden by law under pain of punishment," according to the Concise Encyclopaedia of Crime and Criminals.²⁰

¹⁵ A. Isiaka and E. Okaphor, 'Concept of Crime in the Administration of Penal Justice in Nigeria: An Appraisal,' NAUJILJ, (2018), 9 (1).

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ H. Khan. 'Chapter IV Meaning and Nature of Crime,'

<https://www.academia.edu/39761450/CHAPTER_IV_MEANING_AND_NATURE_OF_CRIME>, accessed 12 December, 2024.

¹⁹ Ibid.

²⁰ Ibid.

In an international context, crime is defined as 'a complicated, multifaceted occurrence that occurs when the law, the offender on target (which in personal crime refers to a person or an object in property), and the location (such as a street, corner, address, building, or street segment) collide'.²¹

This study will also suggest a description of the term crime according to its own standards, in order to bring all the necessary characteristics of what we refer to as "crime." This study believes crime to be best described as any act or omission, whether wicked or not, that a community or a study deems appropriate to punish or otherwise address under its currently enacted laws can be classified as a crime. The different acts and or omissions therefore punishable under the law are known as "Crimes".

Under Nigerian legal system, the meaning of crimes in Nigerian law appears to be in conformity with the pattern of the general observation made by the diverse juristic efforts in defining 'crime'. Both the Criminal Code and the Penal Code employ the word "offence" in describing crime. The Criminal Code Act²² describes an offence is defined as "an act or omission which renders the person doing the act or making the omission liable to punishment under the Code or under any Act or Law."²³ Furthermore, according to Section 4 (2) of the Penal Code 23 and the Sharia Penal Code 24, an act or omission created by a state law constitutes a crime when it is committed in violation of that law.

These descriptions of crime have been affirmed by the Courts in Nigeria. In the case of *Ambare v. Sylva*,²⁴ crime was defined as a' positive or negative act in violation of penal law.

²¹ Ibid.

²² Cap C38, LFN 2004.

²³ Criminal Code, Section 2.

²⁴ [2009] 1 NWLR (Pt. 1211) 1.

It follows therefore that a crime must involve certain act.”²⁵ Building on this, in the case of *Idagu v. The State*,²⁶ the Supreme Court held thus;

“It is a fundamental principle of criminal law that a crime consists of both a mental and physical element. *Mens rea*, a person’s awareness that his or her conduct is criminal, is the mental element and the *actus reus*, the act itself, is the physical element. The concept of mens rea, which is the Law Latin for “guilty mind”, was developed in England around the year 1600 when Judges began to hold that an act alone could not create criminal liability unless it was accompanied by a guilty state of mind. The degree of mens rea required for a particular common law crime varied then. In other words, mens rea is a criminal intention or knowledge that the act is wrong. Today, most of the crimes are defined by statutes that generally contain a word or phrase indicating the mens rea requirement. Thus, a typical statute may require that a person act knowingly, purposely or recklessly.”

From the foregoing cases and sections, it is clear that, in Nigeria crime is viewed as a wrongful backed up by intention to carry such at that is punishable under law. As such, this study concludes that characteristics of crime under the Nigeria legal system includes;

- Crime is an intentional act that violates the criminal law
- Crime is a public wrong that is strongly disapproved by society
- Crime is a behaviour that violates societal norms and is punishable by law

2.2.2. VICTIMS

To the best of the author's knowledge, the term "victim" is not defined anywhere in Nigerian law at the relevant period. As such, in conceptualising the term victims, definition from

²⁵ Ibid, at 17.

²⁶ (2018) 15 NWLR (Pt. 1641) 127.

secondary sources is very relevant. A victim is "a person harmed by a crime, tort, or other wrong," according to the Black's Law Dictionary.²⁷

Furthermore, victims are described as follows in the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power:

Article 1: A "victim" is defined as a person or group of people who have been harmed; either individually or collectively; by actions or inactions that violate national laws, including those that forbid the criminal abuse of power, and who have experienced physical or mental harm, emotional distress, financial loss, or a significant impairment of their fundamental rights.

Article 2: A person may be deemed a victim under this declaration regardless of whether the offender is recognised, found, charged, or found guilty, as well as regardless of whether the victim and the offender have a personal relationship. When appropriate, the term "victim" also refers to the direct victim's immediate family or dependents as well as those who have been harmed while helping victims in need or preventing victimisation.²⁸

Since it covers both victims of direct and indirect injury, the definition above is comprehensive and does not require additions. Victims are people who, as a direct result of another person's illegal act or inaction, have suffered from pain, torture, occasionally death, permanent disfigurement, maiming, disability, or loss of property and assets. The victim is a distinct individual who has suffered direct and personal injury at the hands of the offender,

²⁷ B. Garner, Black's Law Dictionary, 9th ed. (Texas: West Publishing Co., 1990), p. 427.

²⁸ Adopted 29th November, 1985.

not society at large. Therefore, a person must have experienced emotional, financial, or social harm in order to be considered a victim of crime.

It must be noted that, a victim may be an individual, a group of individuals, a dependent, or an organisation. This has been demonstrated numerous times by the courts. In the case of *Godspower Nweke and anor v. Nigerian AGIP Oil Ltd.*²⁹, a village or community of people impacted by an oil spill or gas flaring were regarded "victims" of oil pollution. Also, in the case of *Osuagwu v. the State*, the Supreme Court ruled thus:

“It is only an eye witness of an armed robbery attack that can be a victim of the act. In the instant case, the PW1 alleged to be victim of the armed robbery was not at the scene when the robbery took place.”

Therefore, in the context of this work, "victims" are people who, due to the direct criminal acts or omissions of others, have suffered from agony, torture, occasionally death, permanent disfigurement, maiming or disability, or loss of property and assets without their fault. The typical victim would be a woman who has been sexually assaulted a citizen, who has lost anything of value to robbery, or a person who has suffered severe physical harm or other violent assault that has left them permanently disfigured.

2.2.3. VICTIMLESS CRIME

As already noted in the previous chapter, the idea of "victimless crime" is based on the conviction that certain offences, such as prostitution, involve consenting adults and, as a result, do not directly harm other people. According to existing literatures, crimes like vagrancy, gambling, pornography, drug use, and prostitution are referred to as "victimless crimes" or "crimes without a victim" because, usually, none of the parties involved file a

²⁹ (1976) 9 & 10 SC 101.

complaint with the police.³⁰ In other words, victimless crimes entail a situation where participants freely trade goods and/or services and may not perceive themselves as victims or as suffering from exploitative transactions, and they do not file complaints.

Different authors have given their perception as to what the concept entails. Winterscheid defines the concept rather aptly thus:

“Those non forceful offenses where the conduct subjected to control is committed by adult participants who are not willing to complain about their participation in the conduct, and no direct injury is inflicted upon other persons not participating in the prescribed conduct.’ This definition reveals three aspects of such crimes. First, they proscribe consensual conduct between adult participants. Second, no person involved in the transaction is willing to act as a complaining witness. Finally, the conduct involves no direct injury to non-participants.³¹

Additionally, Bakhtadze³² defines victimless thus:

“The term “victimless crime” or “crime without a victim” is used to characterize crimes such as vagrancy, gambling, pornography, drugs and prostitution in which typically none of the involved parties files a complainant with the police. More simply stated, these crimes are considered as victimless because participants voluntarily exchange goods and/or services and may not see themselves as victims or as suffering from exploitative transactions, and so do not complain.

From the foregoing descriptions, there are three requirements must be met for a specific action to qualify as a victimless crime; there should be mutual consent or a consensual trade

³⁰ U. Bakhtadze, ‘Is Prostitution a Victimless Crime?’ (2013) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2372009>, accessed 17 November, 2024.

³¹ J. Winterscheid. ‘Victimless Crimes: The threshold question and beyond.’ *Notre Dame Law Review*, 1977, 53(5).

³² Bakhtadze (n 17).

of commodities or services; participants should refrain from complaining, and those engaged in transactions should not regard themselves as victims.³³ Consequentially, victimless crimes are categorized based on the fact that there exists no person that directly bears the harm/consequence of the action carried out.³⁴

However, despite the absence of these direct victims, these acts are still regarded as illegal and criminal under law. This is more so as there are three primary characteristics that can be used to determine whether a crime is victimless: the act must be excessive, it must be indicative of a clear pattern of behaviour, and its negative consequences only affect the individual who committed it.³⁵ To put it another way, this is a particular human behaviour that does not in any way annoy other people but is taboo and condemnatory, which violates social moral standards and in stills fear of its spread. Thus, the major objectives of criminalizing 'victimless crimes' includes maintaining moral standards; proponents argue that criminalization helps to uphold societal values and prevent the erosion of moral standards; protecting public health; criminalization is often seen as a means of controlling the spread of sexually transmitted infections (STIs) and other public health concerns associated with prostitution; and preventing exploitation and human trafficking - while the "victimless crime" framework often overlooks this aspect, criminalization is sometimes seen as a way to combat human trafficking and exploitation, although critics argue that it can inadvertently drive these activities underground.³⁶ In essence, this viewpoint of victimless crime frequently contends that criminalising such activities would be an infringement on individual liberties and freedoms.

³³ Ibid.

³⁴ D. Moreira. 'Concepts of Victimless Crime,' <<https://www.longdom.org/open-access-pdfs/concepts-of-victimless-crimes.pdf>>, accessed 17 November, 2024.

³⁵ I. Kulyk. 'Decriminalization of 'Victimless Crime,' (2021), <https://www.academia.edu/49303090/Decriminalization_of_Victimless_Crimes>, accessed 17 November, 2024.

³⁶ Ibid.

2.3. PROSTITUTION AS A FORM OF VICTIMLESS CRIME

In order to have a perfect overview of prostitution as a victimless crime, there is need to first examine the term. The idea of prostitution has an early origin; towards the end of the 1970s, prostitution was renamed "commercial sex" and "prostitutes" were referred to as "sex workers" under the influence of sex workers activists.³⁷ The Latin word *prostituere*, which means "pro" (up-front) and *stituere* (offer for sale), is the root of the English word prostitution. Thus, a person who openly offers their body for sale is considered a prostitute.

Different definitions have been offered as to what constitute prostitution, According to Ibrahim and Mukhtar,³⁸ some authors have viewed prostitution is the provision of non-marital sexual access for payment, as agreed upon by the prostitutes, their clients, and their employers. According to Bakhtadze, a prostitute is "any person who grants non marital sexual access to a number of clients by mutual agreement, and without emotional ties, for remuneration which provides part or that person's entire livelihood."³⁹ What this means is that people who "earn a living wholly or in part by the more or less indiscriminate, willing, and emotionally indifferent provision of sexual services of any description to another, against payment, usually in advance but not necessarily in cash" are considered prostitutes.

Despite the differences between these classifications, some characteristics can be found in common. Prostitution is an offer of sexual services in return for money. In addition to cash, other valuable products may be used as payment. Second, there should always be a component of permission or mutual agreement between a customer and a prostitute.

Prostitution in most countries exists in a complex socio-legal framework, raising questions about whether it qualifies as a "victimless crime" under the country's criminal justice system.

³⁷ B. Ibrahim and J. Mukhtar. 'Changing Pattern of Prostitution: An Assessment of Transnational Commercial Sex Work by Nigerian Women,' *European Scientific Journal*, (2016), 12(2).

³⁸ Ibid.

³⁹ Bakhtadze (n 17).

A "victimless crime" typically refers to acts that violate the law but do not directly harm a third party, such as consensual activities between adults. However, there have serious debates as to whether prostitution is indeed a victimless crime.

Arguments supporting prostitution as a victimless crime notes that prostitution involves consensual agreements between adults.⁴⁰ If both parties willingly participate without coercion or exploitation, some argue there is no victim in the transaction.⁴¹ Also, it has been argued that for many women and men, prostitution is a means of economic survival in a country with widespread poverty and unemployment.⁴² Additionally, advocates of personal freedom argue that individuals should have the right to engage in consensual sexual activities without state interference.⁴³

Counter arguments have been proposed. Critics highlight that prostitution is often linked to human trafficking, forced prostitution, and exploitation, particularly of vulnerable women and children. In such cases, the presence of coercion undermines the notion of consent.⁴⁴ Also, most societies are largely conservative, and prostitution is seen as a violation of moral and cultural values. The broader societal harm caused by the erosion of these values is cited as a justification for criminalization.⁴⁵ Prostitution contributes to the spread of sexually transmitted infections (STIs) and exposes sex workers to violence and abuse, further challenging the idea that it is victimless according to most authors.⁴⁶

In Nigeria, prostitution is criminalized in many parts of the country, although the specifics vary depending on the legal system in each state. The Criminal Code (applicable in southern Nigeria) and the Penal Code (applicable in northern Nigeria) contain provisions that

⁴⁰ Kulyk (n 22).

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Bakhtadze (n 17).

⁴⁵ Ibid.

⁴⁶ Ibid.

criminalize activities associated with prostitution, such as brothel-keeping, procurement, and soliciting. However, the act of prostitution itself is not explicitly outlawed under statutory law. In states practicing Sharia law, prostitution is strictly prohibited and is considered a serious offense with severe punishments, including flogging or imprisonment, depending on the circumstances.

It must be noted that, while some aspects of prostitution might fit the definition of a victimless crime; particularly when it involves consensual agreements between adults; the broader context in Nigeria complicates this categorization. Factors such as exploitation, societal harm, and public health concerns highlight that prostitution often has victims, either directly or indirectly.

2.4. NATURE AND FORMS OF VICTIMLESS CRIMES IN NIGERIA

As already noted earlier in this chapter, victimless crimes are offenses that do not produce a direct, identifiable victim. They typically involve consensual acts between adults or behaviours that are criminalized due to moral, religious, or public policy reasons rather than direct harm to another person. In Nigeria, these crimes are often seen as violations of societal norms and are prosecuted under various legal frameworks, including statutory law, Sharia law (in certain northern states), and customary law.⁴⁷

It must be noted that the nature of victimless crimes in Nigeria is influenced by various factors, including legal, cultural, and religious perspectives. The primary characteristic of victimless crimes is that there is no immediate complainant or victim.⁴⁸ The individuals involved usually participate voluntarily, without coercion or force. Also, many victimless crimes in Nigeria are criminalized based on religious and moral beliefs. For instance, Islamic law prohibits alcohol consumption and adultery, while statutory law bans drug use and

⁴⁷ Ibid.

⁴⁸ Ibid.

gambling.⁴⁹ Although these crimes may not have a direct victim, they can have indirect societal effects, such as increased public health risks, exploitation, and economic instability.⁵⁰

Several forms of victimless crimes exist in Nigeria, each with unique legal and societal implications. These include but are not limited to:

- a. Prostitution
- b. Drug Abuse and Trafficking
- c. Gambling and Betting
- d. Homosexuality and Same-Sex Relationships
- e. Alcohol Consumption and Public Intoxication
- f. Adultery and Fornication

In essence, victimless crimes in Nigeria are complex and influenced by legal, cultural, and religious factors. While these offenses do not always have direct victims, their broader social consequences cannot be ignored. The Nigerian legal system continues to enforce strict measures against victimless crimes, but debates persist regarding whether some should be decriminalized or regulated rather than punished.⁵¹

2.5. AN OVERVIEW OF PROHIBITION OF PROSTITUTION IN NIGERIA: A CASE OF STUDY OF EDO STATE

As already noted earlier in this chapter, prostitution, defined as the exchange of sexual services for monetary or material gain, is a deeply controversial issue in Nigeria. While the act itself is not explicitly criminalized under Nigeria's statutory law, associated activities such as brothel-keeping, solicitation, and procurement are punishable offenses.⁵² The legal and

⁴⁹ S. Ali. 'Victimless crime in north central Nigeria,' <https://www.academia.edu/7619729/victimless_crime_in_north_central_Nigeria_By_Salaudeen_Ali>, accessed 17 December, 2024.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² S. Enoch. 'Sex Work in Nigeria: Regulation, Not Criminalization,' UNILAG Law Review, (2020), 4(1).

moral perspectives on prostitution in Nigeria are largely shaped by religious, cultural, and societal norms, which view the practice as a moral affront and a threat to public order.⁵³

Edo State serves as a significant case study in understanding the prohibition of prostitution in Nigeria due to its reputation as a hub for sex work and human trafficking.⁵⁴ The state has become synonymous with sex trafficking networks that extend to Europe and other parts of the world. This resulted in a recent executive order by the Edo State government reinforcing the prohibition of prostitution in the State.⁵⁵

Again, it must be reiterated that the prohibition of prostitution in Nigeria is enforced through various legal instruments at the Federal which Edo State has adopted as part of its legal framework on the prohibition of prostitution in the state. One of such laws is the Criminal Law of Edo State. Though the law does not expressly provide against prostitution, the Act penalizes the keeping of brothels; criminalizes procurement and trafficking for the purpose of prostitution and addresses public solicitation, particularly in a manner that causes public disturbance.⁵⁶ There is also the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 which has been adopted in Edo State under the Trafficking in Persons (Prohibition) Enforcement and Administration Law of Edo State, 2018. This law criminalizes trafficking for sexual exploitation and provides for the protection and rehabilitation of victims.⁵⁷ It is enforced by the National Agency for the Prohibition of Trafficking in Persons (NAPTIP).⁵⁸

⁵³ Ibid.

⁵⁴ E. Ikhede, 'Obaseki and Edo Prostitutes,' The Sun. (Lagos, July, 2022), <<https://thesun.ng/obaseki-and-edo-prostitutes/>>, accessed 18 November, 2024.

⁵⁵ Ibid.

⁵⁶ Criminal Code, see sections 223 -225.

⁵⁷ US Department of State. '2019 Trafficking in Persons Report: Nigeria,' <<https://www.state.gov/reports/2019-trafficking-in-persons-report-2/nigeria/#:~:text=In%20May%202018%2C%20the%20Edo,minimum%20penalty%20for%20sex%20trafficking>>, accessed 17 December, 2024.

⁵⁸ Ibid.

The enforcement of legislations against prostitution in Edo State is handled by NAP TIP; the agency actively investigates and prosecutes cases of human trafficking in Edo State. It also provides shelters and rehabilitation programs for rescued victims, and the Edo State Task Force; the state government has established a task force to address human trafficking and related issues. The task force works with local communities to raise awareness and discourage the practice.⁵⁹

However, it must be noted that several challenges hinder effective enforcement of these legislations against prostitution in the State. The challenges range from corrupt practices among law enforcement officers and judicial officials undermine efforts to prohibit prostitution and trafficking to fear of stigma, retaliation from traffickers and lack of trust in the justice system discourage victims from reporting offenses.⁶⁰

In essence, the prohibition of prostitution in Edo State reflects broader societal efforts to address moral and legal concerns associated with the practice. However, the persistence of prostitution and human trafficking in the state highlights a need for a proper understanding of the impacts of prohibiting prostitution not just as a crime but also as a victimless crime, as is the case of this particular study.

2.6. THEORETICAL FRAMEWORK

To interpret both the law and social reality, the study adopts a plural theoretical approach. Natural law theory illuminates moralist rationales for criminalisation; the Harm Principle supplies the liberal counter-argument that state action is justified only to prevent harm to others; and sociological theory explains how law both reflects and perpetuates social structures that push individuals into sex work. Together these theories provide a normative and explanatory toolkit for evaluating the Edo State anti-trafficking regime.

⁵⁹ Ibid.

⁶⁰ Ibid.

2.6.1. NATURAL LAW THEORY

The basic of the natural law theory is the assertion that there are certain innate or fundamental laws rather than enacted laws, which govern the activities and acts of humans.⁶¹ According to Aquinas, one of the foremost proponents of the theory, everyone ought to Keep an open mind to the realization of these benefits, and as a result never disagree with them. According to him;

“Positively, we ought to be focused on these products and make every effort to promote them because the fundamental legal precept; that good is to be carried out, encouraged, and evil should be shunned. The foundation for all other natural law precepts based on this: in order for all that the practical Reason inherently recognizes as belonging to man's welfare to the natural law's tenets in the form of actions to take or stay away from.”⁶²

The significance of Thomas Aquinas' natural law theory in morality is the belief that every species or type of object has its own distinctive manner of living and acting that is a component of its innate characteristics. Should this be the case, then an organism's natural offers guidelines or criteria for what is morally right. In that manner.⁶³ Certain lifestyles, circumstances, or types of behaviour make it possible for a species' individuals to endure and thrive; some people do not.⁶⁴

It just be stated that the natural law theory argues for a strict inclusion of morality in enactment of legislations; as such, separating law from moral principles was not to be considered.⁶⁵ What this means is that, what is morally wrong or rights should be considered

⁶¹ R. Wack, *Understanding Jurisprudence: An Introduction to Legal Theory*, (New York, Oxford University Press, 2012), 39.

⁶² J. Baumgarth and S. Regan, (eds), *St. Thomas Aquinas on Law, Morality and Politics*, (Indianapolis, Hackett) 41.

⁶³ *Ibid.*

⁶⁴ Baumgarth (n 79).

⁶⁵ R. Wack, *Understanding Jurisprudence: An Introduction to Legal Theory*, (New York, Oxford University

legally wrong or right, as the case may be. Furthermore, under this theory, law has been equated to commandments received from God. According to Hix, a contemporary natural theorist stated thus; “the law in natural law theory usually refers to the orders or principles laid down by higher powers that we should follow.”⁶⁶ Furthermore, proponents of the natural law school, Finnis and Devlin, argue that morality should form the basis of laws, and as such, laws that are enacted should reflect what is morally right and wrong.⁶⁷

It is clear that the natural theory focuses on the influence of morality on the provisions of the law, where actions morally wrong are legislated as legally wrong. This theory is useful in this study; it explains the rationale behind the arguments in support and against prohibiting prostitution and its impacts. This study believes that under Natural Law theory, prostitution is seen as a violation of the natural order, as it undermines human dignity, family structures, and social morality.⁶⁸ The theory holds that sex should be confined within the institution of marriage or relationships that respect human dignity, rather than being commoditized for economic gain. From this standpoint, prostitution is not truly "victimless," as it dehumanizes those involved, subjects them to exploitation, and disrupts societal values.⁶⁹ The Edo State Trafficking in Persons Prohibition Law, 2018, aligns with Natural Law by aiming to restore justice and protect vulnerable individuals, particularly women and children, from being reduced to mere objects of sexual commerce. This law criminalizes various forms of trafficking, including those associated with forced prostitution, reinforcing the idea that human beings have intrinsic worth that should not be violated.

Moreover, Natural Law emphasizes the role of the state in upholding moral order and

Press, 2012), 39.

⁶⁶ B. Hix, 'Natural Law: The Modern Tradition,' in J. Coleman and S. Shapiro, (eds), *The Oxford Handbook of Jurisprudence and Philosophy of Law*, (Oxford, Oxford University of Press, 2002) 70.

⁶⁷ R. Wack, *Understanding Jurisprudence: An Introduction to Legal Theory*, (New York, Oxford University Press, 2012), 39.

⁶⁸ Kulyk (n 22).

⁶⁹ Bakhtadze (n 17).

ensuring that legal structures promote the common good. The criminalization of prostitution and trafficking in Edo State can be justified within this framework, as it seeks to protect individuals from exploitation, coercion, and degradation. Many victims of trafficking are subjected to psychological and physical abuse, conditions that violate their fundamental rights to freedom and dignity. By enacting laws against trafficking and related forms of sexual exploitation, the state fulfils its Natural Law obligation to safeguard justice and human well-being.

However, a critical appraisal of the Edo State Trafficking in Persons Prohibition Law, 2018, through the lens of Natural Law also raises questions about the broader socio-economic factors driving prostitution. Natural Law asserts that individuals must be able to live according to reason and virtue, but widespread poverty, lack of economic opportunities, and gender inequality in Edo State have pushed many into sex work as a means of survival. From this perspective, merely criminalizing prostitution without addressing its root causes may be insufficient. A truly just legal system, as Natural Law suggests, should also create conditions that enable individuals to pursue morally acceptable livelihoods. This would include policies that promote education, employment opportunities, and social welfare programs to reduce the economic desperation that fuels prostitution and trafficking.

Furthermore, the application of Natural Law theory in this study highlights the moral responsibility of society, particularly community leaders, religious institutions, and the family unit, in preventing prostitution and trafficking. While laws are necessary, they must be supported by ethical teachings and social structures that reinforce moral behaviour. Edo State, as a major centre of human trafficking in Nigeria, requires not only strict legal enforcement but also moral reorientation campaigns, advocacy programs, and the active involvement of religious and traditional leaders to reshape societal attitudes towards prostitution and

trafficking.

Summarily, the Natural Law theory provides a strong foundation for understanding the prohibition of prostitution and the impact of the Edo State Trafficking in Persons Prohibition Law, 2018. It justifies the legal framework against prostitution and trafficking by emphasizing the protection of human dignity, the moral responsibilities of the state, and the importance of justice. However, it also challenges lawmakers and society to go beyond criminalization by addressing the socio-economic injustices that drive individuals into prostitution.

2.6.2. HARM PRINCIPLE

A cornerstone of ethics and law is the harm principle, which holds that people should have the freedom to do what they like as long as it does not hurt other people. English philosopher John Stuart Mill is the main proponent of this theory.⁷⁰ The harm principle is predicated on the notion that people should be free to make decisions regarding their own lives, provided their decisions do not cause harm to other people.⁷¹ This idea is frequently used to define what behaviours are detrimental and ought to be outlawed, as well as to defend the boundaries of government involvement in private matters.⁷² According to Mill, the purpose of the damage principle is to limit the application of criminal law and other government limits on individual liberties, not to dictate how each person should behave.⁷³ He defines harm as “an action that violates a distinct and assignable obligation to any person,”⁷⁴ as such; he notes that, a state shall not intervene unless an act causes harm.⁷⁵ Thus, a person can kill himself, so far, as he does not cause damage to another person or take the life of another person; this is

⁷⁰ J. Mills, *On Liberty*, (England, Penguin BooksLtd, 1978).

⁷¹ S. Stone, ‘Harm Principle,’ <10.1007/978-1-4020-9160-5_288> accessed 3 May, 2024.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ J. Mills, *On Liberty*, (England, Penguin BooksLtd, 1978) pp. 148.

⁷⁵ *Ibid.*

the reasoning of Mill.

Raz is another proponent of this principle. He reasoned that, individuals have autonomy that can and should only be restricted where their actions cause harm within the definition provided by Mill.⁷⁶ It is clear that, this concept is frequently associated with the concept of "negative rights," which shield people against damage or intervention from third parties.

There are difficulties with the harm concept since it might be hard to determine what harm actually is. Certain behaviours, for instance, might hurt someone but not others, or they might hurt someone over the long haul as opposed to just now.⁷⁷ Mill's harm principle is also criticised for being too vague and open to misuse.⁷⁸ Some contend that the idea is overly permissive and can be used to support government action when it is not necessary.⁷⁹

Nevertheless, the harm principle is a crucial idea in ethics and law despite these obstacles. Legal and political discussions over matters like free speech, privacy, and the control of harmful behaviours have been shaped by the damage principle. As such, this theory is very much relevant to this study, as it explains the argument for the call of the criminalization or decriminalization of prostitution in Edo State. This study believes that it can be argued that the state should not criminalize conduct simply because it is deemed immoral or offensive; rather, legal intervention is justified only when an individual's actions inflict direct harm on others. Applying this principle to prostitution in Edo State presents a perspective on whether the criminalization of sex work is justified under Nigerian law and whether it aligns with the legitimate scope of state authority.

Prostitution is often classified as a victimless crime because it involves consensual

⁷⁶ R. Joseph, 'Autonomy, Toleration and the Harm Principle,' in S. Medus, ed, *Justifying Toleration: Conceptual and Historical Perspectives*, (Cambridge, CUP, 1988) 171.

⁷⁷ L. Cenicerros and J. Nowaczyk, 'Mill's Harm Principle,' (2023), <<https://study.com/learn/harm0principle-overview-examples.html>> accessed 3 May, 2024.

⁷⁸ Ibid.

⁷⁹ Ibid.

transactions between adults. From a strict application of the Harm Principle, criminalizing prostitution would be unjustifiable unless it could be shown that the act itself causes tangible harm to others. In a scenario where both the sex worker and the client voluntarily engage in the exchange, without coercion, deception, or exploitation, the Harm Principle would argue against state interference. In this view, Edo State's prohibitionist stance on prostitution might be seen as an overreach of state power, driven more by moralistic and cultural considerations than by demonstrable harm to individuals or society.

However, the situation in Edo State is more complex than a simple question of individual autonomy. The region is notorious for its high levels of human trafficking, particularly for sexual exploitation, which suggests that many women and girls engaged in prostitution do so under conditions of coercion, deception, and abuse. Here, the Harm Principle provides a strong justification for state intervention. If prostitution in Edo State is largely a product of trafficking networks, where individuals are manipulated, forced, or subjected to inhumane treatment, then the state has a legitimate interest in criminalizing such activities. Under this framework, the Edo State Trafficking in Persons Prohibition Law, 2018, is justified because it seeks to prevent harm to vulnerable individuals who may not be participating in sex work out of free will, but rather due to economic desperation, coercion, or threats from traffickers.

Furthermore, the Harm Principle also considers indirect societal harms, such as increased public health risks, the spread of sexually transmitted infections (STIs), and the negative impact of sex work on social structures. If prostitution is shown to contribute to broader societal harm; such as the perpetuation of gender inequality, violence, and the degradation of communities; then state intervention may still be warranted under Mill's framework. The challenge, however, lies in distinguishing between voluntary sex work and forced prostitution, ensuring that laws do not disproportionately punish consenting adults while

failing to address the underlying structural issues that make exploitation possible.

A critical appraisal of the Edo State Trafficking in Persons Prohibition Law, 2018, through the lens of the Harm Principle, raises important questions about the balance between individual liberty and state intervention. While the law rightly criminalizes human trafficking and forced prostitution, its broad application to all forms of sex work may undermine the autonomy of those who willingly engage in prostitution as a means of livelihood. If no direct harm is being caused to another individual, Mill's philosophy would argue for regulation rather than outright prohibition. This could involve harm-reduction strategies such as legalizing and regulating certain aspects of sex work, providing healthcare services, and creating alternative economic opportunities for those who wish to leave the profession.

Moreover, this study agrees that an over-reliance on criminalization might produce unintended harm, such as pushing prostitution further underground, where sex workers are more vulnerable to violence, exploitation, and abuse.⁸⁰ Rather than outright prohibition, the Harm Principle would advocate for policies that minimize harm, both to individuals engaged in prostitution and to society at large. This could include legal protections for sex workers against police harassment, access to healthcare, and programs that offer viable economic alternatives.

In conclusion, the Harm Principle provides a valuable framework for assessing the Edo State Trafficking in Persons Prohibition Law, 2018, and its impact on prostitution as a victimless crime.

2.6.3. SOCIOLOGICAL THEORY OF LAW

The sociological theory of law is a sub-discipline of sociology that studies the relationship between law and society. It views law as a social phenomenon that reflects the values, norms,

⁸⁰ Bakhtadze (n 17).

and institutions of a society.⁸¹ This approach emphasizes the importance of understanding the social context in which law is created, applied, and enforced. The sociological theory of law is based on the idea that law is not just a set of rules and regulations, but also a reflection of the power dynamics and social relationships within a society.⁸² It recognizes that law is shaped by the interests and values of the dominant groups in society, and that it can be used to maintain or challenge social inequalities.

Applying this framework to prostitution and human trafficking in Edo State provides critical insights into the interplay between legal norms, social structures, and the lived experiences of individuals.

Prostitution, as a social phenomenon, cannot be examined in isolation from the broader socio-economic and cultural conditions that sustain it. As already noted, the sociological theory of law suggests that legal responses to prostitution should not be purely punitive but should consider the underlying societal factors that drive individuals into sex work. In Edo State, high unemployment, gender inequality, and poverty have contributed to the widespread participation of women and girls in prostitution, either voluntarily or through coercion.⁸³ Many women enter sex work due to a lack of viable economic opportunities, making it not only a legal issue but also a socio-economic one. From this perspective, the Edo State Trafficking in Persons Prohibition Law, 2018, while aiming to curb human trafficking and prostitution, may not fully address the structural conditions that sustain these practices.⁸⁴

Furthermore, the sociological theory of law highlights the role of culture and social norms in shaping legal frameworks. In many Nigerian communities, prostitution is viewed as morally

⁸¹ G. Rocher, 'Sociology of Law,' (2001), <<https://www.sciencedirect.com/topics/social-sciences/sociology-of-law#:~:text=Sociology%20of%20law%20can%20be,culture%2C%20ideologies%2C%20and%20values.>>, accessed 7 June, 2024

⁸² Ibid.

⁸³ Ikhide (n 41).

⁸⁴ Kulyk (n 22).

unacceptable and contrary to religious teachings. These moral perspectives influence the legal prohibition of prostitution, reinforcing the idea that it is a social vice that must be eradicated. However, sociologists argue that laws should evolve in response to changing societal conditions rather than being rigidly dictated by moral absolutes. If prostitution continues to exist despite legal prohibitions, it suggests that the law is out of step with social realities and may require a different approach, such as regulation or harm reduction strategies.

In conclusion, the sociological theory of law provides a comprehensive framework for understanding the Edo State Trafficking in Persons Prohibition Law, 2018, and its impact on prostitution. It suggests that legal responses should go beyond punitive measures and address the socio-economic and cultural factors that sustain prostitution and human trafficking. Laws must be contextually relevant, responsive to societal needs, and accompanied by social policies that provide viable alternatives for those engaged in sex work. By integrating legal measures with broader social reforms, the state can create a more effective and sustainable approach to addressing prostitution and human trafficking in Edo State.

2.7. UNDERSTANDING THE IMPACT OF THE PROHIBITION OF PROSTITUTION

The prohibition of prostitution has far-reaching social, economic, legal, and health implications that affect individuals engaged in sex work, law enforcement agencies, and society at large.⁸⁵ While many legal systems criminalize prostitution to uphold moral and social order, the consequences of such prohibitions often extend beyond the intended objectives of deterring sex work and combating human trafficking.⁸⁶ In the context of Edo State, where prostitution is deeply intertwined with human trafficking and economic

⁸⁵ E. Conekin-Tooze. 'The Implications of Sex Work Prohibition and Possible Legal Remedies,' *Colombia Undergraduate Law Review*, <<https://www.culawreview.org/journal/the-implications-of-sex-work-prohibition-and-possible-legal-remedies>>, accessed 19 December, 2024.

⁸⁶ *Ibid.*

deprivation, the impact of its prohibition must be examined critically to understand whether it achieves its goals or exacerbates existing challenges.

One of the most significant effects of the prohibition of prostitution is the criminalization of individuals who engage in sex work, often leading to legal persecution and social stigmatization.⁸⁷ Many sex workers, particularly those operating in impoverished communities, face constant harassment from law enforcement officers, who may arrest, extort, or abuse them under the pretext of enforcing the law. Instead of offering protection, the legal system often makes sex workers more vulnerable to violence and exploitation.⁸⁸ Since their work is deemed illegal, sex workers may be hesitant to report abuse or seek medical assistance, fearing prosecution or discrimination. Consequently, prohibition drives the practice underground, making sex workers more susceptible to coercion, unsafe working conditions, and abuse from both clients and law enforcement officials.⁸⁹

Economically, the prohibition of prostitution does little to address the financial desperation that drives many individuals; especially women; into sex work. In Edo State, many sex workers are victims of trafficking networks, lured into prostitution with promises of economic opportunities abroad or within urban centres.⁹⁰ Criminalizing prostitution does not eliminate these underlying socio-economic drivers; instead, it places sex workers in more precarious positions, where they must rely on illegal networks for protection and income. Without viable alternatives such as vocational training, education, and employment opportunities, the prohibition of prostitution only marginalizes these individuals further.⁹¹ Instead of deterring prostitution, prohibition often results in its continuation through more

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Graham, L, Holt, V and Laing, M, 'Understanding the Law's Relationship with Sex Work: Introduction to "Sex Work and The Law: Does the Law Matter?"' International Journal of Gender, Sexuality and Law, (2022), 2(1).

⁹¹ Ibid.

dangerous and hidden means, controlled by criminal organizations that exploit vulnerable individuals for financial gain.

Furthermore, from a legal and policy standpoint, the enforcement of prostitution laws diverts resources from addressing more severe crimes, such as human trafficking and sexual violence. While anti-prostitution laws are often justified as a means of preventing human trafficking, there is evidence to suggest that criminalizing prostitution makes trafficking more difficult to detect and combat. When sex work is illegal, trafficked individuals are less likely to seek help, fearing punishment or deportation. Moreover, law enforcement agencies may focus on arresting sex workers rather than dismantling the criminal syndicates responsible for trafficking and exploitation. This misallocation of resources weakens the state's ability to combat forced prostitution effectively, allowing traffickers to operate with impunity while their victims remain trapped in cycles of abuse.⁹²

Despite the negative consequences of prohibition, supporters argue that criminalizing prostitution helps maintain moral and religious values within society. In a culturally conservative region like Edo State, where prostitution is widely condemned by religious institutions and traditional authorities, prohibition is seen as necessary to uphold moral integrity.

In conclusion, the prohibition of prostitution has a complex impact, particularly in Edo State, where the issue is closely linked to human trafficking, economic hardship, and law enforcement challenges. While prohibition may be intended to deter sex work and protect vulnerable individuals, its practical effects often lead to increased exploitation, unsafe working conditions, public health risks, and legal injustices. A more effective approach would involve comprehensive policies that combine legal regulation with social support

⁹² Ibid.

programs, ensuring that individuals engaged in prostitution have access to healthcare, legal protection, and economic opportunities. Without addressing the deeper socio-economic and systemic issues fuelling prostitution, prohibition alone will continue to fail in its objective of eradicating the practice and protecting those most at risk.

2.8. SUMMARY

This chapter carefully considered and clarified relevant concepts to which the understanding of the positions adopted in this study were tied to such as victims, crime, victimless crimes and prostitution. Furthermore, this chapter carried out an overview of prostitution as a victimless crime as well as the nature and forms of victimless crime in Nigeria. The current status quo as to the prohibition of prostitution in Nigeria particularly in Edo state was also examined. The theories that served as a framework for understanding arguments relating to the impact of prohibition of prostitution in Nigeria such as the natural law theory, harm principle and sociological law theory were examined in this chapter, as well as their relevance to this study. Finally, the impacts as to the prohibition of prostitution were considered in this study.

CHAPTER THREE

EXAMINING THE EDO STATE TRAFFICKING IN PERSONS PROHIBITION

LAW, 2018 ON THE PROHIBITION OF PROSTITUTION

3.1. INTRODUCTION

Human Trafficking remains a tough social issue in Nigeria, with emphasis on Edo State as the epicentre of this humanitarian crisis. The Edo State Trafficking in Persons Prohibition Law of 2018 becomes a critical response by the legislature to dismantle the systemic issues related to human trafficking and prostitution that have long adorned the region⁹³. It is noteworthy that Edo State is particularly significant for accounting for the highest proportion of irregular migrants in Nigeria⁹⁴. Consequently, the State has developed a robust legal framework to tackle human trafficking, recognising its critical role in addressing one of Nigeria's most pressing social challenges.⁹⁵

3.2. EXAMINING RELEVANT PROVISIONS OF THE EDO STATE TRAFFICKING IN PERSONS PROHIBITION LAW

The Edo State Trafficking in Persons Prohibition Law of 2018 is a significant legislative response to the pervasive human trafficking crisis in Edo State.

The primary objectives of the Act are to:

1. Provide a comprehensive legal framework for the prohibition, prevention, detection, prosecution, and punishment of human trafficking and related offences.
2. Protect victims of human trafficking
3. Promote national and international cooperation to achieve these objectives.

⁹³ IMADR, Human Trafficking in Nigeria. Briefing paper for the Special Rapporteur on trafficking in Persons, especially women and children. 2015. < https://imadr.org/wordpress/wp-content/uploads/2016/01/IMADR-Briefing-Paper_Human-Trafficking-in-Nigeria_5.11.2015.pdf> accessed 28th of January, 2025.

⁹⁴ < https://en.wikipedia.org/wiki/Human_trafficking_in_Edo_State> accessed 28th of January, 2025

⁹⁵ Ibid.

Section 13 explicitly prohibits seduction into prostitution of persons under the age of eighteen. It states:⁹⁶

Causing or encouraging the seduction or prostitution of any person under eighteen years

- (1) *Any person who, having the custody, charge or care of any person under the age of eighteen years, causes or encourages the seduction, unlawful carnal knowledge or prostitution of, or the commission of an indecent assault upon any person, commits an offence and is liable on conviction to imprisonment for ten years.*
- (2) *A person shall be deemed to have caused or encouraged the seduction, unlawful carnal knowledge or prostitution of or the commission of indecent assaults upon any person who has been seduced, unlawfully carnally known, or indecently assaulted, or who has become a prostitute if he knowingly allows such person to consort with, or enter or continue in the employment of, any prostitute or person of known immoral character.*

Similarly, Section 14 provided:

Procurement of any person under eighteen years

- (1) *Any person who procures a person who is under the age of eighteen years to have unlawful carnal knowledge with any other person or persons, either in Nigeria or any place outside Nigeria, commits an offence and shall be liable on conviction to imprisonment for ten years.*
- (2) *Any person who procures any person under the age of eighteen years to*
 - (a) *become a prostitute, either in Nigeria, or any place outside Nigeria;*
 - (b) *leave Nigeria with intent that such person may become a prostitute in*

⁹⁶ The Edo State Trafficking in Persons Prohibition Law of 2018

any place outside Nigeria;

- (c) *leave such person's usual place of abode in Nigeria, with intent that such person engage in prostitution either in Nigeria or any place outside Nigeria, commits an offence and is liable on conviction to imprisonment for ten years.*

Section 15 prohibits the procurement of any person for prostitution⁹⁷. It states:

Procurement of any person for prostitution, pornography and use in armed conflict

Any person who:

- (a) *procures, uses or offers any person for prostitution, or the production of pornography, or for pornographic performance;*
- (b) *keeps a brothel;*
- (c) *allows a person under the age of eighteen years to be in a brothel or trades in prostitution;*
- (d) *procures, uses or offers any person for the production and trafficking in drugs;*
- (e) *traffics any person for the purpose of forced or compulsory recruitment use in armed conflict, commits an offence and is liable on conviction to imprisonment for fourteen years without an option of fine.*

Section 16 prohibits foreign travel which promote prostitution

16. Foreign travels which promote prostitution

Any person who organises or promotes foreign travels which promote the prostitution of any person or encourages such activity commits an offence and is liable on conviction to imprisonment for ten years without an option of fine.

⁹⁷ Ibid.

3.3. OTHER LEGAL FRAMEWORK ON PROSTITUTION APPLICABLE IN EDO STATE

This section provides an overview of the statutory and constitutional instruments relevant to prostitution and trafficking in Edo State. It examines the Edo State Trafficking in Persons Prohibition Law, the Edo State Criminal Law provisions on procurement and brothel-keeping, relevant sections of the Criminal Code, the Constitution, the Child's Rights Act and the State's VAPP legislation; comparing scope, penalties, and victim-protection measures to identify overlaps, gaps and enforcement issues.

3.3.1. EDO STATE CRIMINAL LAW⁹⁸

Edo State has established a thorough legal framework to combat criminal behaviour, which includes explicit prohibitions against prostitution. This structure is enshrined in the Edo State Criminal Law, instituted to replace the out-dated Criminal Code Law 1916. The new legislation seeks to implement a contemporary framework for criminal justice, ensuring that diverse offences, including those relating to prostitution, are sufficiently addressed.

Section 145 prohibits the procurement of individuals for prostitution. It prohibits actions intended to persuade or compel an individual to participate in prostitution, whether by use of deception, coercion, or other methods.⁹⁹ It provides:

145. Procurement

- (1) Any person who procures another;*
 - (a) to have sexual intercourse with any other person or persons, either in the State or elsewhere;*
 - (b) to become a prostitute, either in the State or elsewhere;*
 - (c) to leave the State with intent that he or she may become an inmate of a brothel elsewhere; or*

⁹⁸ Criminal Law of Edo State. Law, 2022.

⁹⁹ Ibid

- (d) *to leave his or her usual place of abode in the State, with intent that he or she may, for the purposes of prostitution, become an inmate of a brothel, either in the State or elsewhere, commits a felony and is liable on conviction to imprisonment for seven (7) years.*

This provision is significant in tackling trafficking as it includes several strategies employed by traffickers to exploit victims. The law seeks to safeguard individuals from being coerced into a life of exploitation by forbidding procurement.

Section 148 of the Criminal Law of Edo State specifically prohibits persons from profiting from the proceeds of prostitution. This section addresses not only prostitutes but also individuals who financially benefit from their actions, including pimps and madams. The law stipulates that any male individual who intentionally derives fully or partially from the proceeds of prostitution is committing an offence. It states:

148. *Persons trading in prostitution*

- (1) *Any person who;*
- (a) *knowingly lives wholly or in part on the earnings of prostitution; or*
 - (b) *in any public place persistently solicits or importunes for immoral purposes; commits a misdemeanour and is liable on conviction to imprisonment for two (2) years.*
- (2) *A magistrate who is satisfied by evidence on oath that there is reason to suspect that any premises or any part of any premises are used for prostitution and that any person residing in or frequenting the premises is living wholly or in part on the earnings of prostitution, may issue a warrant authorising any police officer to*

enter, search the premises and arrest such a person.

- (3) *A person who is proved to have exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that he or she is aiding, abetting, or compelling the prostitution with any person or generally shall unless he or she can satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.*

8. *Keeping a brothel*

- (1) *Any person who;*
- (a) *keeps a brothel;*
 - (b) *being the tenant, lessee, occupier or person in charge of any premises, knowingly permits such premises or any part of it to be used as a brothel or for habitual prostitution; or*
 - (c) *being the lessor or landlord of any premises or the agent of such lessor or landlord, lets the same or any part of it with the knowledge that such premises or some part of it is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part of it as a brothel, commits an offence and is liable on conviction to imprisonment for one (1) year or a fine of not less than ninety thousand naira (N90,000.00) or both.*
- (2) *In the case of a second or subsequent conviction for an offence under subsection (1), the offender is liable to imprisonment for two (2) years or to a fine of not less than two hundred thousand naira (N200,000.00) or both.*

- (3) *For subsection (1), any person who appears, acts, or behaves as master or mistress, or manages or assists in the management of a brothel is deemed to be the keeper.*

This section seeks to remove the economic frameworks that facilitate prostitution by penalising those who exploit sex workers for profit.

3.3.2. CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999¹⁰⁰

One of the cornerstones of the Nigerian Constitution is the protection of fundamental human rights, enshrined in Chapter IV. Sections 33 to 46 outline various rights, including the right to life, dignity of the human person, personal liberty, and freedom from discrimination. These provisions are essential in discussions about prostitution and human trafficking since they emphasise the inherent dignity of every individual.

RIGHT TO DIGNITY

Section 34 specifically states that every individual has the right to dignity, which includes freedom from torture, and inhuman or degrading treatment. This provision is particularly relevant in the context of prostitution and trafficking, where individuals may be subjected to exploitation and abuse. The Constitution's commitment to human dignity serves as a legal basis for advocating against practices that violate this principle, such as forced prostitution and trafficking.¹⁰¹

RIGHT TO PERSONAL LIBERTY

Section 35 guarantees personal liberty, stating that no person shall be deprived of their liberty except in accordance with a procedure established by law. This section is significant because it protects individuals from arbitrary arrest and detention, which often occurs in cases

¹⁰⁰ CFRN, 1999 As Amended

¹⁰¹ S.34, CFRN 1999 As Amended

involving sex workers. The enforcement of laws against prostitution must align with constitutional provisions to prevent abuse and ensure due process.¹⁰²

CRIMINALISATION OF RELATED OFFENSES

Although the Constitution does not explicitly ban prostitution, it does criminalize activities associated with it through various laws derived from it. For instance, Sections 223 to 225 of the Criminal Code address offences related to procuring women for prostitution and operating brothels. These sections highlight that while engaging in prostitution may not be a crime; facilitating or profiting from it through coercive means is punishable by law.

3.3.3. THE CRIMINAL CODE ACT¹⁰³

The criminal code is divided into multiple chapters, with Chapter 21 addressing "Offences against Morality," encompassing the provisions of Sections 214–233 of the Criminal Code Act (hence referred to as "the Act"). The regulations relating to the offence of prostitution are contained within Sections 223, 224, and 225 of the Act.

Section 223 of the Act criminalises the procurement of a girl under the age of 18 for prostitution or as an inmate of a hotel, whether within or outside Nigeria. The individual who procures the minor is deemed guilty of a misdemeanour and is subject to a two-year imprisonment sentence.

Section 224 of the Act criminalises the procurement of a woman to engage in "unlawful carnal knowledge" with a man through threat, intimidation, deceit, or by administering any substance that would stimulate her or enable the man to dominate her. Such an offence is classified as a misdemeanour, punishable by up to two years of imprisonment.

Section 225 of the Act criminalises the abduction of an unmarried girl under the age of 18

¹⁰² S.35, CFRN 1999 As Amended

¹⁰³ The Criminal Code Act, 2004.

with the aim for her to engage in sexual intercourse with a man.

Section 225 (a) of the Act provides that any male individual who knowingly derives entirely or partially from the proceeds of prostitution, or who repeatedly solicits or importunes for immoral purposes in any public venue, is subject to a two-year imprisonment.

Section 225 (a) (2) of the Act provides that a magistrate, upon being convinced by sworn evidence of reasonable suspicion that any premises, or a portion thereof, is utilised by a female for prostitution, and that a male individual residing in or visiting the premises is partially or wholly dependent on the earnings of the prostitute, may issue a warrant authorising a constable to enter, search the premises, and apprehend the male individual.

Section 225 (a) (3) of the Act provides that if a male is demonstrated to cohabit with or to be habitually associated with a prostitute, or if he is shown to exert control, direction, or influence over her movements in a manner indicative of aiding, abetting, or compelling her prostitution with any individual or in general, he shall, unless he can convincingly demonstrate otherwise to the court, be presumed to be knowingly profiting from the proceeds of prostitution.

According to Section 225 (a) (4) of the Act, any female who is demonstrated to have exercised control, direction, or influence over a prostitute's movements for profit, thereby aiding, abetting, or compelling her prostitution with any individual, is subject to a two-year imprisonment.

Section 225 (b) of the Act criminalises the management, assistance in the management, leasing, or ownership of a brothel. Individuals apprehended are subject to a penalty of N100 or incarceration for 6 months.

3.3.4. CHILD'S RIGHT ACT¹⁰⁴

This sub-section focuses on the Child's Rights Act's strict prohibitions on child trafficking and commercial sexual exploitation. It outlines the Act's protective provisions (including prohibition of buying, selling or dealing in children for prostitution), and explains how the Act positions child protection at the core of the anti-trafficking framework applicable in Edo State. The analysis will emphasise the Act's zero-tolerance stance and its implications for enforcement and victim rehabilitation.

PROHIBITION OF CHILD TRAFFICKING

One of the core objectives of the CRA is to prohibit all forms of trafficking involving children. Section 30 is particularly relevant, as it explicitly prohibits the buying, selling, hiring, or otherwise dealing in children for purposes such as prostitution. This section underscores a zero-tolerance policy towards the exploitation of children, making it clear that any form of commercial transaction involving children for immoral purposes is illegal¹⁰⁵. The law aims to protect children from being used for begging, hawking, or any form of sexual labour that could compromise their dignity and rights.

EXPLOITATION AND ABUSE

The CRA also addresses broader issues related to child exploitation. Section 21 prohibits the exposure of children to sexual exploitation and abuse. This provision is critical in combating practices that lead to child prostitution and trafficking. It recognizes that children are particularly vulnerable to exploitation due to their age and lack of power in society. By criminalizing such acts, the CRA seeks to provide a protective shield around children,

¹⁰⁴ Child's Right Act, 2003

¹⁰⁵ O.M. Atoyebi, Trafficking and Victim Protection under Human Rights in Nigeria. (2024) <<https://omaplex.com.ng/trafficking-and-victim-protection-under-human-rights-in-nigeria/>> Accessed 30th of January, 2025.

ensuring that they are not subjected to situations that could lead to their exploitation.¹⁰⁶

PROTECTION AGAINST SEXUAL ABUSE

In addition to addressing trafficking directly, the CRA contains provisions aimed at preventing sexual abuse more generally. Section 31 deals with unlawful sexual intercourse with a child, categorising it as a serious offence.¹⁰⁷ This section serves as a deterrent against individuals who might exploit children for sexual purposes, including prostitution. The provision reinforces the idea that any sexual activity involving a child is unacceptable and punishable under Nigerian law.¹⁰⁸

3.3.5. VAPP LAW, EDO STATE¹⁰⁹

The Edo State Violence against Persons Prohibition (VAPP) Law, established in 2021, is a significant legislative initiative designed to combat diverse types of violence and prejudice against individuals. However, one major deficiency in this legislation is its inadequate emphasis on the explicit ban on prostitution and human trafficking. The VAPP Law handles violence and coercion but fails to sufficiently cover the intricacies of human trafficking and the commercial sexual exploitation of humans.¹¹⁰

This omission engenders a legal ambiguity that might be manipulated by traffickers and individuals involved in exploitative behaviours. In the absence of explicit legislative definitions and prohibitions regarding prostitution, those engaged in sex work may lack sufficient legal protection. This disparity may result in the further marginalisation of sex workers, rendering them susceptible to assault and exploitation without access to legal safeguards.

¹⁰⁶ Ibid

¹⁰⁷ ILO, Simplified Child Labour Related Laws. (2023) < <https://cypfnigeria.com/wp-content/uploads/2023/03/SIMPLIFIED-CHILD-LABOUR-LAWS.pdf>> accessed 30th of January, 2025

¹⁰⁸ Ibid

¹⁰⁹ VAPP LAW, 2021

¹¹⁰ < <https://cypfnigeria.com/wp-content/uploads/2023/03/SIMPLIFIED-CHILD-LABOUR-LAWS.pdf>> Accessed 30th of January, 2024

Furthermore, although the VAPP Law addresses violence against individuals, it does not confront the structural concerns related to human trafficking. Traffickers frequently employ coercion, fraud, and manipulation to exploit susceptible persons for sexual exploitation¹¹¹. The lack of extensive anti-trafficking provisions in the VAPP Law indicates that victims may not obtain the essential support and protection they need. The disparity is especially alarming in Edo State, recognised as a major origin of trafficking victims in Nigeria.¹¹²

3.4. EXAMINING THE IMPACT OF THESE LAWS ON THE PROHIBITION OF PROSTITUTION IN EDO STATE

The impact of anti-trafficking laws in Edo State, Nigeria, has been profound, particularly given the state's historical reputation as a hub for human trafficking. The enactment of the Edo State Trafficking in Persons Prohibition Law in 2018 marked a significant turning point in the fight against this pervasive issue.

This Law was established to provide a comprehensive legal framework for combating human trafficking within the state. This law empowers law enforcement agencies to investigate and prosecute traffickers while offering protection and support to victims. The establishment of the Edo State Task Force Against Human Trafficking (ETAHT) under this law has been instrumental in coordinating efforts to combat trafficking, providing a structured approach to addressing this complex issue.

Another significant impact of anti-trafficking laws in Edo State is the establishment of support services for victims. The ETAHT has been actively involved in providing counselling, vocational training, and shelter for rescued victims. As of March 2022, over 5,600 victims have received support through various programs aimed at reintegrating them into society. This holistic approach not only addresses immediate needs but also empowers

¹¹¹ Ibid

¹¹² Ibid

victims to rebuild their lives and avoid re-trafficking.¹¹³

Anti-trafficking laws have also spurred community awareness initiatives aimed at educating citizens about the dangers of trafficking. Local advocacy groups have conducted sensitization programs that inform communities about trafficking tactics used by traffickers, such as false promises of employment abroad. These educational efforts are crucial for preventing trafficking at the grassroots level by equipping individuals with knowledge about their rights and available resources.¹¹⁴

3.5. CHALLENGES TO THE EFFECTIVENESS OF THE LEGAL SYSTEM PROHIBITING PROSTITUTION IN EDO STATE

The legal framework prohibiting prostitution in Edo State, Nigeria, faces numerous challenges that significantly undermine its effectiveness. Despite the existence of laws aimed at curbing prostitution and human trafficking, various systemic, cultural, and institutional issues hinder enforcement and compliance¹¹⁵. Some of these challenges include

INADEQUATE ENFORCEMENT MECHANISMS

1. **Limited Resources and Capacity:** One of the most significant challenges to enforcing anti-prostitution laws in Edo State is the lack of adequate resources allocated to law enforcement agencies. Many police units responsible for investigating prostitution and trafficking are understaffed and underfunded. This resource scarcity limits their ability to conduct thorough investigations or execute operations aimed at rescuing victims and prosecuting offenders. For instance, specialized units that focuses on

¹¹³ E. Madueke, Communities see anti-trafficking successes in Nigeria's Edo state. (2022) < <https://www.globalsistersreport.org/trafficking/communities-see-anti-trafficking-successes-nigerias-edo-state>> accessed 30th of January, 2025

¹¹⁴ Ibid

¹¹⁵ C.O. Osezua, Gender Issues in Human Trafficking in Edo State, Nigeria. AFRICAN SOCIOLOGICAL REVIEW. (2016) VOL 20 (1) < <https://www.ajol.info/index.php/asr/article/download/153928/143510/0>> accessed 30th of January, 2025

human trafficking often lack the necessary training and equipment to effectively combat these crimes.¹¹⁶

Moreover, the judicial system itself can be slow and inefficient. Cases involving prostitution often require corroborating evidence from multiple witnesses, which can be difficult to obtain, especially when victims are reluctant to testify due to fear of retaliation or stigma. The lengthy legal processes can deter victims from pursuing justice, leading to a culture of impunity among traffickers and those who exploit sex workers.

2. **Lack of Specialized Training:** In addition to resource limitations, law enforcement personnel often lack specialized training in handling cases related to prostitution and trafficking. Many officers may not understand the complexities surrounding these issues or may hold biases that affect their interactions with victims. For example, officers may view sex workers as criminals rather than individuals in need of protection and support. This lack of sensitivity can discourage victims from coming forward to report abuses or seek help.

Furthermore, inadequate training on victim identification can result in law enforcement failing to recognize individuals who are being trafficked or exploited. Victims may be treated as offenders rather than as individuals requiring assistance, perpetuating their vulnerability and further entrenching them in cycles of exploitation.

SOCIETAL ATTITUDES AND STIGMA

1. **Cultural Perceptions of Prostitution:** Societal attitudes toward prostitution in Edo State significantly impact the effectiveness of legal frameworks aimed at curbing it. In many communities, there is a prevailing stigma associated with sex work that leads to victim-blaming attitudes. Victims of trafficking are often viewed with disdain rather

¹¹⁶ Ibid

than empathy, making it difficult for them to seek help or reintegrate into society after escaping exploitation. This stigma can prevent individuals from reporting trafficking incidents or seeking assistance from law enforcement agencies.¹¹⁷

Moreover, cultural norms may normalize or accept prostitution as a means of economic survival for women in impoverished communities. Families facing financial difficulties may view sending daughters into sex work as a viable option for generating income. This acceptance complicates efforts to combat prostitution legally since many individuals may not perceive it as a crime but rather as an economic necessity.

2. **Gender Dynamics:** Gender dynamics also play a crucial role in shaping societal attitudes toward prostitution. Women involved in sex work often face significant social stigma, while male clients typically do not experience similar societal repercussions for their actions. This gender disparity can create an environment where women feel trapped in cycles of exploitation without adequate support or avenues for escape.

The cultural perception that women should be responsible for supporting their families financially can further exacerbate this issue. Young women may feel pressured to engage in sex work to fulfil familial obligations, making it challenging for anti-prostitution laws to gain traction within communities that normalize such practices.

3. **Corruption within Law Enforcement:** Corruption within law enforcement agencies poses another significant challenge to the effectiveness of anti-prostitution laws in Edo State. Corruption can manifest in various forms, including bribery, collusion with traffickers, and negligence in enforcing existing laws.

¹¹⁷ Ibid

4. **Bribery and Collusion:** Reports have indicated that some law enforcement officers may accept bribes from traffickers or sex workers to overlook illegal activities. When officers turn a blind eye to known trafficking operations due to personal interests or financial gain, it undermines the integrity of anti-prostitution efforts and allows traffickers to operate with impunity. This corruption sends a message that engaging in trafficking can occur without consequence, further perpetuating the cycle of exploitation.
5. **Negligence and Apathy:** Additionally, corruption can lead to negligence among law enforcement officials who prioritize personal gain over their duty to protect vulnerable populations. Officers may fail to act on reports of trafficking or exploitation due to apathy or indifference toward the plight of victims. This negligence not only perpetuates human trafficking but also erodes public trust in law enforcement institutions.¹¹⁸
6. **Impact on Victims' Access to Justice:** Corruption further complicates victims' access to justice. When victims attempt to report abuses or seek assistance from law enforcement agencies plagued by corruption, they may encounter additional barriers that discourage them from pursuing legal recourse. The perception that authorities are corrupt can deter victims from seeking help altogether, thereby perpetuating cycles of exploitation.¹¹⁹

3.6. CONCLUSION

The journey toward eradicating prostitution and human trafficking in Edo State is complex and demands the concerted efforts of government officials, civil society organizations, community leaders, and citizens alike. By promoting a culture of accountability and support

¹¹⁸ Ibid

¹¹⁹ Ibid

for victims, Edo State can create a safer environment where individuals are protected from exploitation and empowered to seek justice. Ultimately, a comprehensive strategy that addresses both legal frameworks and the underlying societal issues will be essential for achieving meaningful progress in the fight against prostitution and human trafficking in the region.

CHAPTER FOUR

EXAMINING INTERNATIONAL BEST PRACTICES AND ALTERNATIVE ARGUMENTS TO THE PROHIBITION OF PROSTITUTION

4.1. INTRODUCTION

This chapter shall examine international legislations and the best practices on the prohibition of prostitution adopted in other countries such as Netherlands, Germany, Iran, amongst others. Additionally, alternative arguments to the prohibition of prostitution such as decriminalizing, regulating and human right approaches will be appraised in this chapter. Finally, the best way forward for Edo State and Nigeria on the prohibition of prostitution will be outlined in this chapter.

4.2. EXAMINING INTERNATIONAL LEGISLATIONS AND BEST PRACTICES ON THE PROHIBITION OF PROSTITUTION

The legal treatment of prostitution at the international level is complex, as there is no single, universally accepted stance on the issue. Different international bodies, treaties, and agreements offer varying perspectives, reflecting the diversity of national approaches. While some international frameworks advocate for the full abolition of prostitution due to its links with human trafficking and gender exploitation, others recognize sex work as a legitimate profession that should be regulated and protected. The position of international legislations on prostitution is, therefore, shaped by human rights considerations, anti-trafficking measures, and public health policies.¹²⁰

One of the most influential international instruments addressing prostitution is the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women

¹²⁰ J. Fox. 'International Law After Dark: How Legalized Sex Work Can Comport with International and Human Rights Law.' *Chicago Journal of International Law*, (2021), 22(1).

and Children (Palermo Protocol), adopted in 2000.¹²¹ This treaty, which supplements the UN Convention against Transnational Organized Crime, does not explicitly call for the criminalization of prostitution but focuses on the prevention of trafficking and the protection of victims.¹²² The Palermo Protocol defines trafficking as the exploitation of individuals for forced labour or commercial sex and urges states to take legislative and policy measures to combat trafficking.¹²³ While it does not mandate the criminalization of voluntary prostitution, many countries have used it as a justification for prohibitionist policies, arguing that prostitution fuels trafficking.¹²⁴ However, some legal experts argue that a distinction should be made between voluntary sex work and forced prostitution, as criminalizing the former may drive the latter underground, making it harder to combat trafficking effectively.¹²⁵

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the UN in 1979, also addresses prostitution, particularly in Article 6, which calls on states to take measures to suppress the exploitation of prostitution and trafficking. The wording of this provision implies that prostitution itself is not necessarily a crime but that its exploitative aspects, such as trafficking, should be eradicated.¹²⁶ Some feminist legal scholars interpret CEDAW as supporting the abolitionist approach, which seeks to eliminate prostitution as a form of gendered oppression. However, others argue that CEDAW does not mandate the criminalization of sex workers but rather calls for protections against exploitation and violence.¹²⁷

Furthermore, the U.N. General Assembly created the Declaration on the Elimination of

¹²¹ This treaty came into force in 2003.

¹²² The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), see Preamble.

¹²³ Ibid, article 3.

¹²⁴ S. Silver. 'Twenty Years after the Passage of the Palermo Protocol: Identifying Common Flaws in Defining Trafficking through the First Global Study of Domestic Anti-Trafficking Laws.' *Yale Law & Policy Review*, (2021), 40(336).

¹²⁵ Fox (n 1).

¹²⁶ Ibid.

¹²⁷ Ibid.

Violence against Women (DEVAW) just over ten years after CEDAW went into effect.¹²⁸ While DEVAW does not specifically address sex work/prostitution, it does carry on the U.N. trend that began with CEDAW, which was to make a "clear distinction between forced and voluntary prostitution." In fact, Article 2 of DEVAW states that "violence against women shall be understood to encompass, but not be limited to... trafficking in women and forced prostitution." By using the modifier "forced," Article 2 represents the U.N.'s "first clear departure from the abolitionist view of prostitution." The "absence of a general reference to prostitution" indicates the changing perspective of the international community on sex work.¹²⁹

Similarly, the International Labour Organization (ILO) has taken a more pragmatic approach, recognizing that sex work exists as a form of labour in many countries.¹³⁰ While not explicitly endorsing the legalization of prostitution, the ILO has conducted studies on the economic dimensions of sex work and has suggested that where it is legally recognized, sex workers should be entitled to labour rights, including fair wages, occupational health protections, and social security. This stance aligns with countries that have opted for decriminalization or regulation, treating prostitution as a legitimate form of work rather than a criminal offense.¹³¹

The European Union (EU) does not have a unified stance on prostitution, as its member states have adopted various approaches. However, the EU has strongly condemned human trafficking and the exploitation of sex workers. In a 2014 resolution, the European Parliament recommended that member states adopt the Nordic Model, criminalizing the purchase of sex

¹²⁸ Declaration on the Elimination of Violence against Women (Feb. 23, 1994).

¹²⁹ Fox (n 1).

¹³⁰ M. Garcia. 'The ILO and the Oldest Non-profession,' in U. Bosma and K. Hofmeester. *The Lifework of a Labor Historian: Essays in Honour of Marcel van der Linden*. (Russia: Brill, 2018).

¹³¹ Ibid.

while protecting those who sell it.¹³² The resolution was based on concerns that prostitution contributes to trafficking and gender inequality. However, some EU member states, such as Germany and the Netherlands, have resisted this recommendation, arguing that regulating prostitution is more effective in protecting sex workers and reducing illegal trafficking networks.¹³³

At the regional level, the African Charter on Human and Peoples' Rights, adopted by the African Union (AU), does not explicitly address prostitution, but its provisions on human dignity, equality, and protection from exploitation have been interpreted in various ways.¹³⁴ Some African countries use the Charter to justify prohibitionist approaches, arguing that prostitution dehumanizes individuals, particularly women. Others, however, argue that criminalizing sex work contradicts the Charter's principles by exposing sex workers to violence, discrimination, and lack of access to justice.

Despite the varying international positions, there is a general consensus that forced prostitution and trafficking must be eradicated, and that sex workers; whether voluntarily or involuntarily engaged in the trade; should be protected from violence and exploitation. The debate remains on whether full criminalization, decriminalization, or regulation is the best approach to achieving these goals. For a country like Nigeria, and specifically Edo State, which struggles with both prostitution and human trafficking, international legislations provide important guidance on how to balance enforcement with human rights protections.

At this point, we shall now consider what is regarded as the different approaches towards

¹³² Committee on Women's Right and Gender Equality. 'REPORT on Sexual Exploitation and Prostitution and Its Impact on Gender Equality,' (2014) <[¹³³ Ibid.](https://www.europarl.europa.eu/doceo/document/A-7-2014-0071_EN.html#:~:text=Moreover%2C%20the%20Swedish%20police%20confirm%20that%20the,deterrent%20effect%20on%20trafficking%20for%20sexual%20exploitation.&text=Trafficking%20of%20persons%2C%20pa rticularly%20women%20and%20children%2C,of%20Fundamental%20Rights%20of%20the%20European%20 Union.>,>, accessed 12 January, 2025.</p></div><div data-bbox=)

¹³⁴ Amnesty International. 'A Guide to the African Charter on Human and Peoples' Rights,' (2006), <[59](https://www.amnesty.org/es/wp-content/uploads/2021/08/ior630052006en.pdf.> accessed 12 January, 2025.</p></div><div data-bbox=)

criminalizing prostitution. The approach taken by each jurisdiction is often shaped by social, cultural, religious, and economic factors. While some countries treat prostitution as a criminal offense, others focus on harm reduction, recognizing that strict prohibition can lead to more significant challenges, including human trafficking, organized crime, and public health risks. Examining international legislations and best practices on the prohibition of prostitution provides insight into effective strategies and potential policy recommendations for addressing the issue in regions like Edo State, Nigeria.

One of the most well-known approaches to the prohibition of prostitution is the Nordic Model, also known as the Swedish Model, which criminalizes the purchase of sexual services while decriminalizing those who sell sex. Sweden pioneered this approach in 1999, arguing that prostitution is inherently exploitative and contributes to gender inequality.¹³⁵ Under this model, clients who pay for sex are penalized, but sex workers are not criminalized, as they are seen as victims rather than offenders. This approach has since been adopted in several other countries, including Norway, Iceland, Canada, and France. Proponents of the Nordic Model argue that it reduces demand for commercial sex and, by extension, decreases human trafficking.¹³⁶ Studies from Sweden suggest that street prostitution has declined significantly since the law's implementation, and public attitudes towards purchasing sex have shifted negatively. However, critics argue that this model still leaves sex workers vulnerable, as criminalizing buyers may push the industry underground, making it harder for sex workers to access legal protections, healthcare, and social services.¹³⁷

In contrast, some countries, such as the Netherlands and Germany, have opted for the legalization and regulation of prostitution. The Netherlands legalized prostitution in 2000,

¹³⁵ S. Kingston and T. Thomas. 'No model in practice: a 'Nordic model' to respond to prostitution?' *Crime Law Soc Change*, (2019), 71, 423–439

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

establishing a system in which sex workers operate in licensed brothels and have access to healthcare, taxation benefits, and legal protections.¹³⁸ Germany has a similar system, where prostitution is a recognized profession; allowing workers to enter contracts, contribute to social security, and access labour rights.¹³⁹ Supporters of this model argue that legalization reduces the risks associated with underground sex work, including violence, health hazards, and human trafficking. By regulating the industry, governments can ensure safer working conditions and provide sex workers with legal recourse against abuse.¹⁴⁰ However, critics argue that legalization can lead to the expansion of the commercial sex industry, increasing the demand for trafficked individuals to meet market needs. Some reports suggest that human trafficking remains a problem in legalized environments, as traffickers exploit legal loopholes to force individuals into sex work.¹⁴¹

Another approach to prostitution legislation is full decriminalization, as seen in New Zealand. The New Zealand Prostitution Reform Act of 2003 removed criminal penalties for both sex workers and clients while establishing health and safety regulations to protect individuals in the industry.¹⁴² Decriminalization means that sex work is treated like any other profession, allowing workers to report abuse, seek medical care, and work without fear of arrest. Studies on New Zealand's model suggest that it has improved the health and safety of sex workers, allowing them to negotiate better conditions and report violence to authorities without the risk of being criminalized.¹⁴³ However, some critics argue that full decriminalization does not

¹³⁸ J. Cruz and S. van Iterson. 'The Audacity of Tolerance: A Critical Analysis of Legalized Prostitution in Amsterdam's Red Light District,' <[¹³⁹ G. Nanni. 'The 2017 German Prostitute Protection Act: an analysis of its potential consequences,' PhD Course in Applied Social Sciences Working Papers Series 2019.](https://humanityinaction.org/knowledge_detail/the-audacity-of-tolerance-a-critical-analysis-of-legalized-prostitution-in-amsterdams-red-light-district/#:~:text=By%20lifting%20the%20prohibition%20on,which%20prostitution%20was%20already%20tole rated.>,>, accessed 12 January, 2025.</p></div><div data-bbox=)

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² L. Armstrong. 'I Can Lead the Life That I Want to Lead': Social Harm, Human Needs and the Decriminalisation of Sex Work in Aotearoa/New Zealand,' *Sex Res Social Policy*, (2021) 18(4):941–951.

¹⁴³ Ibid.

necessarily reduce trafficking or exploitation, as economic pressures may still force individuals into sex work under exploitative conditions.¹⁴⁴

A more punitive approach is adopted in many Middle Eastern and African countries, where prostitution is strictly prohibited, often under religious or moral laws. Countries such as Saudi Arabia, Iran, and the United Arab Emirates impose severe punishments on both sex workers and clients, including imprisonment, fines, and, in extreme cases, corporal punishment. These laws are often justified on moral and religious grounds, with prostitution viewed as a violation of cultural and religious values.¹⁴⁵ However, strict criminalization in these countries does not eliminate prostitution but instead forces it underground, increasing risks for those involved. In Nigeria, prostitution is largely prohibited, with various state laws reinforcing the criminalization of sex work, particularly in regions like Edo State, where trafficking for sexual exploitation is a major concern.¹⁴⁶

Despite differences in legislation, several best practices have emerged in international efforts to address prostitution effectively. One key strategy is focusing on the root causes of prostitution, including poverty, lack of education, and gender inequality. Countries that provide social welfare programs, vocational training, and employment opportunities for women tend to have lower rates of sex work driven by economic desperation. For instance, Sweden and Norway have invested in exit programs for sex workers, offering financial assistance, education, and job training to help individuals transition out of prostitution.¹⁴⁷

Another best practice is prioritizing human trafficking prevention alongside prostitution laws.

While many anti-prostitution laws aim to combat trafficking, evidence suggests that simply

¹⁴⁴ Ibid.

¹⁴⁵ US. Department of State. '2022 Country Reports on Human Rights Practices,' <<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/iran/>>, accessed 13 January, 2025.

¹⁴⁶ Ibid.

¹⁴⁷ Kingston and Thomas (n 16).

criminalizing sex work does not eliminate trafficking. Countries with effective anti-trafficking measures focus on victim protection, cross-border cooperation, and severe penalties for traffickers rather than punishing sex workers themselves. The United States, through the Trafficking Victims Protection Act (TVPA), has established a system of identifying trafficking victims and offering them legal protection, a model that other countries have sought to replicate.¹⁴⁸

Additionally, ensuring access to healthcare and legal protections for sex workers is a best practice observed in jurisdictions that recognize the need for harm reduction. In Germany and the Netherlands, sex workers have access to regular health screenings and legal assistance, reducing the risks of disease transmission and violence.¹⁴⁹ Even in countries with prohibitionist policies, providing confidential healthcare services and safe reporting mechanisms for abuse can mitigate the negative consequences of criminalization.

In summary, international legislations on the prohibition of prostitution vary widely, reflecting different cultural, legal, and economic perspectives. While some countries adopt full criminalization, others prefer regulated or decriminalized models that prioritize harm reduction and legal protections. Best practices suggest that an effective approach should not solely focus on punitive measures but also address socio-economic factors, trafficking prevention, and the rights and well-being of those involved in prostitution. For Edo State, where prostitution is closely linked to human trafficking, lessons from international models could inform a balanced policy approach; one that protects trafficking victims, discourages exploitation, and provides alternative opportunities for those engaged in sex work.

¹⁴⁸ US Department of State. '2023 Trafficking in Persons Report,' <[¹⁴⁹ Cruz and van Iterson \(n 19\).](https://www.state.gov/reports/2023-trafficking-in-persons-report/#:~:text=Take%20steps%20to%20ensure%20close,crimes%20such%20as%20money%20laundering.>, accessed 12 January, 2025.</p></div><div data-bbox=)

4.3. ANALYZING ALTERNATIVE ARGUMENTS ON THE PROHIBITION OF VICTIMLESS CRIME

The prohibition of victimless crimes has been a topic of extensive legal, moral, and sociological debate. As already noted in previous chapters, victimless crimes refer to offenses that do not directly harm another person but are criminalized based on societal, cultural, or moral considerations. Proponents of prohibition argue that these crimes undermine social order, morality, and public health, while opponents contend that criminalizing such acts infringes on personal autonomy, overburdens the criminal justice system, and often exacerbates the very issues it seeks to prevent.¹⁵⁰ Among the most debated victimless crimes is prostitution, which many legal scholars and human rights activists argue should be decriminalized as a means of harm reduction, rather than outright prohibited.

4.3.1. DECRIMINALIZING PROSTITUTION

Decriminalization of prostitution is one of the most widely advocated alternatives to its prohibition. Unlike legalization, which involves regulatory frameworks and government oversight, decriminalization simply removes criminal penalties for sex work, treating it like any other form of labour without special regulatory restrictions. Proponents of decriminalization argue that criminalizing prostitution disproportionately harms those who engage in sex work, forcing them into dangerous conditions where they have little access to legal protection, healthcare, and economic alternatives.¹⁵¹

One of the strongest arguments for decriminalization is its potential to improve public health outcomes. Studies have shown that in places where sex work is criminalized, workers are less

¹⁵⁰ U. Bakhtadze, 'Is Prostitution a Victimless Crime?' (2013) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2372009>, accessed 17 November, 2024.

¹⁵¹ I. Kulyk. 'Decriminalization of 'Victimless Crime,' (2021), <https://www.academia.edu/49303090/Decriminalization_of_Victimless_Crimes>, accessed 17 November, 2024.

likely to seek medical care due to fear of arrest or discrimination.¹⁵² This increases the spread of sexually transmitted infections (STIs), including HIV/AIDS, among sex workers and the broader community. Countries that have decriminalized prostitution, such as New Zealand, have reported better health outcomes, as sex workers can access healthcare services without fear of legal repercussions.¹⁵³ Decriminalization also allows for safer working conditions, as sex workers can negotiate safer sex practices and seek protection from violence without the risk of being arrested.

Another key argument for decriminalization is that it enhances the protection of sex workers from violence and exploitation.¹⁵⁴ Under prohibitionist regimes, sex workers are often forced to operate in secrecy, making them more vulnerable to abuse from clients, pimps, and even law enforcement officials. Criminalization discourages sex workers from reporting crimes committed against them, as they fear being arrested or further victimized by the justice system. In contrast, decriminalization empowers sex workers to seek legal protection when they experience violence, leading to improved safety and better relationships between sex workers and law enforcement agencies.¹⁵⁵

Moreover, the argument in support for decriminalization is on the basis that it helps to shift law enforcement resources away from policing consensual adult behaviour and toward addressing more serious crimes, such as human trafficking and sexual exploitation. Many legal scholars argue that anti-prostitution laws often misdirect law enforcement priorities, leading to the prosecution of consensual sex workers instead of the dismantling of criminal networks involved in forced prostitution and trafficking.¹⁵⁶ In a decriminalized system, law enforcement agencies can focus on targeting those who exploit sex workers, rather than

¹⁵² Ibid.

¹⁵³ Armstrong (n 17).

¹⁵⁴ Kulyk (n 32).

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

punishing individuals who voluntarily engage in sex work.

Critics of decriminalization argue that it could lead to an increase in prostitution, normalize the industry, and make it more difficult to combat human trafficking.¹⁵⁷ They contend that removing criminal penalties could make it easier for exploitative individuals to take advantage of vulnerable populations, including minors and victims of coercion.¹⁵⁸ However, evidence from countries like New Zealand suggests that decriminalization does not necessarily lead to a significant increase in sex work but rather creates a safer environment for those already engaged in the industry.¹⁵⁹ By distinguishing between consensual sex works and trafficking, policymakers can implement measures that protect vulnerable individuals without criminalizing those who choose to engage in prostitution voluntarily.

Additionally, some opponents argue that prostitution inherently exploits women and reinforces gender inequality. Radical feminist perspectives suggest that decriminalization legitimizes the commodification of women's bodies and perpetuates patriarchal structures that objectify women.¹⁶⁰ However, other feminists advocate for sex workers' rights, arguing that decriminalization empowers individuals by granting them agency and legal protections.¹⁶¹ Rather than imposing moralistic views on sex work, they argue that policy should focus on improving working conditions and providing economic alternatives for those who wish to leave the industry.

In conclusion, decriminalizing prostitution offers numerous benefits, including improved public health, enhanced safety for sex workers, economic empowerment, and better allocation of law enforcement resources. While concerns about exploitation and trafficking remain,

¹⁵⁷ Editors of ProCon. 'Prostitution,' (2024). <<https://www.britannica.com/procon/prostitution-debate>>, accessed 18 January, 2025.

¹⁵⁸ Ibid.

¹⁵⁹ Armstrong (n 17).

¹⁶⁰ K. Beran. 'Revisiting the Prostitution Debate: Uniting Liberal and Radical Feminism in Pursuit of Policy Reform,' *Minnesota Journal of Law & Inequality*, (2012), 30(1).

¹⁶¹ Ibid.

these issues can be addressed through targeted policies that differentiate between voluntary sex work and coercion. The experiences of countries that have adopted decriminalization suggest that it is a more effective approach than outright prohibition, which often exacerbates the very harms it seeks to prevent. For a place like Edo State, where prostitution is closely linked to human trafficking, a balanced approach that prioritizes harm reduction and the protection of sex workers' rights could provide a more effective and humane alternative to prohibition.

4.3.2. REGULATING PROSTITUTION

An alternative approach to the outright prohibition of prostitution is regulation, which allows sex work to operate within a structured legal framework. Regulation differs from decriminalization in that it involves governmental oversight, licensing, health and safety standards, and taxation of the industry. Proponents of regulation argue that it is a pragmatic approach that balances public health, legal order, and the rights of sex workers while minimizing the risks associated with an unregulated and underground sex trade.¹⁶² Critics, however, contend that regulation may legitimize an inherently exploitative industry and fail to eliminate the social and economic factors that push individuals into prostitution.¹⁶³

One of the strongest arguments in favour of regulation is the protection of sex workers from violence, exploitation, and abuse. In countries where prostitution is entirely illegal, sex workers are forced to operate in unsafe environments where they are vulnerable to violence from clients, traffickers, and law enforcement officers.¹⁶⁴ By bringing the industry under legal oversight, governments can ensure that sex workers have access to security measures, such as designated work zones, police protection, and emergency assistance. In Germany and

¹⁶² G. Immordino and F.F. Russo. 'Regulating prostitution: A health risk approach,' *Journal of Public Economics*, (2015), 121(1).

¹⁶³ *Ibid.*

¹⁶⁴ Kulyk (n 32).

the Netherlands, where prostitution is regulated, sex workers can report abuse and seek legal redress without fear of being criminalized themselves.¹⁶⁵

Regulation also contributes to improving public health outcomes by enforcing mandatory health checks, safe sex practices, and access to medical care.¹⁶⁶ In legal frameworks such as those in the Netherlands, licensed sex workers are required to undergo regular health screenings to prevent the spread of sexually transmitted infections (STIs) and other health risks.¹⁶⁷ This model not only protects sex workers but also the general public, as it reduces the likelihood of untreated infections spreading within the community. Additionally, regulations can mandate the use of protective measures such as condoms, ensuring safer interactions between sex workers and clients.

Regulation also allows for better monitoring and control of human trafficking, as it distinguishes between voluntary sex work and coerced prostitution. In fully prohibited systems, all forms of prostitution, whether voluntary or forced, are treated as criminal acts, making it difficult to identify victims of trafficking who may be afraid to come forward for fear of prosecution. In contrast, a regulated system enables law enforcement agencies to focus their efforts on detecting and prosecuting traffickers, rather than criminalizing sex workers.¹⁶⁸ In Germany, for example, sex work is regulated, and authorities work closely with advocacy groups to identify and support individuals who have been trafficked into the industry.¹⁶⁹

Despite these advantages, opponents of regulation argue that legalizing prostitution could lead to the expansion of the industry, increasing demand for commercial sex and, in turn, exacerbating human trafficking. Some studies suggest that in countries where prostitution is

¹⁶⁵ Nanni (n 20).

¹⁶⁶ Immordino and Russo (n 43).

¹⁶⁷ Cruz and S. van Iterson (n 19).

¹⁶⁸ Kulyk (n 32).

¹⁶⁹ Nanni (n 20).

legalized and regulated, the number of individuals engaged in sex work rises, sometimes leading to an influx of trafficked persons to meet market demand.¹⁷⁰ Critics also argue that legalizing the industry does not necessarily eliminate its exploitative elements, as economic desperation may still push individuals into sex work against their will, even in a regulated system.

Additionally, the success of a regulatory model depends heavily on strict enforcement and oversight, which can be challenging in countries with weak legal institutions or high levels of corruption. Without proper monitoring, a regulated system may become a front for illegal activities, such as underground brothels, sex trafficking, and tax evasion. Some reports from Germany and the Netherlands indicate that despite legalization, illegal prostitution and trafficking networks continue to operate, often exploiting loopholes in the legal framework.

Culturally and morally, the regulation of prostitution remains a contentious issue, particularly in conservative societies. Many religious and traditional groups argue that legalizing sex work contradicts societal values and promotes moral decay. In countries like Nigeria, where religious and cultural beliefs play a significant role in shaping legal policies, regulating prostitution may face strong resistance from both policymakers and the public. This opposition could lead to ineffective implementation or partial regulation that fails to protect sex workers fully.

4.3.3. HUMAN RIGHTS APPROACHES

A human rights-based approach to prostitution focuses on the dignity, autonomy, and protection of individuals engaged in sex work. This perspective argues that rather than criminalizing or heavily regulating prostitution, governments should prioritize the rights and welfare of sex workers, ensuring that they are free from violence, discrimination, and

¹⁷⁰ Bakhtadze (n 31).

exploitation.¹⁷¹ Human rights advocates emphasize that sex workers, like all individuals, are entitled to fundamental rights, including access to healthcare, legal protection, and safe working conditions.

One of the core arguments of the human rights approach is that criminalization violates the rights of sex workers by exposing them to police brutality, stigmatization, and legal marginalization. When prostitution is illegal, sex workers often face abuse from law enforcement and clients, with little recourse to justice. Decriminalization, as endorsed by organizations like Amnesty International and the World Health Organization (WHO), is seen as the best way to uphold sex workers' rights, ensuring they can report crimes, seek medical care, and work in safe environments without fear of arrest.¹⁷²

From a public health perspective, a human rights approach emphasizes the necessity of access to healthcare services, including HIV/AIDS prevention, sexual and reproductive health education, and harm reduction programs.¹⁷³ Studies show that where prostitution is criminalized, sex workers are less likely to seek medical assistance due to fear of legal repercussions, increasing their vulnerability to sexually transmitted infections and other health risks. A human rights framework ensures that sex workers have the same healthcare rights as any other citizens.

However, critics argue that human rights approaches may inadvertently legitimize prostitution as an acceptable form of labour, potentially increasing its prevalence. Opponents also fear that framing prostitution as a human rights issue could undermine efforts to combat human trafficking and sexual exploitation. To address these concerns, a balanced approach that prioritizes the rights of sex workers while actively combating coercion and trafficking is

¹⁷¹ Fox (n 1).

¹⁷² Ibid.

¹⁷³ Immordino and Russo (n 43).

necessary.¹⁷⁴

In conclusion, a human rights-based approach to prostitution advocates for decriminalization, protection from violence, access to healthcare, and economic alternatives. By focusing on the dignity and well-being of individuals engaged in sex work, this approach seeks to minimize harm while promoting social justice.

4.4. BEST WAY FORWARD FOR EDO STATE AND NIGERIA ON THE PROHIBITION OF PROSTITUTION

From the foregoing discussions, this study concludes that the best way forward for Edo State and Nigeria in general as regards prohibition of prostitution includes;

1. Adopting a human rights-based approach
2. Developing a comprehensive legal and policy reforms.
3. Enhancing law enforcement and anti-trafficking efforts
4. Establishing economic and social empowerment programs
5. Public health and harm reduction strategies
6. Public awareness and community engagement
7. Monitoring and evaluation of policy implementation

By implementing these measures, Edo State and Nigeria can adopt a balanced approach that upholds human rights, protects vulnerable individuals, and addresses the root causes of prostitution while maintaining legal and moral considerations.

4.5. SUMMARY

This chapter carefully considered the position of international law and treaties on the issue of prohibition; UN, EU and AU resolutions were carefully considered in this chapter. Additionally, the best practices/approaches adopted in other countries as regards the

¹⁷⁴ Fox (n 1).

prohibition of prostitution. Furthermore, alternative arguments to the prohibition of prostitution were also appraised in this chapter; arguments for and against were considered. From all these, this chapter highlighted the best way forward Edo State and Nigeria on the prohibition of prostitution.

CHAPTER FIVE

SUMMARY, RECOMMENDATIONS, CONCLUSION

5.1. SUMMARY

The idea of "victimless crime" is based on the conviction that certain offences, such as prostitution, involve consenting adults and, as a result, do not directly harm other people. As such, to protect society from moral decadence or influenced by culture and values, most society have regarded some certain acts as crimes even though they have no specific individual as victim. One of such acts is prostitution. From the definitions of prostitution, it is clear that it is regarded as a victimless crime not having an individual that is directly in harm. As such, it has been argued whether this should be the case? Should prostitution be criminalized as a victimless crime or one involving a victim? Should prostitution be even criminalized considering it is consensual and only criminalised on the basis of morality? These debates have resulted in the call for an appraisal for the various legislative approaches to prostitution in Nigeria, especially in Edo State. Thus, it raises the question as to what is the perception of prostitution as a victimless crime and its implications for law enforcement, policymaking, and societal attitudes in Edo State. The study has as its aim, determining the perception of prostitution as a victimless crime and its implications for law enforcement, policymaking, and societal attitudes in Edo State. This study which is significant in providing information on the need to enact well thought out and balanced legislations on prostitution, made use of the doctrinal approach, utilizing primary and secondary data to reach solid conclusions.

Additionally, essential concepts, such as crime, victims, victimless crimes, and prostitution as a victimless crime were examined in this study. The nature and forms of victimless crimes in Nigeria, as well as an overview of prostitution and its prohibition were achieved on this

study, with a focus on Edo State. In addition, the theoretical framework underpinning the study; incorporating criminological and socio-legal theories relevant to understanding prostitution and its regulation was established in this study. There was also a review of relevant literature examines the impacts of prostitution prohibition, providing insight into the dynamics of the issue and identifying gaps in existing studies that this research seeks to address.

Moving further this study attempted an in-depth analysis of the Edo State Trafficking in Persons Prohibition Law, 2018, focusing on its provisions related to the prohibition of prostitution. It examines other relevant legal frameworks applicable in Edo State, including the Edo State Criminal Law, the Constitution of the Federal Republic of Nigeria, 1999, the Criminal Code Act, the Child's Right Act, 2003, and the Violence against Persons Prohibition (VAPP) Law. The study evaluated the effectiveness and limitations of these laws in addressing prostitution and trafficking. It also identifies the challenges hindering the successful enforcement of these legal provisions, such as weak institutional capacity, societal attitudes, and systemic corruption.

This study examined international legislations and best practices in regulating or prohibiting prostitution. It analyses alternative arguments to the outright prohibition of prostitution, such as decriminalization, regulation, and human rights-based approaches. The study explored the societal impact of prostitution, weighing the costs and benefits of various regulatory models. It also considered lessons that Edo State and Nigeria can draw from other jurisdictions in addressing prostitution and human trafficking.

5.2. RECOMMENDATIONS

This study makes the following recommendations as regards the prohibition of prostitution in Nigeria.

1. A human rights-based approach should be adopted to ensure the protection of sex workers' rights. Decriminalizing sex work would allow individuals engaged in the trade to access legal protection and healthcare services without fear of arrest. Legal frameworks should differentiate between consensual sex work and human trafficking, ensuring that enforcement efforts focus on eradicating coercion and exploitation rather than punishing those voluntarily engaged in prostitution. Strengthening legal protections against violence and discrimination is essential in safeguarding the dignity and security of sex workers.
2. Comprehensive legal and policy reforms are necessary to create a more effective and just approach to prostitution. Existing laws should be reviewed to align with international best practices, ensuring that legislation is clear and enforceable. A key aspect of these reforms should be the establishment of legal distinctions between voluntary sex work and forced prostitution, allowing for more targeted interventions. Additionally, policies should prioritize rehabilitation and social reintegration rather than punitive measures, offering individuals opportunities to transition into alternative livelihoods.
3. Enhancing law enforcement and anti-trafficking efforts is crucial in addressing the underlying criminal activities associated with prostitution. Law enforcement should focus on prosecuting traffickers and organized crime networks rather than criminalizing sex workers, who are often victims of exploitation. Specialized training should be provided to law enforcement officers to ensure that they handle cases involving sex work and trafficking with sensitivity and professionalism. Collaboration between law enforcement agencies, civil society organizations, and international

partners should be strengthened to improve efforts in combating trafficking and protecting vulnerable individuals.

4. Economic and social empowerment programs should be implemented to provide viable alternatives for those seeking to exit prostitution. Offering vocational training, financial support, and entrepreneurship opportunities can help individuals secure stable employment and financial independence. Expanding access to education and job opportunities would address the socio-economic factors that drive people into prostitution. Additionally, safe shelters and counselling services should be established to support at-risk individuals and survivors of trafficking, ensuring they have a pathway to rehabilitation and reintegration into society.
5. Public health and harm reduction strategies should be prioritized to ensure the well-being of sex workers and the broader community. Access to healthcare services, including STI prevention and treatment, should be guaranteed for individuals involved in prostitution. Promoting safe sex education and harm reduction initiatives would help minimize health risks and improve overall public health outcomes. Strengthening partnerships between healthcare providers and community organizations would further enhance support for sex workers, ensuring they receive the necessary medical and psychological assistance.
6. Public awareness and community engagement are essential in changing societal perceptions and reducing stigma associated with prostitution. Sensitization campaigns should be launched to educate the public on the socio-economic issues driving individuals into sex work and the importance of adopting humane policies. Religious, traditional, and community leaders should be engaged in discussions on pragmatic solutions that balance moral considerations with the need for legal and social reforms.

The media should also play a responsible role in reporting on prostitution-related issues without sensationalism, ensuring that public discourse is informed and constructive.

7. Monitoring and evaluating policy implementation is necessary to ensure that reforms achieve their intended objectives. An independent body should be established to assess the impact of prostitution laws and policies, identifying areas for improvement and necessary adjustments. Regular updates to laws and policies should be based on research, evolving social realities, and feedback from affected communities. Transparency and accountability should be maintained in law enforcement and government initiatives related to prostitution, ensuring that interventions are both effective and ethical.

5.3. CONCLUSION

The issue of prostitution in Edo State and Nigeria remains a complex and deeply debated subject, intersecting with legal, moral, economic, and human rights considerations. While the outright prohibition of prostitution has long been the dominant legal stance, evidence suggests that this approach has not effectively eliminated the practice but has instead pushed it underground, exacerbating the risks faced by sex workers, increasing their vulnerability to exploitation, and hindering efforts to combat human trafficking.

Ultimately, it seems the goal should not merely be the prohibition of prostitution but the creation of a safer, more just, and more equitable society where individuals are not coerced into sex work due to economic hardship or social vulnerability. By adopting evidence-based policies that prioritize harm reduction, human rights, and sustainable development, Edo State and Nigeria can move towards a more effective and humane approach to addressing prostitution and its associated challenges.

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