GUIDANCE ON THE ISSUE OF APPROPRIATE CRIMINAL JUSTICE RESPONSES TO VICTIMS WHO HAVE BEEN COMPELLED TO COMMIT OFFENCES AS A RESULT OF THEIR BEING TRAFFICKED

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PROTOCOLS ....

INTRODUCTION

The need to appraise and identify a victim of trafficking as a vulnerable person with a view to offering assistance and protection within the legal framework of Nigeria’s criminal justice system is the main purpose of this presentation.

The UN Declaration of Basic principles of Justice for Victims of Crime and Abuse of powers defines ‘Victim of Crime’ as; “Persons who individually or collectively have suffered harm, including physical and mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights through acts or omission that are in violation of the criminal laws operative within member states”

In most National legislations, victims of crimes are treated as offenders who deserve punishment and not persons who need help and assistance.

In Nigeria, the vulnerable state of the victim has been recognized by the Trafficking in Persons Legislation which is, the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015.

The law contains what could be termed appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked. The Law also serves as a comprehensive repository for the protection of TIP victims who have been compelled to commit crimes.

The following measures / responses are provided under the law.
1. **Prohibition of discriminatory treatment on account of race, colour, gender, sex, age, language, religion, cultural beliefs or practices, birth or other status including the victim status as a victim of trafficking or having worked in the sex industry:**

   Notwithstanding the fact that the victim could have worked in the sex industry which could be in violation of certain municipal legislations, the law provides this protection because at the time the victim was engaged in the sex industry, it could be at the instance of her trafficker, hence such engagement was induced and not out of her freewill.

2. **Access to adequate health and other social services during the period of temporary residence:**

   Where the victim has access to adequate health and social services during the period of temporary residence, this guarantees her cooperation with law enforcement Agencies, especially with respect to investigation and prosecution of their trafficker as against where the victim is denied these health/social services.

3. **During investigation and gathering of evidence, intrusion into the personal history of a trafficked person is prohibited and the identity of a trafficked victim is always protected:**

   It is essential and imperative in all cases involving a victim who has been compelled to work for a trafficker, to protect the identity and personal history of the victim. This safeguard ensures that the victim is protected from stigmatization and also to ensure that the privacy of the victim is protected.

4. **Protection from reprisal attacks from their trafficker and associates:**

   Victim/witness protection is a time honoured catalyst in criminal justice administration. When the victim is protected from reprisal attacks from their traffickers and their associates, it buoys their confidence to testify in the cases involving their traffickers, it also imbues in the victims confidence in the criminal justice system.

5. **Prohibition of detention or prosecution for offences relating to being a victim of trafficking:**
The law explicitly prohibits the detention and prosecution of victims of trafficking

6. A TIP Victim has the right to legal representative, be provided with information of Court and administrative proceedings, Counselling and information as regard the victim's legal rights in the language the victim understands:

This right which is guaranteed under the Constitution of the Federal Republic of Nigeria 1999 (as altered) was incorporated into the law to strengthen and reinforce the need for the victim to know the rights that inure to him/her with regard to the criminal justice system.

7. A victim of trafficking irrespective of immigration status is entitled to compensation, restitution and recovery for economic, physical and psychological damages, accessed and paid out of the forfeited assets of the trafficker:

The law guarantees the victim a right to institute a law suit for compensation from the proceeds of the forfeited proceeds of trafficking of his/ her trafficker. This is irrespective of the immigration status of the victim

RECOMMENDATIONS

The Criminal Justice responses provided for victims of trafficking under the TIPPEA Act 2015 and other extant policies and regulations are quite comprehensive.

However the enjoyment of these rights are not automatic, hence the following recommendations

1. Concerted efforts of all stakeholders charged with the responsibility of the treatment and protection of victims of trafficking in persons.

2. Enactment and Strengthening of municipal Laws dealing on Victims’ Protection and Assistance.

3. Simplifying the Mutual Legal Assistance Process between Member States to facilitate safe return of victims.

4. Synergy between International Law Enforcement Agencies and local Law Enforcement authorities.
5. Inauguration of special Committees to review the legal framework on the extant criminal justice responses in member states to make them amenable to prevailing circumstances