

FEARING THE DARK: THE USE OF WITCHCRAFT TO CONTROL HUMAN TRAFFICKING VICTIMS AND SUSTAIN VULNERABILITY

Luz. E. Nagle*
Bolaji Owasanoye**

TABLE OF CONTENTS

| | |
|---|-----|
| INTRODUCTION..... | 562 |
| PART I..... | 563 |
| VULNERABILITY AS AN ELEMENT OF TRAFFICKING..... | 563 |
| VULNERABILITY DUE TO SUPERSTITIONS AND FEAR..... | 564 |
| PART II..... | 568 |
| USING RELIGIOUS BELIEFS TO ADVANCE A CRIMINAL ENTERPRISE.... | 568 |
| REPRESENTATIVE FORMS OF WITCHCRAFT..... | 571 |
| PART III..... | 574 |
| NIGERIAN TRAFFICKERS AND VODOO..... | 574 |
| TRAFFICKING IN BODY PARTS FOR WITCHCRAFT RITUALS..... | 586 |
| WITCHCRAFT AND BLACK MAGIC IN LATIN AMERICAN TRAFFICKING..... | 587 |
| PART IV..... | 589 |
| RELEASING VICTIMS FROM THEIR OATHS AND SUPERSTITIOUS CHAINS..... | 589 |
| PREVENTION, DUTY OF STATES AND STATE RESPONSIBILITY..... | 591 |
| DUTY OF STATES..... | 591 |
| DUTY TO EDUCATE..... | 592 |

* Professor of Law, Stetson University College of Law, Florida.

** Professor, Nigerian Institute of Advanced Legal Studies and Executive Director, Human Development Initiatives, Lagos, Nigeria.

| | |
|-----------------|-----|
| PART V | 593 |
| CONCLUSION..... | 593 |

Vulnerability is a silent social disease. Many societies live with it and do not take firm and sustainable actions to face it until the consequences erupt in violent and dramatic forms.¹

INTRODUCTION

The use of cultural superstitions and occult rituals is a powerful means to control a human trafficking victim and reaches to the depths of one's psychological vulnerability. Combined with other conditions that render a person vulnerable to being trafficked—such as poverty, lack of opportunity, and violent conflict—an individual can become so frightened by the omnipotent powers of the spirit world as to be rendered entirely incapable of resisting criminal acts and human rights violations. In fact, invoking witchcraft to assert control and coercion is so insidious in many cultures that “even once victims have been identified and removed from a trafficking situation by state authorities, there is no guarantee that this will provide sufficient protection for victims to co-operate.”²

This article explores the use of witchcraft in human trafficking, the vulnerabilities that cause women and children to become human trafficking victims, and the duty of states to prevent the use of witchcraft in the commission of crimes. Part I of the article looks at the element of vulnerability in human trafficking crimes, and vulnerability due to superstitions and fear. Part II examines the use of religious beliefs to commit criminal acts and describes some of the representative forms of witchcraft that have been found to be part of human trafficking. Part III examines the use of witchcraft in human trafficking cases coming out of Africa and in the Americas. Part IV considers the challenge of helping trafficking victims overcome the influence of witchcraft that had kept them vulnerable and under control. We will also look at the duty of States to prevent the use of witchcraft in human trafficking and to educate vulnerable populations in order to make them less susceptible. Part V concludes the article.

1. Special Rapporteur on the sale of children, child prostitution and child pornography, ¶ 25, U.N. Doc. E/CN.4/2004/9 (January 5, 2004) (by Juan Miguel Petit).

2. *Spellbound: Witchcraft and Human Trafficking*, TRAFFICKING RES. PROJECT, <https://thetraffickingresearchproject.wordpress.com/spellbound-witchcraft-and-human-trafficking/> (last visited Feb. 1, 2016).

PART I

Vulnerability as an Element of Trafficking

Those who seek to exploit another human being depend on conditions in which a myriad of factors render someone vulnerable to becoming victimized. These factors are well known in the literature on human trafficking.³ The rhetoric about exploitation of persons overlooks a fundamental distinction between being exploited and being vulnerable, however. The conventional factors we think of that make an individual vulnerable include lack of education, discrimination, poverty, political instability, conflict, and displacement, to name but a few.⁴ But if we look at what *triggers* those factors, we see that the fundamental human rights and civil rights to which a person is entitled may be weak or absent entirely. When there is a negation of this bundle of fundamental rights, vulnerability creates the opportunity for exploitation of the weakest members of society—women and children. The United Nations Committee on the

3. Factors are categorized as push and pull factors. Push factors that compel people to seek to improve their personal and economic situation include:

- High unemployment and poverty;
- Discriminatory labor markets;
- Lack of opportunity to improve one's quality of life;
- Gender or ethnic discrimination;
- Internal conflict and persecution;
- Domestic violence or abuse;
- Proliferation of human rights violations;
- Degraded environmental conditions;
- False expectations of a better life elsewhere, including higher wages, better working conditions, and greater freedom.

Pull factors that feed demand for trafficking victims at points of destination include:

- High demand for cheap or uncompensated labor;
- Weak or no laws against various forms of forced servitude;
- Demand by men looking for commercial sex and bondage arrangements;
- Indifference to social conditions and morality;
- Lack of public awareness;
- Corruption;
- Weak law enforcement;
- Inconsistent application of public policy;
- Entrenched organized crime networks.

See Luz E. Nagle, *Selling Souls: The Effect of Globalization on Human Trafficking and Forced Servitude*, 26 WIS. INT'L L.J. 131, 137-38 (2008).

4. See United Nations Office on Drugs and Crime (UNODC), *An Introduction to Human Trafficking: Vulnerability, Impact, and Action*, Background Paper of the U.N. Global Initiative to Fight Human Trafficking (UN.GIFT), at 71-75 (2008), available at https://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf.

Rights of the Child has also emphasized that “[u]naccompanied or separated children in a country outside their country of origin are particularly vulnerable to exploitation and abuse.”⁵

In addition to being subjected to conditions that render an individual susceptible to being victimized, women and children living in cultures and communities where there is a strong connection to the spirit world are uniquely vulnerable to sexual violence and forced servitude. We cannot be certain for how long human traffickers and other predators have used threats and acts of black magic in their arsenal of coercion, inveiglement, and control, but in recent years, evidence of such acts have come to light. At present, the use of superstition to coerce women and children falls largely outside the recognized push and pull factors that characterize human trafficking crimes and crimes of exploitation and enslavement. Consequently, the international conventions and domestic laws in place around the globe to criminalize trafficking, forced servitude, and related crimes present a perplexing gap in addressing the use of superstitions and religious beliefs to assert control over trafficking and forced servitude victims.⁶

Vulnerability Due to Superstitions and Fear

Article 3(a) of the Palermo Protocol⁷ states that human trafficking means:

The recruitment, transportation transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, or abduction or fraud, or deception, or the abuse of power, or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

5. United Nations Convention on the Rights of the Child (UNCRC), *General Comment No.6: Treatment of Unaccompanied or Separated Children Outside Their Country of Origin*, 39th Sess., May 17–June 3, 2005, ¶ 50, U.N. Doc. CRC/GC/2005/6 (2005), available at <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>.

6. If a person coerces a victim by means of promising a better job or an education, there are clearly defined penalties. But if a predator coerces a victim by playing upon ones fears of the spirit world, the penalties that apply are less certain.

7. Protocol to Prevent, Suppress and Punish Trafficking in Persons. Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, established pursuant to resolution 53/11 (Dec. 9, 1998), at 2, U.N. Doc. A/53/383 (2000).

This language provides a comprehensive description of the problem of human trafficking and recognizes multidimensional manifestations. We also know that trafficking in persons is a modern form of slavery that often entails physical, psychological and sexual abuse.⁸ Psychological abuse can be linked to the superstitious beliefs of victims that are imbued in their psyches as members of a certain society, community or culture. Traffickers capitalize on both religious/superstitious beliefs and “faith” of the victims, and their ignorance, especially when the victims come from places where spiritual ideas are very strong.⁹

Mechanisms of trafficking in persons are myriad, clandestine and variable. The common systematic factor, however, is the imposition and maintenance of order.¹⁰ Victims of trafficking are usually recruited by intermediaries, middlemen or agents and then passed along the trafficking chain under tight control.¹¹ It is interesting to note that like other forms of abuses and human rights violations, the individual of first contact and middlemen are often not entirely strangers, but family relations and even notable citizens of victims’ nations.¹² The familiar relationship element makes it difficult for a victim to refuse or resist what is happening to her, and difficult for authorities to conduct investigations and bring prosecutions.¹³

The relationship element also makes the imposition of belief systems/voodoo oaths easy, believable, and even readily accepted, particularly if the agents of trafficking present themselves as successful and have been accepted as such within the communities that place a premium value on wealth and emigration to a better place regardless of means.

8. See United Nations Office on Drugs and Crime (UNODC), *An Introduction to Human Trafficking: Vulnerability, Impact, and Action*, Background Paper of the U.N. Global Initiative to Fight Human Trafficking (UN.GIFT), at 82 (2008), available at https://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf.

9. Benjamin Radford, *Spanish Gangs Use Voodoo to Traffic Girls*, DISCOVERY NEWS (June 14, 2015, 08:55 AM), <http://news.discovery.com/human/psychology/spanish-gangs-use-voodoo-to-traffic-girls-150614.htm>.

10. See David Kyle & Marc Scarcelli, *Migrant Smuggling and the Violence Question: Evolving Illicit Migration Markets for Cuban and Haitian Refugees*, 52 CRIME, LAW, & SOC. CHANGE, 297, 308 (March 2009).

11. See Ray Jureidini, *Trafficking and Contact Migrant Workers in the Middle East*, INT’L. MIGRATION, Vol. 48, no. 4, 142 (2010); Jørgen Carling, *Trafficking in Women from Nigeria to Europe*, MIGRATION INFO. SOURCE (July 1, 2005), <http://www.migrationpolicy.org/article/trafficking-women-nigeria-europe>.

12. See Frank Lackso & Marco A. Gramegna, *Developing Better Indicators of Human Trafficking*, BROWN J. WORLD AFFAIRS 179 (Summer/Fall 2003).

13. See Carling, *supra* note 11; see also Jana Arsovska & Popy Begum, *From West Africa to the Balkans: Exploring Women’s Roles in Transnational organized Crime*, 17 TRENDS ORGAN. CRIM. 89 (2014).

Notably, the functioning axiom in societies like Nigeria's is that the end justifies the means. Therefore, if an agent is a successful person, acceding to his or her methods is easily accepted.¹⁴ More troubling is that often ex-victims act as agents and recruiters who assert power over victims.¹⁵ Power relations depend on imbalance and always tilt to the advantage of the agent/syndicate and benefit from political connections (many have links with powerful politicians), financial connections (images of affluence in midst of poverty) and metaphysical connections (association with supposedly powerful cults implying that source of power and influence is metaphysical).¹⁶ Regrettably, the weak status of victims (and their families) diminishes capacity to resist or challenge power or influence, confirming that trafficking in persons is a formidable threat when interfaced with belief systems like voodoo and witchcraft.

Witchcraft, diabolism,¹⁷ black magic, and threatening dire evils from the spirit world take many forms. Not all forms of witchcraft are

14. More than 150 million people are reportedly estimated to migrate annually for economic reasons. See Kelly Hyland, *The Impact of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, HUM. RTS. BRIEF 8, no. 2 (2001): 30-31, 38, <http://digitalcommons.wcl.american.edu/hrbrief/vol8/iss2/12>; see also Majeed A. Rahman, *Human Trafficking in the Era of Globalization: The Case of Trafficking in the Global Market Economy*, TRANSCIENCE J. Vol. 2, no. 1 (2011): 54-71.

15. See U.N.GIFT, *The Vienna Forum to Fight Human Trafficking*, Vienna, Feb. 13-15, 2008, *Profiling the Traffickers, Characteristics and Traits of Traffickers*, at 5, U.N.GIFT B.P.: 016 (2008), available at <http://www.unodc.org/documents/human-trafficking/2008/BP016ProfilingtheTraffickers.pdf> (last accessed Feb. 1, 2016) (noting that “[s]ome traffickers are former victims themselves. For instance, in some countries, a ‘Madam’ in a destination country supervises, controls and organizes girls and women trafficked for sexual exploitation, coordinates their activities and collects income they make. Many such ‘Madams’ that have been the subject of research started as victims themselves, and once their ‘debt’ has been paid to their own ‘Madam’ they in turn use the same method to make money.”); see also U.N. ON DRUGS AND CRIME, *Human Trafficking FAQs*, <http://www.unodc.org/unodc/en/human-trafficking/faqs.html> (last visited Feb. 1, 2016) (noting that “[f]emale offenders have a prominent role in human trafficking, particularly where former victims become perpetrators as a means of escaping their own victimisation. Most trafficking is carried out by people whose nationality is the same as that of their victim.”).

16. See Osita Agbu, *Corruption and Human Trafficking: The Nigerian Case*, WEST AFRICA REV., Vol. 4, no. 1 (2003); see also Cornelia Helfferich, Barbara Kavemann & Heike Rabe, *Determinants of the Willingness to Make a Statement of Victims of Human Trafficking for the Purpose of Sexual Exploitation in the Triangle Offender–Police–Victim*, 14 TRENDS ORGAN. CRIM. 125 (2011) (analyzing the power dynamics between agents-victims-police which control victims through displays of power or protection by traffickers, while the police are portrayed as the chasers of victims. Isolation and withholding of information can be understood as attempts to enforce these interpretations with the victims; therefore, offenders do not only have physical power but also power of definition.)

17. One definition of diabolism entails “having dealings with the Devil or his agents, . . . the use of magic powders or unguents, attendance at a ‘Devil's Sabbath,’ or flying through the air.” See Noel D. Johnson & Mark Koyama, *Taxes, Lawyers, and the Decline of Witch Trials in France*, 57 J.L. & ECON. 77, 81 (2014).

considered evil, however. Witchcraft can be invoked to ensure plentiful rain, to ward off the evil eye, and to ensure virility.¹⁸ In Afro-Caribbean cultures, witchcraft is known as Santería. In Latin America, it is called *brujería*. In the southern United States, black magic is practiced in the form of voodoo (or vodou or hoodoo) rituals descendant from Native American and Afro-Haitian origins. In Africa, witchcraft is generally referred to as voodoo and Juju (swearing an oath to a deity or supernatural object for protection or punishment).¹⁹ In India, witchcraft known as Daayan or churel is found in many villages, and fear of these occult forms frequently leads to the killings of suspected practitioners.²⁰

Specific forms of witchcraft follow the cultural migrations of communities that observe practices of the occult. One may find vodou witch-doctors in urban settings in New Orleans as readily as in remote regions of Haiti.²¹ Beliefs and practices in the Americas share similar traits with beliefs and practices in Africa and Asia, and reflect the patterns of the slave trade and forced diaspora from Western Africa centuries ago. The common thread among diabolist beliefs is that “[t]he invisible forces of the occult are believed to have causal efficacy, to cause good fortune, or to produce harm” when invoked in a way to control the individual targeted.²² Consequently, and because much of the rituals involve powerful symbols, bloodletting and animal (and in some cases human) sacrifice, and are really quite frightening, belief in witchcraft and black magic invokes visceral responses that emanate from the darkest reaches of the human psyche. In some regions where witchcraft is prominent, entire villages or communities identify with and seek the protection or intervention of a particular

18. See Hallie Ludsin, *Cultural Denial: What South Africa's Treatment of Witchcraft Says for the Future of Its Customary Law*, 21 BERKELEY J. INT'L L. 62, 77 (2003).

19. See Babafemi Ondusi, *Crime Detection and the "Psychic Witness" in America: An Allegory for Re-appraising Indigenous African Criminology*, in AFRICAN LEGAL THEORY AND CONTEMPORARY PROBLEMS: CRITICAL ESSAYS 265, 271 (Oche Onazi ed., 2014).

20. See Terrence McCoy, *Thousands of Women, Accused of Sorcery, Tortured and Executed in Indian Witch Hunts*, WASH. POST (July 21, 2014), <http://www.washingtonpost.com/news/morning-mix/wp/2014/07/21/thousands-of-women-accused-of-sorcery-tortured-and-executed-in-indian-witch-hunts/>; see also *Jharkhand Legislators Suggest Tackling Witchcraft Menace on War Footing*, Z NEWS (Sept. 24, 2015), http://zeenews.india.com/news/jharkhand/jharkhand-legislators-suggest-tackling-witchcraft-menace-onwarfooting_1801460.html.

21. See Danielle N. Boaz, *Dividing Stereotype and Religion: The Legal Implications of the Ambiguous References to Voodoo in U.S. Court Proceedings*, 14 SCHOLAR 251, 256 (2011) (explaining that New Orleans Voodoo represents “a conglomeration of the practices of African slaves imported directly into the region and other slaves from French Caribbean colonies that were brought to Louisiana.”).

22. John Alan Cohan, *The Problem of Witchcraft Violence in Africa*, 44 SUFFOLK U. L. REV. 803, 805 (2011).

anthropomorphic deity.²³ “Those who believe in witchcraft think it is the most likely cause of virtually any unfortunate occurrence, such as illness, accident, fatal lightning strikes, loss of livestock, impotence, crop failure, and drought.”²⁴ As an example, *Newsday Zimbabwe* reported recently that witchcraft may have been used in retaliation when a local magistrate judge “got stuck to his crown chair and suffered a temporary blackout in a suspected case of juju as he delivered judgment against a 38-year-old man accused of raping his maid three times.”²⁵

PART II

Using Religious Beliefs to Advance a Criminal Enterprise

The freedom to practice religions and beliefs is well recognized under international law and domestic legislation. Article 18 of the International Covenant on Civil and Political Rights (ICCPR)²⁶ states that everyone has the right to have or adopt a religious faith or belief and manifest “worship, observance, practice and teaching” in public or in private, “subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”²⁷

The interpretation of this broad-reaching article suggests that while “Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions,”²⁸ there is wide discretion under international law with regard to the practice of what one would term witchcraft and rituals of the occult and supernatural. For instance, Article 8 of the African Charter on Human and People’s Rights mirrors ICCPR Art. 18 by stating that, subject to law and order, “[f]reedom of conscience, the

23. Akin Ibidapo-Obe, *The Dilemma of African Criminal Law: Tradition Versus Modernity*, 19 S.U. L. REV. 327, 352 (1992) (noting that “[a]ll African communities have local deities upon which they swear.”).

24. Cohan, *supra* note 22.

25. Charles Laiton, *Magistrate Stuck to Chair in Suspected Case of Juju*, NEWSDAY ZIMBABWE (June 20, 2015), <https://www.newsday.co.zw/2015/06/20/magistrate-stuck-to-chair-in-suspected-case-of-juju/>.

26. International Covenant on Civil and Political Rights (ICCPR), No. 14668 at 178, ratified Mar. 23, 1976, 999 U.N.T.S. 172.

27. *Id.*

28. Human Rights Committee (HRC), *General Comment 22, Article 18*, 48th Sess., 1993, adopted by Human Rights Treaty Bodies, at ¶ 2, U.N. Doc. HRI/GEN/1/Rev.1 (1994), available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (last visited Feb. 1, 2016).

profession and free practice of religion shall be guaranteed.”²⁹ Yet not all African states conform, like South Africa, where the practice of witchcraft is unlawful.³⁰ In the Americas, a federal court in Brazil in 2014 issued a controversial ruling that rituals practiced by Afro-Brazilian cults, such as Candomblé and Umbanda, lack the religious manifestations and traits of a religion.³¹ The judge in that case ruled that “for a belief to be considered a religion, one must follow a basic text – as the Sacred Bible, Torah, or the Koran, (Bíblia Sagrada, Torá or Alcorão in Portuguese) for example – and have a hierarchical structure, as well as a god to be worshipped.”³² Accordingly, witchcraft practices, especially if used to further a criminal enterprise, violate human rights standards and should fall outside the scope of freedom of religion under the law.³³

In some cultures, witchcraft is used to seal agreements between parties and to ensure success in some sort of endeavor.³⁴ In western Africa, human traffickers use ritualistic validations of contracts to trick parents into sending their children to other countries where they believe they are going to receive educations or lucrative work opportunities.

When trafficking victims or their parents agree to “employment” contracts, albeit often based on false information, Voodoo priests are frequently enlisted to perform ceremonies binding victims to oaths of obedience and silence. Belief in these religious rituals is strong, and trafficking victims trust that whatever punishment the priest has indicated—madness, illness, death—will befall them or members of their families if escape is attempted[.]³⁵

On a more fundamental level, employing such practices reinforces serious gender inequalities already embedded in vulnerable societies and violates the rights of girls and women as understood in international legal

29. African Charter on Human and Peoples’ Rights, OAU Doc. CAB/LEG/67/3, rev. 5, 21 I.L.M. 58 (1982) (adopted June 27, 1981, entered into force Oct. 21, 1986), *available at* <http://www.refworld.org/docid/3ae6b3630.html> (last visited Feb. 1, 2016).

30. *See* Cohan, *supra* note 22.

31. *See* Ministério Público Federal v. Google Brasil Internet Ltda, Tribunal Regional Federal Da 2ª Região, Agravo de Instrumento - Turma Espec. III - Administrativo e Cível, 0101043-94.2014.4.02.0000 (2014.00.00.101043-0).

32. *Id.*; Tiago Chagas, *Federal Court Defines That Afro-Brazilian Cults, Such as Umbanda and Candomblé Aren’t Religions*, BLACK WOMEN OF BRAZIL (Aug. 4, 2014), <http://wp.me/p1XDuf-5iZ>.

33. Ana Dols Garcia, *Voodoo, Witchcraft and Human Trafficking in Europe* 1, UNHCR Research Paper No. 63 (2009), *available at* http://www.ecoi.net/file_upload/1930_1382531731_526664234.pdf.

34. *Id.*

35. KATHRYN CULLEN-DUPONT, *GLOBAL ISSUES: HUMAN TRAFFICKING* 80 (2009), <http://www.scribd.com/doc/44538997/Human-Trafficking-Global-Issues#scribd>.

instruments such as the Convention on the Rights of the Child³⁶ and the Convention on the Elimination of All Forms of Discrimination against Women.³⁷ Where such strong beliefs in the occult and superstitions make up the fabric of many communities, it is understandable that traffickers would use black magic and conjuring the spirit world to coerce, threaten, and control trafficking victims and conflict women.

When witchcraft is used to commit a crime against a vulnerable human being, one or more conditions that vitiate the element of consent are present and exploited. These conditions, set forth in article 3(a) of the Palermo Protocol,³⁸ include:

1. the threat or use of force or other forms of coercion
2. the fear of violence
3. deception or false promises
4. the abuse of power
5. abuse of the victim's position of vulnerability
6. detention or captivity
7. psychological oppression or socioeconomic conditions³⁹

Certainly, each one of these conditions is present in the act of using witchcraft to coerce and control trafficking victims. Most particularly, abuse of a victim's position of vulnerability⁴⁰ is a key element of the impact the introduction of witchcraft rituals has on the trafficking victim because this condition refers to "any situation in which the person involved has no real or acceptable alternative but to submit to the abuse involved."⁴¹

36. Convention on the Rights of the Child (CRC), G.A. Res. 44/25, 44 U.N. GAOR, Supp. No. 49, U.N. Doc. A/44/736 (1989).

37. Convention on the Elimination of All Forms of Discrimination Against Women, adopted Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1979) (entered into force Sept. 3, 1981, ratified by Hungary Dec. 22, 1980).

38. See United Nations Convention Against Transnational Organized Crime (UNTOC), *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, at 41, opened for signature Dec. 15, 2000, T.I.A.S. No. 13127, 2225 U.N.T.S. 209 (entered into force Sept. 29, 2003).

39. See Ryszard Piotrowicz, *The Legal Nature of Trafficking in Human Beings*, 4 INTERCULTURAL HUM. RTS. L. REV. 175, 178 (2009) (citing to *Prosecutor v. Kunarac, Kovac, & Vukovic*, Case No. IT-96-23-T & IT-96-23/1-A, Judgment, ¶ 118 (June 12, 2002)).

40. ANNE GALLAGHER, *THE INTERNATIONAL LAW OF HUMAN TRAFFICKING* 32 (2010) (noting that "the concept of abuse of a position of vulnerability is unique to the Palermo Protocol").

41. *Id.*

Representative Forms of Witchcraft

The term witchcraft is something of a catchall for many practices of the occult. The most widely used term to identify witchcraft is the word “voodoo,” although its specific etymology traces to Western Africa, where voodoo beliefs are widespread, mainly in Nigeria, Benin, Togo and Ghana.⁴² Voodoo is a religion based on the existence of an invisible world interconnected to the visible world.⁴³ Ritual oaths are a practice derived from this religion, and it is such oaths that seal the pact between women, for example, who want to move to Europe and traffickers who victimize them. In voodoo rites, traffickers commit to pay all costs of the journey, while the women promise to repay the money, be respectful to the traffickers and agree not to denounce the traffickers to the police.⁴⁴

Voodoo practices are taken quite seriously throughout the region, even in nations where Christianity and Islam are the majority faiths, as in Nigeria and Ghana.⁴⁵ One reporter has described voodoo as follows:

Voodoo is used in various animism religions which believe that there are spirits in all living things. Most voodoo religions are monotheistic, but believe that individuals are in daily contact with spirits. Spirits can be both good and bad; often bad things in life can be credited to bad spirits. In voodoo, many fetishes are used which can help to communicate with spirits or as protection someone [sic] from bad spirits. Fetishes can include masks, food, talismans, tattoos, or books. The voodoo itself is used to contact God or the spirits and can be used to bless or curse people as well as ask for advice . . .

For many victims, voodoo and voodoo ceremonies are quite scary and have a powerful effect on those involved. If victims are Christian or

42. See Chaudhry & Rafi, *Witchcraft to Witch Lore: A Transformation in Concepts and Practices*, 35 J. OF ASIAN CIV. 105 (2012); see also Johan Leman & Stef Janssens, *Creative Adaptive Criminal Entrepreneurs from Africa and Human Trafficking in Belgium: Case Studies of Traffickers from Nigeria and Morocco*, INT’L J. OF CRIM. & SOC. 153 (2013).

43. Elochukwu Uzukwu, *Body and Belief: Exploration in African Ritology. The Magic of Body Language*, JAARBOEK VOOR LITURGIE-ONDERZOEK 199 (March 2008); see also Roland Pierre, *Caribbean Religion: The Voodoo Case*, SOC. OF RELIGION 25 (1977); *Vodun, African Spiritual Religious Systems*, AFR. PEOPLE, http://www.africanholocaust.net/news_ah/voodoo.htm.

44. See *Stolen Pride*, THIS DAY (LAGOS) (Sept. 29, 2015), <http://allafrica.com/stories/201509291383.html>; Carling, *supra* note 11; see also Johan Leman & Stef Janssens, *Creative Adaptive Criminal Entrepreneurs from Africa and Human Trafficking in Belgium: Case Studies of Traffickers from Nigeria and Morocco*, INT’L J. CRIM. SOC. 153 (2013).

45. See Matthew Villemain, *Onderzoek/West African Voodoo: A Technique for Control by Human Traffickers*, CKM! (July 5, 2015), <http://www.ckm-fier.nl/West-African-Voodoo-A-technique-for-control-by-human-traffickers.ashx>.

Islamic, they are often taught that voodoo is bad or evil which only makes the fear more intense.⁴⁶

Similar to voodoo in the power to control victims, 'juju' ritual is used to solemnify oaths.⁴⁷ For example, those recruited for work overseas, even as a legitimate contractual arrangement undergo a 'juju' ritual that binds them to their trafficker.⁴⁸ Symbolism is a key component of juju. The taking of blood in juju rituals symbolizes the essence of a person's individual power while taking head hair and pubic hair empowers the individual paying for the ceremony to have control over the victim's mind and sexuality.⁴⁹ "If someone's ill, they die or there's some misfortune in the family, it is thought someone is working against them, they're using the power of Juju to put a curse on them."⁵⁰ Academic Mwizenge Tembo cites juju as "one of the most abused, misused, and misconstrued concepts" by Europeans, but importantly notes that amongst its many uses is as a sanction for social behavior.⁵¹

Santería is a syncretistic religion of Caribbean origin.⁵² It is a mixture of several religious beliefs and practices reaching back to the slave trade when Western Africans were brought to the Caribbean, primarily to Cuba and the islands of Hispaniola.⁵³ Santería is defined as "the way of the

46. *Id.*

47. Adulmumini A. Oba, *Juju Oaths in Customary Law Arbitration and Their Legal Validity in Nigerian Courts*, 52 J. AFR. L. 139, 141 (2008).

48. The Oxford Dictionary describes juju as, "An object of any kind superstitiously venerated by West African native peoples, and used as a charm, amulet, or means of protection; a fetish. Also, the supernatural or magical power attributed to such objects, or the system of observances connected therewith; also, a ban or interdiction effected by means of such an object, and jujuism as "the system of beliefs and observances connection with jujus, juju religion." *Juju Definition*, OED.com, http://www.oxforddictionaries.com/us/definition/american_english/juju (last visited Feb. 1, 2016).

49. See Paul Peachey, *Sex Traffickers' Juju Spells to be 'Reversed' as Part of Radical New Scheme to Encourage Young African Victims to Come Forward*, INDEP. NEWS (Feb. 14, 2015), <http://www.independent.co.uk/news/uk/crime/sex-traffickers-juju-spells-to-be-reversed-as-part-of-radical-new-scheme-to-encourage-young-african-10046738.html>.

50. Sarah Bell, *Trafficked Girls Controlled by JuJu Magic Rituals*, BBC NEWS (July 7, 2011), <http://www.bbc.com/news/uk-14044205> (quoting Dr. Hermione Harris from the School of Oriental and African Studies).

51. *Spellbound*, *supra* note 2.

52. For a detailed discussion of Santería and the legality of animal sacrifice, see generally Shannon L. Doheny, *Free Exercise Does Not Protect Animal Sacrifice: The Misconception of Church of Lukumi Babalu Aye v. City of Hialeah and Constitutional Solutions for Stopping Animal Sacrifice*, 2 J. ANIMAL L. 121 (2006).

53. See Rod M. Fliegel, *Free Exercise Fidelity and the Religious Freedom Restoration Act of 1993: Where We Are, Where We Have Been, and Where We Are Going*, 5 SETON HALL CONST. L.J. 39, 46 (1994).

saints” and comes from a mixture of African Yoruba and Roman Catholic traditions and practices that emerged during the slave trade in Cuba.⁵⁴ Santería is also known as La Regla de Oché and the Rule of Osha,⁵⁵ and is believed to be widely practiced throughout the Caribbean basin and among Hispanic communities throughout the United States and worldwide.⁵⁶ Animal sacrifices are an integral part of many Santería rituals, and some practitioners have come into legal problems with municipal and state authorities for sacrificing animals and leaving the carcasses and body parts in public places in violation of local public health ordinances.⁵⁷

In Central America, witchcraft is embodied in the village witch, known as the *bruja*, who is often sought out to foretell fortune or ward off misfortune, to bring fertility to livestock, or conversely to cause havoc on adversaries.⁵⁸ Brujería cuts both ways and can become a spiritual contest between the powers of white witches and black witches. Brujería rituals can include animal sacrifice and be blamed for zombie-ism.⁵⁹ Some brujas do a brisk business from tourists who travel from afar to receive potions, charms, and spiritual protections, paying up to 1000 USD per spell.⁶⁰ One enterprising bruja in a small town in Nicaragua claims clients from Colombia, Panama, and the United States who visit her to help with an unfaithful spouse or male pattern baldness.⁶¹ In Colombia, there is a strong belief in white witches and black witches, and specific rituals are prescribed such as sprinkling a particular kind of salt around the perimeter of a dwelling to ward off evil from entering.⁶² The belief in the village bruja can take disastrous turns, as occurred in 2012 in the Antioquia, Colombia town

54. See Doheny, *supra* note 52; see also Allison J. Cornwell, Note, *Constitutional Law—Free Exercise Clause—Sacrificial Rites Become Constitutional Rights on the Altar of Babalú Aye*, 16 U. ARK. LITTLE ROCK L.J. 623, 625 n.13 (1994).

55. See generally BBC, <http://www.bbc.co.uk/religion/religions/santeria/> (last visited Jan. 22, 2015).

56. Verna C. Sanchez, *Whose God Is It Anyway?: The Supreme Court, the Orishas, and Grandfather Peyote*, 28 SUFFOLK U. L. REV. 39, 43 n.26 (1994).

57. *Id.*

58. According to an interview with the Rev. Rodrigo Ortiz, OFM, a Colombian authority on witchcraft and exorcism. See Claire Luke, *Nicaragua's Diriomo Enchants Visitors with Witchcraft Tourism*, NICARAGUA DISPATCH (June 13, 2013), <http://nicaraguadispatch.com/2013/06/nicaraguas-diriomo-enchants-visitors-with-witchcraft-tourism/>; see also Dave Semirara, *In Search of Real Witches in Nicaragua*, FOX NEWS (Oct. 9, 2013), <http://www.foxnews.com/travel/2013/10/09/in-search-real-witches-in-nicaragua/>.

59. See Jorge Duany, *LA RACIALIZACIÓN DE LA ETNICIDAD EN EL CARIBE HISPANOPARLANTE: HAITIANOS EN REPÚBLICA DOMINICANA Y DOMINICANOS EN PUERTO RICO*, 46 REV. JURIDICA U. INTER. P.R. 739, 748 (2011-2012).

60. Semirara, *supra* note 58.

61. *Id.*

62. Interview with Anonymous, Colombian White Witch, in 2014.

of Santa Barbara where a woman believed to be a witch was beaten and burned to death in her home by residents who claimed that the woman was using witchcraft to make young people sick.⁶³ Given their opportunistic proclivities and the nearly reverent position some brujas hold in their communities, one can assume that a trafficker with a good deal of money to spend would not have great difficulty engaging a less than scrupulous bruja to participate in rituals involving swearing trafficking victims to secrecy.

Witchcraft in North America can take the form of voodoo, vodou or hoodoo, as practiced in the Louisiana bayou and includes “animal sacrifice, singing, drumming, and prayers to the deities.”⁶⁴ Witchcraft is also widely practiced in Native American cultures as well as among Anglo-Americans that adhere to Wiccan beliefs and practices.⁶⁵ Among the Navajo nation, witchery includes making potions from powdered corpses, “especially from the corpses of children, particularly twins,” fingernails, bone and hair.⁶⁶ Regardless of the manifestations and methods, all forms of witchcraft share a common theme of using supernatural forces to place some form of control on the course of a person’s life.

PART III

Nigerian Traffickers and Voodoo

Serious domestic and international human trafficking originates from Nigeria where women and children are trafficked into prostitution rings throughout Europe. In many cases, witchcraft and cult practices are used as a means to coerce, trick, terrorize, exploit, and control Nigerian trafficking victims.⁶⁷

To learn why Nigerian women and children are so exposed to human trafficking, one must know a little about Nigeria and its diverse cultures.

63. *Woman Killed and Burned in Colombia over Suspected Witchcraft*, FOX NEWS LATINO (Sept. 5, 2012), <http://latino.foxnews.com/latino/news/2012/09/05/woman-killed-and-burned-in-colombia-over-suspected-witchcraft/> (last visited Oct. 7, 2015).

64. Boaz, *supra* note 21, at 256.

65. See generally Carmel Sileo, *Religious-Rights Claims by Wiccans Yield Mixed Results*, TRIAL, Sep. 1 2005, at 80.

66. Luke Mastin, *Witchcraft Across the World - Americas*, WITCHCRAFT: A GUIDE TO THE MISUNDERSTOOD AND THE MALIGNED (2009), http://www.witchcraftandwitches.com/world_americas.html. The potions are then used to render curses or protections from the spirit world. *Id.*

67. In 2014 more than 100 Nigerian women were identified as having been trafficked with their “obedience ensured by magic rituals that threaten them with death or infertility.” See Peachey, *supra* note 49.

With more than 150 million people,⁶⁸ Nigeria is Africa's most populous nation and contains more than 350 ethnically diverse and heterogeneous groups within its borders.⁶⁹ Nigeria's 923,768 km² of territory occupies a significant and strategically important area of western Africa, and in fact, ancient sea and land routes used for smuggling and migration originate in or cross through its territory. Weak and dilapidated infrastructure, high poverty (over 70 percent), a low level of education, and high illiteracy are tangible realities in Nigeria, and these background characteristics expose Nigeria to political, economic and religious instability traceable to ethnicity-induced mutual suspicion.⁷⁰

Along with ethnic plurality, there is also religious multiplicity in Nigeria. The three dominant religions are Christianity, Islam, and Traditional practices.⁷¹ Within these are also multiplicities of sects and denominations having varying degrees of fanaticism. Religious practices in Nigeria are based in universal belief in the supreme and the supernatural being popularly called Olodumare (among the Yorubas), Ubangidi (among the Hausas), and Chineke (among the Igbos).⁷² Without exception, within each of these religious structures there is a link between the supernatural and the natural/mundane frequently expressed through strong belief systems.

As a nation, Nigeria officially observes all religious festivals and always declares national public holidays whenever religious festivals are celebrated, especially with regard to Christianity and Islam.⁷³ Religions and the associated belief systems permeate every aspect of the Nigerian people.

68. It is estimated that at least one in four Africans is a Nigerian. See Sahel & W. Afr. Club, *Nigeria*, W. AFR. GATEWAY (2012), www.oecd.org/swac/publications/Nigeria_e-version_en_light.pdf.

69. The three major ethnic groups are the Hausas in the North, Igbos in the East, and the Yorubas in the West. For more statistical information available, see World Statistics Pocketbook, U.N. Statistics Div., Nigeria, UN DATA (Nov. 2015), <http://data.un.org/CountryProfile.aspx?crName=NIGERIA>; Sahel & W. Afr. Club, *supra* note 68; 1 AFRICA AND THE AMERICAS: CULTURE, POLITICS, AND HISTORY 432 (Richard M. Juang & Noelle Morrisette eds., 2008).

70. Omololu Toluwanimi Omololu, *Corruption, Governance and Political Instability in Nigeria*, 1 AFR. J. POL. SCI. INT'L REL. 28, 34-35 (2007).

71. Rose C. Uzoma, *Religious Pluralism, Cultural Differences, and Social Stability in Nigeria*, 2004 B.Y.U. L. REV. 651, 653-55 (2004).

72. See generally LEHMANN & MYERS, *MAGIC, WITCHCRAFT, AND RELIGION: AN ANTHROPOLOGICAL STUDY OF THE SUPERNATURAL* (1989). See generally Walter L. Barrows, *Ethnic diversity and political instability in Black Africa*, 9 COMP. POL. STUD. 139 (1976). See ODETOLA & AWEDA, *MAN AND SOCIETY IN AFRICA: AN INTRODUCTION TO SOCIOLOGY* 42 (1983).

73. Kitause & Achunike, *Religion in Nigeria from 1900-2013*, 3 RES. HUMAN. SOC. SCI. 45, 50 (2013); see also *Festivals in Nigeria*, ONLINE NIGERIA, <http://www.onlinenigeria.com/festivals/> (last visited Nov. 24, 2015).

It is impossible to separate the peoples' lifestyles from their religion. The prevalence of strong superstitions is interwoven around the practices of religious sects attached to both the dominant religions and to traditional belief systems. It is these traditional belief systems that are referred to as voodoo and hoodoo in the West.

Reverence to a Supreme Being and/or other gods is due mostly to the belief that God and the gods are unseen, yet potent forces that permeate one's life.⁷⁴ Such forces are abstract yet invocable, spiritual yet real, powerful and physical in effects, especially when brought forth through desecration or failure to respect oaths after the annexation of the powers of unseen beings/spirits.⁷⁵ Belief in and respect for the supernatural and spiritism therefore rests on the conviction of the existence of unseen beings with magical powers. Among the Yorubas of southwestern Nigeria, for instance, Sango (god of thunder) worshippers believe that a thief or anyone that breaks oaths made at a Sango shrine will be struck and killed by thunder.⁷⁶ On the other hand, the magical powers can be harnessed to help religious adherents in everyday existence. Within the purview of traditional religions particularly, unseen beings and spirits include dead ancestors and relations who are still considered members of the family, available to help and protect the family members still living.⁷⁷

Syncretism⁷⁸ with regard to the fusion of pagan religions is also common in Nigerian religious practices. Commitment to the Supreme God

74. See generally Yusufu Turaki, *Africa Traditional Religious System as Basis of Understanding Christian Spiritual Warfare*, LAUSANNE MOVEMENT, <https://www.lausanne.org/content/west-african-case-study>.

75. See generally Temitope Obasaju Stephen, *The Influence of Corruption on Women Trafficking in Nigeria* (May 22, 2013), <http://ssrn.com/abstract=2268485>; see also Rijk Van Dijk, 'Voodoo' on the Doorstep: Young Nigerian Prostitutes and Magic Policing in the Netherlands, 71 AFR. J. INT'L AFR. INST. 558, 565 (2001); see ODETOLA & AWEDA, *supra* note 72, at 5.

76. E. A. Ajisafe Moore, *THE LAWS AND CUSTOMS OF THE YORUBA PEOPLE* 72 (2013). See generally Marc Schiltz, 1985, *Yoruba Thunder Deities and Sovereignty: Ara Versus Shango*, 80 ANTHROPOS 67, 80 (1985); RICHARD EDWARD DENNETT, *NIGERIAN STUDIES OR RELIGIOUS AND POLITICAL SYSTEM OF THE YORUBA* (1968); see also IMMIGRATION AND REFUGEE BOARD OF CANADA, *Religion That Worships Ogun, Olukun (Olokun), and/or Shango (Sango) and May Be Called "Olokun Ogun Shango"; Number of Adherents; Where in the Country it is Practised and By Whom and Whether This Includes the Bini Ethnic Group [NGA36211.E]* (Feb. 16, 2001), http://www.ecoi.net/local_link/188342/306362_de.html.

77. Turaki, *supra* note 74 (noting "[m]an is not only intimately related to (1) the spirit world, but also to (2) the community of the ancestors, who now live in the past, as well as to (3) the unborn. The life of the community of the living is controlled, maintained and protected by the community of the ancestors. The human community, therefore, is a community of relationships between (1) the ancestors, the 'living-dead,' (2) the living and (3) the unborn descendants. The communal life in this kinship system is 'ancestrally chartered.'").

78. "Syncretism" is defined as "the reconciliation or union of conflicting (as religious) beliefs or an effort intending such." *Syncretism*, WEBSTER'S THIRD NEW INT'L DICTIONARY (2002).

is mixed with faith in minor deities to solve pressing everyday problems.⁷⁹ This paradox makes some devout followers of Christianity and Islam concurrent pupils of diviners and members of voodoo cults, especially when challenges to daily survival compel people to resort to other religious beliefs like witchcraft to provide for various medical, psychological, economic, political power, dispute settlement, and spiritual fortification solutions.⁸⁰

Religious skills, particularly among traditional religious structures, are passed down by oral tradition, which has led to the loss of significant knowledge of traditional religious practices.⁸¹ Often, there is faith and worship confusion in terminology and identity of the various sects and their practices (Juju, voodoo, witch-doctors, medicine men, and so on). These confusions are partly traceable to secrecy and lack of documentation of beliefs and practices, which has not helped clarify misconceptions of their socio-religious roles.⁸² Such secrecy and lack of documentation is precisely what sustains the obnoxious use of religious beliefs by religious leaders who connive with criminal gangs to perpetrate and perpetuate heinous crimes, including human trafficking.

79. Turaki, *supra* note 74 (noting that African divinities are many and have specific areas of influence and control. “Divinities covering different aspects of life, society and community were usually established, such as divinities of the sea or the waters, rain, thunder, fertility, health or sickness, planting or harvest, tribal, clan or family deities.” Turaki also discusses in detail the relationship between a Supreme Being and minor divinities which he labels “henotheism” in which “the worship of one god without denying the existence of other gods.”).

80. According to Turaki, this paradox stems from a widespread underlying influence of spiritualism present in Nigerian culture, and that “[e]verything man is, does, handles, projects and interacts with is interpenetrated with the spiritual. His socio-cultural structures, down to their finest details, are under the control of the spiritual powers or forces.” See Turaki, *supra* note 74.

81. Usually, the practices and information about most aspects of African traditional religion are guarded secretly. These secrets are revealed only to initiates. Those who also have secret information are also under oath not to reveal the secrets to non-initiates. Thus secrecy makes it difficult for non-initiates to have a true understanding of the religions. Unfortunately as the generation of adherents die, so does the tradition become remembered in fewer details. Dislocations, distortions and gaps begin to occur in the body of knowledge of these religions. Since the religions are highly oral and depends on oral transmission, where the priest has died, some religious values, items and knowledge may be lost. See generally IDOWU E. BOLAJI, *AFRICAN TRADITIONAL RELIGION: A DEFINITION* (1973); IMASOGIE, O., *AFRICAN TRADITIONAL RELIGION* (1982). Given the absence of written records, facts about African traditional religion are obtained from few available oral sources like priests, initiates or adherents and physical sources like shrines and sacred places, music dance and drama, religious articles and objects, art works and symbols.

82. See generally Hugh B. Urban, *The Torment of Secrecy: Ethical and Epistemological Problems in the Study of Esoteric Traditions*, 37 *HIST. RELIGIONS* 209 (1998) (discussing the secrecy surrounding many religions and that many cultures actively resist Western attempts to penetrate their treasured knowledge and esoteric traditions); ODETOLA & AWEDA, *supra* note 72.

Against this backdrop the Nigerian government has accelerated its efforts to document cultural knowledge nationwide.⁸³ Generally speaking, Nigeria's varied belief systems are usually humanistic and linked to some form of reward-getting.⁸⁴ Put in pedestal parlance, doing good is good and doing bad is bad. Doing good includes abiding by an oath and doing bad entails some form of oath breaking, and it is summarily believed that people are rewarded on earth for good (keeping an oath, for instance) or punished for iniquities (breaking an oath).⁸⁵ Within this remit people adhere to conditions of oaths even in the face of excruciating pain and even in the face of death.⁸⁶ To ensure respect for an oath and its consequences, adherents of cults and traditional beliefs bind themselves in dramatic ways such as by blood or fetishism that are regarded as having stronger force than a mere contract signed in modern legal jurisprudence.⁸⁷

Since both contract and oaths or covenants are expected to serve the same purposes and be binding even in the same societies, does this make a contract and oath/covenant the same? The following table illustrates some important distinctions:

| Contract | Oath Covenant |
|--|--|
| Contract is an agreement sealed by ordinary promise which may or may not come from the heart | Blood/fetish oath is a covenant sealed by blood or other bodily or sacred artifact |
| Sealed openly at any place and any time | Sealed in secret at designated place of worship or religious belief |
| Parties are not sworn to secrecy | Parties are sworn to secrecy |
| Time bound until fulfillment of | Regarded as eternal, although it |

83. See generally Edewor, et. al, *Managing Ethnic and Cultural Diversity for National Integration in Nigeria*, 4 DEVELOPING COUNTRY STUD. 70 (2014).

84. Expectation or reward or sanction is not limited to adherents of traditional religion alone who believe in law of retribution but also the other two dominant religions of Christianity and Islam both of which teach that one reaps what one sows. E.g., *Book of Job* 4:8 (“[e]ven as I have seen, they that plow iniquity, and sow wickedness reap the same.”); *Al-Isra* 17:7 (“[i]f you do good, you do good to yourselves. Likewise, if you do evil, you do evil to yourselves.”).

85. A. Richard Ogunleye, *Covenant-Keeping among the Yoruba People: A Critique of Socio-Political Transformation in Nigeria*, 3 INT’L J. HUMAN. SOC. SCI. 81, 82-83 (2013).

86. SUUNTAUS PROJECT, HUMAN TRAFFICKING OF NIGERIAN WOMEN TO EUROPE 11 (2015).

87. The oath taken in African traditional belief system is different from an oath taken under the common law statutory declarations system usually backed by oath legislation. The latter could be required for judicial or quasi-judicial proceedings and is sanctioned by punishment for perjury. Oaths under native law and custom are of a deeper consequence and founded on religious and spiritual beliefs of the adherents. See generally ONESIMUS K. MUTUNGI, THE LEGAL ASPECTS OF WITCHCRAFT IN EAST AFRICA WITH PARTICULAR REFERENCE TO KENYA 62-76 (1977).

| | |
|--|--|
| obligation | may be discharged where agreed obligation is fulfilled |
| Breach attracts monetary damages or other financial consequence only | Breach attracts spiritual consequences to be inflicted by the deity offended |
| Punishment may be avoided by various means of influence or escape | Punishment inevitable no matter status or location of adherent |

Although human trafficking crime has gained more productive legal and public attention in Nigeria following the enactment of the Trafficking in Persons (Probation) Law Enforcement and Administration Act of 2003,⁸⁸ the ascendancy of human trafficking began much earlier in 1986 after the introduction of World Bank Sponsored Structural Adjustment Programs (SAP).⁸⁹ Human trafficking during the ensuing decade had been ongoing, but regarded not so much as a crime as, perhaps, a necessary survival strategy in a difficult socio-economic terrain. Also, human trafficking was masked by economic migration legally accepted and culturally encouraged. In fact, international migrants were perceived as champions, icons of progress and models in Nigerian societies, with little or no concern about the routes and dynamics of exit from the homeland.⁹⁰ The World Bank SAP programs caused economies in Nigeria (and elsewhere in the region) to collapse and the well being of average Nigerians drastically deteriorated.⁹¹ The challenging survival environments consequently led distressed citizens into many large-scale emigrations toward “greener pasture,” particularly in Europe.⁹²

Much to the chagrin of many, however, the pasture was not greener at destination countries, and retuning was often impossible for so many reasons, including the stigma of failure, incapacity to repay emigration

88. Trafficking in Persons (Prohibition) Law Enforcement and Administration (Amendment) Act No. 24 (2003) (Nigeria), <http://www.protectionproject.org/wp-content/uploads/2010/09/Nigeria-TIP-Amendment-Act-2005.pdf>.

89. For an in-depth examination of how the SAP and other multilateral economic reform efforts have impacted African nations, see BOLAJI OWASANOYE, NIGERIAN INST. OF ADVANCED LEGAL STUDIES, INTERNATIONAL DIMENSIONS OF POVERTY 18-39 (2004).

90. AFOLAYAN, et. al., DYNAMICS OF INTERNATIONAL MIGRATION IN NIGERIA 27, 28 (2008).

91. OWASANOYE, *supra* note 89, at 18-39.

92. OSITA OSEMENE & YVONNE AWOSANYA-ADEFAJO, CHASING A MIRAGE- MY SEARCH FOR AN OASIS (2012); *see also* KATHLEEN NEWLAND, HUMAN DEVELOPMENT INITIATIVE, RETURN MIGRATION AND DEVELOPMENT IN NIGERIA: CIRCULAR MIGRATION IN PERSPECTIVE 5 (2009).

loans, and being trapped within emigration or trafficking syndicates. Most of this exodus is traceable to ignorance of international migration landscapes, laziness and greed or a combination of these factors.

Among the Nigerian regions most impacted by human trafficking, particularly with regard to overseas prostitution, is Edo State, where early contact with Portuguese slavers and violence from European expansion and conquest resulted in definitive large scale migrations of the people that persist to present times.⁹³ Edo State was created in 1991 and has an estimated population of 3.218 million residents or 2.29% of Nigeria's total population.⁹⁴ At present, Edo State is the largest source of trafficking in persons for prostitution in Europe; about 80 percent of the estimated 100,000 Nigerians trafficked into Europe originate from Edo.⁹⁵

Five main ethnic groups reside in Edo State, and each is distinct in linguistics, social, and cultural features. These groups are: Benin or Edo people 'proper'; the Esan people; Etsako people; and the Akoko Edo people. As a Niger Delta state, oil drives the Edo economy. Yet, the poverty level is as high as 53% with even higher youth unemployment.⁹⁶ As in many other parts of the world, high poverty in Edo serves as a powerful push factor for forced migration and trafficking in persons.

Cultural and traditional institutions are highly revered in Edo State and are often used to reinforce male dominance. Modern religion is intertwined with beliefs in potent traditional deities and personified in a male spiritual leader called the Oba.⁹⁷ Families in Edo society are patrilineal with strong

93. The emigration orientation of Edo people has a long history beginning with the region being a major (arguably the first) point of contact with Europe with the arrival of the Portuguese in 16th century, as exemplified by the Great Benin Kingdom. The contacts were, however, of mixed outcomes beginning with peace and then wars and conquest that climaxed with the Benin Massacre under Oba Ovoramwen Nogbaisi of Benin. Not many people and kingdoms in Nigeria experienced colonial/European contacts and associated migrations as impactful as the Benin/Edo people.

94. National Population Commission of Nigeria, 2006 Population and Housing Census: Population Distribution by Sex, State, LGAs and Senatorial Districts, Priority Table, Vol. 3 at 17 (2010), <http://www.population.gov.ng/images/Vol%2003%20Table%20DSx%20LGAPop%20by%20SDistrict-PDF.pdf>.

95. *Spellbound*, *supra* note 2.

96. While Nigeria is ranked globally as the 10th largest producer of oil, it simultaneously ranks as one of the six poorest countries due mostly to the havoc of corruption. See Jegede, et. al, *Human Trafficking as the Bane of Human Capital Development in the Nigerian Perspective*, 2 AFR. J. CRIME CRIM. JUST. 16, 22 (2011).

97. Edo deities are: Osanobua, the highest god; Olokun, god of the sea and senior son of Osanobua; Ogun, the deity of iron and metal; Osun, the deity of medicine; Obiemwen, wife of earth source of breeding; Ogiuwu, the deity of death; Orunmila, a Yoruba deity; and Esu, the deity of cunning and power. See generally Naiwu Osahon, *The Correct History of Edo*, EDOFOLKS.COM, <http://www.edofolks.com/html/pub133.htm>.

male influence and polygyny, and women are kept in check by traditional taboos and regulations.⁹⁸

Oath taking is a major feature of worship of deities. Oaths are taken before shrines of various deities to underscore the seriousness of transactions and to ensure compliance. The consequences of oath breaking include madness and tragic and untimely death.⁹⁹ Examples of oath-taking scenarios might include politicians swearing an oath of loyalty to political godfathers, business partners swearing faithfulness to agreements, brotherhoods swearing loyalty among members, and trafficking victims swearing to pay agreed fees for trafficking and not to betray traffickers to the authorities. These practices have been referred to as “occult economies.”¹⁰⁰

Women play no significant roles in worshipping the Traditional deities except in cases where a goddess is worshipped specifically by women and women serve as priestesses.¹⁰¹ In fact, women are forbidden from most shrines, and therefore, women fear the shrines and leave religious jurisdictions to the men.¹⁰² Human traffickers consequently capitalize on this imbalance in religious engagement and power relations with the supernatural by taking naturally fearful victims to dreaded shrines under terrifying conditions to take on oaths and curses to satisfy traffickers’ heinous profiteering and generalized economic agendas.¹⁰³

Once before the shrines, the ritual process itself is based on tradition and occurs in a clandestine manner that has been described as very rhythmic and structured.¹⁰⁴ The rituals imposed on trafficking victims are very complex and dangerous psychological processes. To reinforce the psychological manipulations, victims are made to use myriads of symbols

98. MORIRE OREOLUWAPO LABEODAN, *THE FAMILY LIFESTYLE IN NIGERIA* 5-6 (2005).

99. *See generally* MUTUNGI, *supra* note 87.

100. Jean and John Comaroff described these practices as occult economies. *See generally* Jean Comaroff & John L. Comaroff, *Occult Economies and the Violence of Abstraction: Notes from the South African Postcolony*, 26 AM. ETHNOLOGIST 279 (1999).

101. For an interesting discussion of female-oriented traditional cults, see generally Oluwatosin Adeoti Akintan, *Traditional Religious Festivals and Modernity: A Case Study of Female-Oriented Cults Annual Festivals in Ijebuland of South Western Nigeria*, 3 INT’L J. HUMAN. & SOC. SCI. 267 (2013).

102. *See generally* Rosalind I.J. Hackett, *Women in African Religions*, RELIGION AND WOMEN 61 (Arvind Sharma ed., 1994); RICHARD EDWARD DENNETT, *NIGERIAN STUDIES OR RELIGIOUS AND POLITICAL SYSTEM OF THE YORUBA* (1968).

103. *See* Victor Nnamdi Opara, *Emerging issues in the trafficking of African women for prostitution*, in *THE HUMAN COST OF AFRICAN MIGRATIONS* 165, 181 (Toyin Falola & Niyi Afolabi eds., 2007).

104. F. J. Huxley, *The Ritual of Voodoo and the Symbolism of the Body*, 251 PHIL. TRANSACTIONS BIOLOGICAL SCI. 423, 424 (1966).

that may include taking oaths in the nude, relinquishing pubic hair, finger or toe-nails, underwear and sanitary towels as tangible articles of the oath.¹⁰⁵ A blood oath ceremony may ensue in which victims are forced to drink concoctions mixed with their own blood and hair scraped from their body. The rituals may also entail making incisions on parts of a victim's body, a practice that is common in many African traditional religions.¹⁰⁶ The very personal nature of such rituals and intensely personal exposure constitutes an intentional, grand design to create irrational fear in the mind of the victim and therefore becomes a major instrument of control.

Voodoo priests and witch-doctors will then recite incantations and request victims to repeat some lines after them, and they may make victims perform symbolic rituals like picking a gourd from a drawn circle on the floor and hitting it three times on their forehead and chest. Trafficking victims are then made to swear to secrecy, to loyalty, to protecting a traffickers' identity, and to paying the costs of being transported to Europe. They are made to declare that they are beneficiaries of traffickers' kindness and that with their mouths and souls they invite relevant deities to visit them with evils such as sickness, misfortune, and death if they betray traffickers to police, immigration or other authorities in destination countries, as well as if victims fail to pay the amount specified in the "contract." The substance of such a curse oath is for evil to stalk the victim and/or her family if she does not keep to the covenant. Some oaths may be taken with photos of foreign clients or collaborators to give the impression that the spell of the oath binds them as well.

Victims are told that the monetary cost of being transported is relatively low at the initial stage, but the figure is always hiked to prohibitive amounts once trafficked individuals arrive in Europe.¹⁰⁷ This is

105. "Hair, nails, or menstrual bloods can be used to make concoctions which are either used in the ceremony or are kept by the priest symbolizing that part of the victim is remaining in Africa with the possibility that it will be used later if victims do not cooperate . . . Victims can also be scared with cuts that are filled with ashes under the skin in order to please spirits and remember their oath. This idea of branding has been used by traffickers from all cultures, but the voodoo ritual adds a religious component to the scaring." Matthew Villemain, *Onderzoek/West African Voodoo: A Technique for Control by Human Traffickers*, CKM, (July 5, 2015) <http://www.ckm-fier.nl/West-African-Voodoo-A-technique-for-control-by-human-traffickers.ashx>. "Victims can also be scared with cuts that are filled with ashes under the skin in order to please spirits and remember their oath. This idea of branding has been used by traffickers from all cultures, but the voodoo ritual adds a religious component to the scaring."

106. Ogunleye, *supra* note 85, at 82.

107. For example, typical costs range from US \$500 to US \$2,000 for documents and US \$8,000 to US \$12,000 for the travel, but the debt incurred by the victim is typically inflated to between US \$40,000 and US \$100,000. Jørgen Carling, *Trafficking in Women from Nigeria to Europe*, MIGRATION POL'Y INST. (July 1, 2005), <http://www.migrationpolicy.org/article/>

a universal tactic among human traffickers and is done in order to keep victims in a state of perpetual loyalty, with the ultimate purpose of enriching the traffickers.¹⁰⁸ Later, the traffickers reinforce superstitious fears by using amulets and spells to control trafficked women once arrived at destinations in the United Kingdom and elsewhere in the European Union.¹⁰⁹

The rituals are concluded when the symbols of the oath taking are labeled and deposited in the shrines as points of contact in case of default.¹¹⁰ This manner of perfecting the oath contract mimics and mirrors modern justice processes in that the traffickers and victims, through occult intermediaries (voodoo priests and witch-doctors), establish and preserve evidence of a covenant. It is also a method to assert continuing control of the victims, especially with regard to any photos taken, which can later be used as a form of blackmail if there is evidence of non-cooperation or discord.¹¹¹

The United Kingdom has had three notorious Nigerian human trafficking cases since 2011 involving witchcraft to control victims. In July 2011, a British man, Anthony Harrison, held two young Nigerian girls, ages 14 and 16, from Edo State as virtual captives before attempting to traffic them to Greece and Spain for prostitution.¹¹² They had been brought to the UK after being sold into prostitution with the conspiracy of a juju priest.¹¹³

traffickingwomennigeriaeurope; see also Opara, *supra* note 103, at 183; see also Uyanga, et. al, *Female Indebtedness and Enslavement: A Study of Relationships and Trends in Nigeria*, 3 ASIAN J. SOC. SCI. HUMAN. 44, 46 (2014).

108. Roseline Emeh Uyanga, et al., *Female Indebtedness and Enslavement: A Study of Relationships and Trends in Nigeria*, 3 ASIAN J. OF SOC. SCI. & HUMAN. 44, 45 (2014); see also James Badcock, 'Voodoo sex slaves' freed from blackmail by Spanish police, THE TELEGRAPH (June 8, 2015, 4:37 PM), <http://www.telegraph.co.uk/news/worldnews/europe/spain/11659882/Voodoo-sex-slaves-freed-from-blackmail-by-Spanish-police.html>.

109. Emma Anderson, *Busted: Gang that Used Voodoo to Exploit Women*, LOCAL (June 8, 2015, 2:00 PM), <http://www.thelocal.es/20150608/police-catch-voodoo-human-trafficking-group-prostitution>.

110. See Eva Lo Iacono, *Victims, Sex Workers and Perpetrators: Gray Areas in the Trafficking of Nigerian Women*, TRENDS ORGANIZED CRIME 110-128 (2014); O.C. Osezua, *Transmogrified Religious Systems and the Phenomenon of Sex Trafficking Among the Benin People of Southern Nigeria*, 2 AFRREV IAH: AN INT'L J. ARTS & HUMAN. 20 (2014); see also ONIGU OTITE & WILLIAM OGIONWO, AN INTRODUCTION TO SOCIOLOGICAL STUDIES (1981).

111. Bakhyt Moldatjaevich Nurgaliyev & Alexey Vladimirovich Boretsky, *Resistance to Investigation of Crimes, Related to Human Trafficking: The Forms, Methods and Ways to Overcoming*, 6 MEDITERRANEAN J. SOC. SCI. 86, 88 (2015); see also *Stolen Pride*, THIS DAY LIVE, <http://www.thisdaylive.com/articles/stolen-pride/221411/>.

112. *Man Jailed for Trafficking Nigerian Girls Out of UK*, BBC NEWS (July 7, 2011), <http://www.bbc.com/news/uk-england-14065838>.

113. *Id.*

What is notable about both the girls is that each had been subjected to serious physical and sexual abuse from an early age.¹¹⁴ Their mental state and incapacity to have any form of control over their lives made them particularly vulnerable to the ominous threats of punishment from the spirit world, and indeed, their fear of the juju spells cast over them was so great that it took police investigators nearly two years to persuade the girls to talk about their ordeal. One of the girls was even fully convinced that she would die if she testified in court.¹¹⁵

The tactics used to gain control of the two victims through voodoo rituals is worth noting as a stark example of the brutality of the acts.

Girl A endured a ritual in which she was stripped and cut with a razorblade so her blood could be collected. Her body hair was shaved off and she was forced to lie naked in a closed coffin for hours. She then had to eat a raw chicken heart.

Girl B was taken to a river where she was told to eat white clay, had a rock passed from a priest's mouth to hers, was given black soap to wash with and a raw chicken's egg to eat.¹¹⁶

Dr. Harris, who appeared as an expert witness at the trial, said: "The rituals they underwent, which were particularly terrifying, were to instill a maximum amount of terror and imprint on these two very vulnerable young women that they mustn't step out of line or give any information about their experiences."¹¹⁷

Less than a year later, in 2012, Osezua Osolase, a 42 year-old Nigerian man living in Kent, England was found guilty of five counts of trafficking, one of rape and one of sexual activity with a child and sentenced to twenty years in prison in connection with trafficking three Nigerian girls, ages 14, 16, and 17, for prostitution in Europe.¹¹⁸ In the case of the 16-year-old girl, she was taken to a house in Lagos where she was told to bathe with what

114. Sarah Bell, *Trafficked Girls Controlled By Juju Magic Rituals*, BBC NEWS (July 7, 2011), <http://www.bbc.com/news/uk-14044205> (noting that Girl A was physically and sexually abused by her uncle and Girl B was an orphan baby taken in by a man who treated her as a "domestic drudge" and frequently beat her).

115. *Id.*

116. *Id.*

117. *Id.*

118. *Osezua Osolase Jailed for 'Juju' Rituals Trafficker*, BBC NEWS (Oct. 29, 2012), <http://www.bbc.com/news/uk-england-20125115>; *Osezua Osolase Used Witchcraft on Trafficked Girls*, BBC NEWS (Oct. 26, 2012), <http://www.bbc.com/news/uk-england-20096101>.

appeared to be a bloody cloth and then wrap it around her. A priest cut hair from her armpits, cut nails from her finger and toe, and withdrew blood from her hand using a syringe.¹¹⁹ The girl was threatened that if she tried to run away, informed on Osalase to the authorities, or failed to repay him, the parts of her body taken in the ritual would be used to find and kill her.¹²⁰ Like the girls trafficked by Anthony Harrison, Osalase's victim came from a childhood of turmoil and isolation following the death of her parents, which made her all the more vulnerable and susceptible to being victimized.¹²¹

Several cases of Nigerian trafficking have also come to light throughout the European Union that involved using voodoo to control trafficking victims. Girls from Edo State have been trafficked into the Netherlands and Switzerland through a sophisticated Nigerian organized crime group that exploits corrupt Nigerian border officials and air travel routes using forged travel documents and false identities for the girls.¹²² In one case investigated in 2012, which became known as the Koolvis cases, a Nigerian crime syndicate collected more than 120 girls in safe places to be processed through voodoo rites that entailed the girls signing debt pacts as high as 50,000 USD.¹²³

Then they were instructed on what the procedure in the Netherlands [is] with a lot of specific details demonstrating profound knowledge of the Dutch legal and law enforcement procedures. Finally, the young women were provided with authentic travel documents, bearing fake identities, issued by corrupt Nigerian officials. Once on the plane, they were escorted by a facilitator to whom they had to hand over the documents stating false identity that later on were used by other victims. On arrival they immediately applied for asylum as the only way to cross the border without valid travel documentation. They were sheltered in open centres

119. Chris Greenwood, 'Evil' Nigerian People Smuggler Used Witchcraft to Terrify Girls Into Sex Slavery, DAILY MAIL (Oct. 26, 2012, 2:06 PM), <http://www.dailymail.co.uk/news/article-2223740/Osezua-Osolase-Evil-Nigerian-people-smuggler-used-witchcraft-terrify-girls-sex-slavery.html>; *Spellbound*, *supra* note 2 (describing how the 17-year-old was made to drink a bloody potion, while the 14-year-old was subjected to Osolase slashing her chest with a razor and rubbing black powder into her bleeding wounds. If this is not enough, Osolase was also HIV-positive).

120. Greenwood, *supra* note 119.

121. *Id.*

122. RISK ANALYSIS UNIT, EUR. AGENCY FOR MGMT OPERATIONAL COOPERATION EXTERNAL BORDERS MEMBER STATES EUR. UNION (FRONTEX), UNACCOMPANIED MINORS IN THE MIGRATION PROCESS 26-28 (2010), http://frontex.europa.eu/assets/Attachments_News/unaccompanied_minors_public_5_dec.pdf.

123. *Id.*

and instructed to call a number they had been given previously and wait for the contact person to pick them up.¹²⁴

The fear of breaking the voodoo oaths taken by the trafficking victims nearly protected the accused traffickers until Dutch law authorities engaged a local Nigerian priest to help the girls “feel free of their curse and comfortable enough to talk to the police and help convict their trafficker.”¹²⁵ Similar Nigerian trafficking cases involving voodoo rituals have been reported in Germany, Greece, Ireland, Portugal, and Spain.¹²⁶

Trafficking in Body Parts for Witchcraft Rituals

Not only are occult rituals used to perpetuate human trafficking throughout Africa and beyond, but some human trafficking occurs to perpetuate occult rituals.¹²⁷ Some witchcraft practices require the killing of children to invoke supernatural powers derived from their body parts. Harvesting children for sexual brutality involves either trafficking the children to where they can be processed, or killing them on the spot and trafficking the body parts throughout a well-established black market.¹²⁸ These forms of ritual killings have been recorded in Nigeria, Chad, Liberia, and Malawi.¹²⁹ Albino children are especially vulnerable in Burundi, Ghana, Nigeria, South Africa, Tanzania, and Zambia,¹³⁰ where their body parts, “including the skin, tongue, hands, ears, skull, heart, and genital organs, are thought to have special magical powers and are used in potions sold in the occult marketplace.¹³¹ Limbs and other body parts are sold as

124. *Id.*

125. Matthew Villemain, *West African Voodoo: A Technique for Control by Human Traffickers*, CENTRUM KINDERHANDEL MENSENHANDEL (July 5, 2015), <http://www.ckm-fier.nl/West-African-Voodoo-A-technique-for-control-by-human-traffickers.ashx>.

126. *Id.* (“In 2010, German federal police dealt with a case involving 170 Nigerian women. In 2009, 23 individuals were arrested in Spain trafficking women from Nigeria. Cases have also been prosecuted in Ireland in 2012, Portugal in 2014, and Greece in 2009.”).

127. LOUISE SHELLY, *HUMAN TRAFFICKING: A GLOBAL PERSPECTIVE* 275 (2010).

128. John Alan Cohan, *The Problem of Witchcraft Violence in Africa*, 2011 SUFFOLK U. L. REV. 803, 866 (2011) (“According to the South Africa Police Service, ‘there is a belief that body parts taken from live victims are rendered more portent by their screams, which means victims must be subjected to pain before death.’”).

129. SHELLY, *supra* note 127.

130. Cohan, *supra* note 128, at 866-67 (“In Tanzania, a 17-year-old albino girl was eating dinner with her family when two men invaded their hut with knives, quickly hacked up the girl and carried away limbs.”).

131. SHELLY, *supra* note 127 (In 2009, eleven Burundi traffickers were tried for selling albinos to witch-doctors in Tanzania).

“charms.”¹³² The problem became so devastating in Uganda that in 2009 the government established an Anti-Human Sacrifice Taskforce in conjunction with anti-human trafficking efforts.¹³³ According to a BBC report in 2010, clients of witch-doctors capture and kill other people’s children and bring their body parts to the witch-doctors to use in rituals.¹³⁴ One witch-doctor reported that clients came to him with body parts for sacrifice as often as three times a week.¹³⁵ In fact, the BBC reporter noted a container of blood and possibly a human liver in a witch-doctor’s shrine shortly before Ugandan authorities put the property to the torch.¹³⁶

Witchcraft and Black Magic in Latin American Trafficking

In 1999, a young woman named Maria Choz was kidnapped from her remote village in the mountains of Guatemala.¹³⁷ Her abductor, José Tecum, repeatedly raped her and threatened to kill her and her family members if she resisted. To control her and sustain her vulnerability, Tecum employed psychological coercion by exploiting her strong belief in *brujería* by keeping a lock of her hair in his wallet and claiming he had cast a spell against Choz’s family.

Through a circuitous route, Tecum and his victim entered the United States and went to Immokalee, Florida, an agriculture town with a large itinerant Hispanic farm labor population, where Tecum lived with his wife and three children. There, Choz was subjected to the basest forms of forced servitude, mental and physical abuse, rape, and false imprisonment. Tecum’s crimes were exposed by a Collier County Sheriff case worker,

132. Cohan, *supra* note 128, at 866-67 (“Their body parts are thought to have supernatural properties that can make people wealthy overnight or enable fishermen to catch more fish. Some fishermen weave albino hairs into their nets, believing this will enhance their catch.”).

133. Tim Whewhell, *Witch-Doctors Reveal Extent of Child Sacrifice in Uganda*, BBC NEWS (Jan. 7, 2010, 9:45 AM), <http://news.bbc.co.uk/2/hi/programmes/newsnight/8441813.stm>.

134. *Id.*

135. *Id.*

136. *Id.*

137. U.S. v. Tecum, No. 2:00-cr-00005-JES (jmt. entered Feb. 8, 2001), *aff’d* 48 Fed. Appx. 739 (11th Cir. 2002). Tecum was subsequently convicted on six criminal counts and sentenced to 108 months in prison plus fines. The Tecum case was instrumental in passage of legislation creating the T visa (nonimmigrant status) in 2000 for foreign victims of human trafficking to receive temporary residency in the United States and other protections in exchange for cooperating in criminal investigations and prosecutions. The T-Visa also established a path to permanent residency in the United States. Choz was among the first trafficking victims in the United States to receive a T visa. For more information on the T visa program, see *Victims of Human Trafficking: T Nonimmigrant Status*, DEP’T HOMELAND SEC., CITIZENSHIP & IMMIGRATION SERVS. (Oct. 3, 2011), <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>.

who in the course of responding to a domestic abuse incident, discovered that Choz was illegally in the United States and being held against her will in the Tecum residence.

The *Tecum* case shed light on human trafficking in the United States and was prominent in the passage of the United States Trafficking Victims Protection Act of 2000.¹³⁸ What seems to have gotten less attention was the means by which Tecum inveigled his victim by using the superstitious and religious beliefs of his victim to assert and maintain control over her.

More recently, in 2009, several defendants appeared in federal court in California on charges of human trafficking and related offenses.¹³⁹ The case involved four Mexican nationals and a Guatemalan prosecuted for trafficking several women from Mexico and Guatemala into Los Angeles and forcing them into prostitution. The charges against the defendants included: conspiracy to (a) import aliens for immoral purposes (i.e., prostitution) and (b) commit sex trafficking offenses in violation of 18 U.S.C. § 371; sex trafficking of children or by force, fraud, or coercion in violation of 18 U.S.C. § 1591(a)(1); transportation of minors with intent to engage in criminal sexual activity in violation of 18 U.S.C. § 2423(a); importation of aliens for immoral purposes in violation of 8 U.S.C. § 1328; and harboring and transporting certain aliens in violation of subsections in 8 U.S.C. § 1324.¹⁴⁰ After a six-week trial they were convicted of conspiracy; sex trafficking by force, fraud, or coercion; and importation of aliens for purposes of prostitution.¹⁴¹ In addition to intimidating and controlling their victims by threatening to beat them and kill their loved ones in Guatemala if they tried to escape, some of the defendants also used witch-doctors to control their victims by taking locks of their hair and placing a curse on them and their families.¹⁴² The defendants also took the victims to Guatemalan witches in Los Angeles for “reinforcement” when the defendants suspected that their victims might want to escape.

138. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No 106-386, 114 Stat. 1464 (2000).

139. *United States v. Valenzuela*, No. CR 07-00011 MMM, 2009 WL 2095995 (C.D. Cal. July 14 2009).

140. *Id.*

141. *Id.*

142. *See Five Defendants Convicted of International Sex Trafficking for Forcing Guatemalan Girls and Women into Prostitution*, FBI (Feb. 11, 2009), <https://www.fbi.gov/losangeles/press-releases/2009/la021109usa.htm>; Adrienne Alpert, *Sex Trafficking Victims Speak Out Against Trade*, ABC EYEWITNESS NEWS (Feb. 23, 2010, 12:00 AM), <http://abc7.com/archive/7294309>.

PART IV

Releasing Victims from Their Oaths and Superstitious Chains

The immediate and long-term impact of oaths and rituals invoking dire consequences and evils upon trafficking victims needs more study and monitoring. The fear, and even terror, that trafficking victims experience, compounded by the fear of malevolent spiritual forces, might be better understood if we consider the words of famed sociologist Émile Durkheim, who in the course of institutionalizing the sociology of religion, considered religion as obligatory beliefs arising from “feelings of weakness and dependence, of fear and anguish which seized men when they came into contact with the world.”¹⁴³ One can only imagine that in a state of high anxiety, disorientation, and extreme vulnerability, the impact of those elements of religious faith that scare us must be magnified in multitude. Not only then does the rescue and rehabilitation of trafficking victims become a matter of physical and emotional reintegration and provide security, but for some trafficking victims, becoming a survivor entails a spiritual journey as well.

Because many trafficking victims adhere to some form of religious faith or superstition, if government authorities embrace and adapt counter rituals as part of the rescue and rehabilitation process, they may be able to neutralize the effects of oaths and curses and boost the confidence of victims.¹⁴⁴ In one such case, a Nigerian trafficking victim rescued in Italy insisted she was sick and going crazy until she was taken to a Pentecostal church after repatriation to Nigeria for deliverance from her oath and its impact.¹⁴⁵ She firmly believed her illness arose because she breached her

143. EMILE DURKHEIM, *THE ELEMENTARY FORMS OF THE RELIGIOUS LIFE* 223-24 (1976), <http://www.social-sciences-and-humanities.com/PDF/The-Elementary-Forms-Of-The-Religious-Life.pdf>. (Durkheim further wrote, “[b]eing the victims of nightmares of which they were themselves the creators, [men] believed themselves surrounded by hostile and redoubtable powers which their rites sought to appease.”).

144. Such an effort to enlist elements of the civil society to combat trafficking conforms to Art. 9(3) of the Palermo Protocol, which states that “[p]olicies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.” Palermo Protocol, Art. 9(3), G.A. Res. 55/25 (Nov. 15, 2000).

145. U.N. INTERREGIONAL CRIME & JUSTICE RESEARCH INST., *TRAFFICKING OF NIGERIAN GIRLS TO ITALY, REPORT OF FIELD SURVEY IN EDO STATE, NIGERIA* 52 (2013), http://www.unicri.it/topics/trafficking_exploitation/archive/women/nigeria_1/research/tr_okojie_eng.pdf.

oath to her trafficker. The outcome was encouraging and ground breaking even though this could not be proven scientifically.¹⁴⁶

In some instances, a trafficking victim may volunteer some information but refuse to disclose everything she knows about her victimization until the voodoo priest who conducted the ceremony is arrested and the package of “evidence” left in the shrine is recovered.¹⁴⁷ For this reason, law enforcement officials in Nigeria now go the extra mile to investigate and arrest voodoo priests in order to establish a physical and spiritual neutralization of the effects of oaths.¹⁴⁸ In the *Tecum* case, the victim advocate working with Choz told her that she went to see a “white witch” who neutralized the magic Tecum had against her.¹⁴⁹ At that point, Choz began to cooperate with the investigation and the government was able to proceed with building its case against her captors.¹⁵⁰

It is also incumbent upon the State authority to consider culturally appropriate, community-based methods for helping trafficking victims heal and to encourage communities to reintegrate them.¹⁵¹ To overcome social taboos and superstitions, a social reintegration process might include traditional healers and cleansing processes.¹⁵²

Enlisting the assistance of trained former victims to gain cooperation of scared victims is also recommended because very often a victim will identify with someone who has survived similar vulnerabilities and violations. This is a method that has proved quite effective in the rehabilitation and reintegration of former child soldiers and young women

146. *Id.* On the other hand there is controversy in Nigeria that some Pentecostal pastors have been involved in juju rituals in connection to human trafficking. See Gary Foxcroft, *Hunting Witches*, WORLD POL’Y J. (2014), <http://www.worldpolicy.org/hunting-witches>.

147. Andrew Desmond, *Witchcraft and Juju as Barriers to Effective Prosecution of Traffickers – Our Experience at New Scotland Yard*, AFR. UNITE AGAINST CHILD ABUSE (Mar. 29, 2011, 1:18 PM), <http://www.afruca.org/wp-content/uploads/2013/07/Breaking-the-cycle-of-fear.pdf>.

148. Simon Ebegbulem, *Benin Chief, 4 Juju Priests Arrested for Human Trafficking*, VANGUARD (Sept. 7, 2009, 11:06 PM), <http://www.vanguardngr.com/2009/09/benin-chief-4-juju-priests-arrested-for-human-trafficking/>.

149. Interview with Anna Rodriguez, Victim Advocate.

150. *Id.*

151. See Luz E. Nagle, *Child Soldiers and the Duty of Nations to Protect Children from Participation in Armed Conflict*, 19 CARDOZO J. INT’L & COMP. L. 1, 45 (2011).

152. This was among recommendations promoted in a United Nations report known as the Machel Report. See U.N. Secretary-General, *Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children: Rep. of the Secretary-General*, U.N. Doc. A/51/306 (Aug. 26, 1996), [http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/219/55/PDF/N9621955 .pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/219/55/PDF/N9621955.pdf?OpenElement).

forcibly taken by illegal armed groups to be combatants and concubines.¹⁵³ Organizations like Friends of Orphans in northern Uganda, founded by a former child soldier and staffed by former child soldiers, might serve as a useful model.¹⁵⁴ Peer influence provides a two-way healing function: (1) victims, especially children, bond more readily with their counselors because they know the counselors lived their own nightmares; and (2) the counselors make peace with their own demons by helping the victims in their care.¹⁵⁵ This strategy can help victims understand that oaths and spells are ineffective by seeing that others were able to cooperate with the authorities and were not affected.

Prevention, Duty of States and State Responsibility

Duty of States

“It is generally recognized that States have a duty to prevent violence against women, regardless of whether those acts are perpetrated by a State or by private persons.”¹⁵⁶ States also bear the responsibility for preventing “the occurrence of an intentionally wrongful act such as human trafficking and its associated harms,”¹⁵⁷ and must conform to a due diligence standard defined as taking “all reasonable and necessary measures to prevent a given event from occurring.”¹⁵⁸ At the same time, many states recognize the practice of witchcraft and sorcery as a right to religious freedom and freedom of expression. The obligation to protect women from harm should trump an individual’s right to practice witchcraft in cases where the veil of religious beliefs is used to subjugate women and commit crimes against them—especially crimes of coercion and vulnerability. But in some witchcraft rituals, such as in voodoo ceremonies, the witch-doctor’s role is only to formalize some kind of contractual arrangement binding the parties together under omnipotent spiritual forces. To what extent, then, must a witch-doctor be part of a human trafficking crime to make the

153. See Nagle, *supra* note 151, at 50 (citing to *Friends of Orphans*, FREE THE SLAVES (Jan. 2015), https://www.freetheslaves.net/wp-content/uploads/2015/01/FTS_Previous-Award-Winners_FriendsofOrphans.pdf).

154. *Id.*

155. *Id.*

156. Megan Ross, *A Diamond in the Rough: The Transnational Duty to Prevent Human Trafficking in the Protocol*, 21 DUKE J. GENDER L. & POL’Y 325, 333 (2014).

157. U.N. Int’l Law Comm’n, *Draft Articles on State Responsibility for Internationally Wrongful Acts*, U.N. Doc. A/56/10; GAOR, 56th Sess., Supp. No. 10 (2001).

158. *Id.* at Art. 14, ¶ 14.

practice of witchcraft a criminal act that violates public policy, order, and moral authority of the State?

State responsibility is imposed by application of a two-step test. First, is the situation, action or omission attributable to the State? In cases of human trafficking involving witchcraft, authorities in the states where such rituals occur in the commission of human trafficking crime may be well aware of such acts happening. Such knowledge and failure to act constitutes omission, and therefore the first step of state responsibility would be satisfied. If the situation, action, or omission is determined to be attributable to the State, then the second step entails the determination of whether the situation, act, or omission constitutes a breach of an international obligation of that State.¹⁵⁹

The UN High Commissioner for Refugees has set forth the following preventive measures that should be observed by States, and which reflect the intent of Article 9 of the Palermo Protocol:

1. Establish comprehensive policies, programs and other measures to:
 - A. Prevent
 - B. Combat HT
 - C. Protect victims, **especially women and children**
2. Alleviate the factors that make persons vulnerable to trafficking such as such as:
 - A. Poverty
 - B. Underdevelopment and
 - C. Lack of equal opportunity¹⁶⁰

Duty to Educate

Under Article 9, Section 5 of the Palermo Protocol, States Parties have an obligation to adopt or strengthen “educational, social or cultural measures” to discourage the demand that fosters human trafficking. While recognized factors such as poverty, underdevelopment, and lack of equal opportunity are generally understood as “root causes” for human trafficking,¹⁶¹ States Parties obligations should also include measures for

159. U.N. High Comm’r Human Rights, *Recommended Principles and Guidelines on Human Rights and Human Trafficking* 75, U.N. Doc. HR/PUB/10/2 (2010), available at http://www.ohchr.org/Documents/Publications/Commentary_Human_Trafficking_en.pdf.

160. *Id.*

161. Anne Gallagher, *Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis*, 23 HUM. RTS. Q. 975, 992 (2001).

educating affected populations about the use of witchcraft and sorcery to engage in human trafficking.

Education is key to reducing the influence of witchcraft and witch doctors in human trafficking. Witchcraft happens because the impact of superstition outweighs the logic of education. Having no opportunities for a job, no opportunities for health, and no opportunities for improving their lives only compounds the problem. They become easy victims of people who promise them better lives in another country, and the journey begins with traditional methods of perfecting the contract between themselves and the traffickers that exploit them. Moreover, because the arrangements into which the victims enter exist in their minds on a “higher plain,” their bondage becomes more powerful than any chains on their wrists.

PART V

Conclusion

In what seems to be a world of increasing crimes that prey upon vulnerable individuals, for whatever reasons that render them so, the imperative restoration of the rule of law, especially with regard to combating human trafficking, is urgent.¹⁶² The process begins first with identifying and understanding the problem, followed by prevention, then education, then enforcement, and finally with redemption for the victims so that they cease to be victims and instead become survivors. We can have many pieces in place to combat trafficking crimes and to rescue trafficking victims. But if we do not know how to deliver services properly to victims terrorized by witchcraft, then we are not doing enough. For sure, we see that there is a clear need to further study the extent of witchcraft in trafficking.¹⁶³

162. U.N. Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Rep. of the Secretary-General* 2, U.N. Doc. S/2004/616 (Aug. 23, 2004).

163. *Spellbound*, *supra* note 2.

