Trafficking of Women Across the Borderlands in Kenya

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Abstract

Modern-day slavery in the East African region is often manifested in human trafficking. Human trafficking in Kenya can be traced back to the 17th Century when the slave trade was carried out by Arab traders. It is one of the most lucrative businesses in Kenya today. Using an extensive literature review, review of government and non-governmental reports, and thematic analysis of videos and documentaries, this paper examines the genesis, proliferation, and drivers of human trafficking. Broadly, the paper focuses on understanding Kenya's position as an origin, transit, and destination state, and how these have created a permissive environment for traffickers to move people through Kenya's borderlands. This analysis contributes towards a nuanced understanding of human trafficking patterns as well as informs policy options for Kenya and regional and supranational bodies such as UNHCR with a special focus on women. Women are vulnerable parties of human trafficking, as they have historically been susceptible to violence and exploitation in society.

Key Words: Human Trafficking, Women, Porous, Security, and Development

Introduction

Human trafficking is a criminal activity with far-reaching consequences, especially for an individual's dignity. For the purposes of this paper, it is essential that a distinction between smuggling and trafficking is outlined. While smugglers move migrants across borders illegally and with their consent, trafficking on the other hand involves the movement of people without their consent, it is a crime against the person, as well as a human rights

violation (Federal Department of Foreign Affairs [FDFA], 2022). The nature of human trafficking means that a victim of trafficking is at high risk of infections due to the denial of basic amenities such as food, sleep, or medical treatment and safety. This can have adverse social, psychological, sexual, and physical effects on the individual (Gezie, Yalew, & Gete, 2019). People who have been trafficked could be exploited sexually, forced to remove and give their organs, forced to work, and forcefully recruited into armed groups (Bigio & Vogelstein, 2019). Human trafficking has implications for peace and security, as this activity can be used for instance, by armed groups to raise income and expand their power and military capabilities; groups such as the self-proclaimed Islamic State in Iraq and Syria and Boko Haram in Nigeria have enslaved women and girls and generated revenue from sex trafficking (Malik, 2017). Thus, dealing with human trafficking is in line with regional agendas such as the AU Agenda 2063, which set out to make Africa a conflict-free zone, making peace a reality through the 'Silencing the Guns in Africa by 2020' initiative. Human trafficking is detrimental to the advancement of development at the global and national levels. As was highlighted in the United Nations Development Report (1994), human security threats are no longer just personal, local, or national concerns. These issues have become global and they are characterized by having global impacts (United Nations Development Programme, 1994).

Human trafficking was practised by slave traders in Kenya's early history. In East Africa, slave trade was mainly carried out when Islam was gaining strength, especially along the coast before Europeans started participating in slavery. Arab Muslims would capture Africans and sell them to the Middle East where they worked as field workers, teachers, or Harem guards, which is the reason behind the castration of male slaves being a common practice. Muslims were however excluded from slavery on the grounds of Islamic legal views. Zanzibar was used as the focal point and slave hub for the East African slaves (Fröhlich, 2019). Slavery in East Africa was abolished in 1909 after Great Britain pressured Sultan Seyyid Barghash of Zanzibar to sign a treaty that made the slave trade illegal in 1873 (Fröhlich, 2019). Despite Kenyans in the earlier centuries had been victims of the slave trade, the history part of this paper will use the Transatlantic slave trade as it was one of the biggest forms of African slavery in demonstrating the slave trade and its similarities to modern slavery which encompasses Human Trafficking.

Methodology

The research design employed in this paper dealt with data collected from secondary sources. This data has been organized, analysed, interpreted, and presented systematically. The objective of using this process is to ensure that the information gathered is credible and reliable for the purposes of usage by practitioners, academics, and policymakers. Journal articles, books, legal documents and frameworks, News broadcasts, and conference papers were all analyzed and put together to create a broad perspective and understanding.

African Slavery

In 2003, U.S. President George W. Bush spoke about human trafficking at the United Nations (UN) General Assembly, "We must show new energy in fighting back an old evil. Nearly two centuries after the abolition of the transatlantic slave trade and more than a century after slavery was officially ended in its last strongholds, the trade in human beings for any purpose must not be allowed to thrive in our time" (Bush, 2003). The statement demonstrated an interconnection between human trafficking and slavery. Bravo's (2011) analysis of the transatlantic slave trade and white slavery also gives a better understanding of human trafficking which may in turn be useful in combatting modern trafficking of humans more effectively than current efforts. As per these statements, the slave trade was indeed a precursor of human trafficking.

Christopher Columbus, during his arrival in America in 1492, could be argued to be the foundation of the transatlantic trade. Columbus, in his quest for a direct water route, on behalf of the Spanish Monarchy, from Europe to Asia stumbled upon the Americas which he referred to as the 'New World' (History.com editors, 2009). He first landed in what is now known as the Bahamas, where he came across the Arawak Indians who welcomed him with kindness and generosity (Liberation School, 2014). He however took some of the Arawaks into captivity in search of gold and later enslaved more Indians across Hispaniola Haiti and the Dominican Republic.

Columbus later returned to Spain where he reported on the incredible wealth the islands of the 'New World' had to offer. This resulted in the monarchs handing Columbus 17 ships and more than 1,200 men to assist in his new expedition of searching for wealth. He established a system where the American natives were subjected to slavery and brutality

leading to the death of many natives. Due to Columbus' expeditions and 'discovery of the New World', a series of exploration and exploitation of the Americas began, and because the indigenous Americans were unable to withstand some of the harsh working conditions, the Europeans shifted to Africans, who came as a result of the Transatlantic slave trade (Liberation School, 2014).

In Africa, enslavement took place before the Transatlantic Slave Trade. However, this later turned out to be a contributor to the Transatlantic Slave Trade. African slaves came to be as a result of tribal and cultural wars where stronger tribes captured and enslaved members of the defeated tribe; criminal activities, where the elite punished subjects for crimes by selling them as slaves; and excommunication where members were cast out of the communities and into slavery by tribal or ethnic groups as a form of punishment. These brought about some of the forms of trade in Africa such as the Tran-Saharan Slave Trade which provided a source of slaves and trade routes that later fueled the Transatlantic movement (Muhammad, 2003). The age of 'discoveries' that brought about the opening up of sea routes to Africa, Asia and America enabled the Western European countries led by Portugal to make slavery a global venture. European slave traders acquired African slaves through kidnapping and the willingness of some African monarchs to supply some of their natives in order to advance their own interests.

Impact of Slavery on Africans

Since some Africans would resist entering ships during departure, the slave traders would often use the bullwhip to force them into the ships. They would also use scorching hot iron tools on the bodies of the slaves. This also served as a means of branding in order to designate ownership, and most times the mark represented the monarch that captured the slaves. It also helped the slave traders restrict the slaves from running away or engaging in slave insurrection. The branding mechanism did not just stop at the departure stage as Africans would receive more brandings each time they would be sold. In transit, the slaves were subjected to extreme and inhumane conditions including being forced to relieve themselves where they stood or lay, and the resulting urine and excrement would mix with other bodily fluids, as well as food and water, creating a breeding ground for disease and infection. This was due to the fact that many slaves were packed tightly into the hold of a ship, with little space to move and no access to fresh air or sunlight. The situation affected

them psychologically causing disruption of family and cultural ties which further caused emotional damage (Muhammad, 2003).

The health of Africans was also affected owing to the fact that the ventilations and sanitary conditions in the ships were poor. They were subjected to various forms of diseases such as measles, fever, and scurvy that caused the death of many of them. There were also Africans who suffered from seasickness because they were not used to travelling by sea. As a restriction measure due to fear of escape, the European traders would use heavy iron shackles on African ankles and wrists which would cause additional injury. There were slaves whose chains were linked on the same iron and connected to each other's limbs making it a burden to both parties. African women slaves would occasionally be raped by the Europeans both the captures on the ship and with buyers on land. The pregnant women would be forced by their masters to lie on the ground facing down with their pregnant bellies in a hole and would be continuously beaten using a bullwhip as a way of punishment. The slavers saw this as a way of instilling fear in not only the mothers but also the fetuses. African slaves who were found to be rebellious would be killed and their corpses thrown in the waters as a way of instilling fear in the rest. At times, the flesh of those that were killed would be forcefully fed to the enslaved people. The Europeans would also use amputation of limbs to instil fear in those that attempted to escape (Muhammad, 2003).

African slavery also led to the establishment of The English Slave Triangle, which is a pattern that was established by John Hawkins, a privateer commissioned by the Queen, Elizabeth I, to attack Spanish fleet as a way of maintaining maritime dominance of the trade passages. It is during this career that Hawkins ventured into slave trade where he violently captured Africans from Sierra Leone to the Spanish plantations in the Americas in exchange for pearls, hides and sugar. His business in trading with Africans became so lucrative that the Queen funded his subsequent expeditions and provided ships, supplies and ammunition. Hawkins executed three major slavery expeditions in the 1560s that created the slave triangle between England, Africa and the 'New World'. This meant that English goods would be traded in Africa (West Africa), slaves were captured from Africa across the Atlantic, and the products made in the 'New World' was transported to England (Royal Museums Greenwich, 2022).

How The Transatlantic Slave Trade Impacted the European States

Through the Transatlantic slave trade, Europeans were able to acquire free labor especially in their domestic plantations and in the development of lands acquired in the 'New World' led by Spain. The 'New World' which was also most western European colonies provided agricultural produce such as sugar, cotton, tobacco, indigo, rice and other crops that would be exported to the European market. This enabled Europe to have enough material wealth that later resulted in the Industrial Revolution.

As African slaves were treated as a commodity, nation-states imposed a system of import and export taxes for slave traders on every slave purchased and this benefitted the respective nation-states financially. The Portuguese were at an advantage when it came to this as they for the better part of the early stages of the slave trade had a monopoly and the tax effectively raised the revenue of the Portuguese government.

Importance of Women

Just like men, women had value as they had the highest expected output levels as they had the ability to have children who were later enslaved by their mothers' owners by law. This made the average price of women slaves higher than that of their male counterparts up to the puberty stage. Pregnant women increased the slave trader's wealth and that of the slave master.

Global, Regional, and National Instruments Tackling Human Trafficking

Globalization, a phenomenon that has occurred over the 20th and 21st Centuries, is characterized by the increase in the flow of people, goods, and services across international borders. These borders have functioned as a source of trade, legal or illegal in nature (Gioto, Muteti, & Rono, 2018). There are also many borders across the globe that have become flight and refuge zones for people who are fleeing conflict. Increased border activity, coupled with the conditions outlined before that face border communities have led to challenges that are borderland-related crimes and threats to security (Gioto, Muteti, & Rono, 2018). These threats are complex because they are characterized by movement across national borders. This movement can in some cases lead to the limitation of action that law officials from a singular country can undertake against the perpetrators.

Globally, action has been undertaken to ensure that regional or global conventions are created and implemented to build capacity and institutes that can deal with the perpetrators of crimes of this nature. The main instrument in the fight against transnational organized crime

in the international system is The United Nations Convention against Transnational Organized Crime (UNTOC). This convention does not offer a precise definition of the term transnational organized crime, nor does it list the specific crimes that constitute a transnational organized crime. However, Article 2(a) of the convention does offer a definition of the term 'organized criminal group' (United Nations Convention against Transnational Organized Crime, 2000):

Organized criminal group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.

The definition of the term organized criminal group is crucial as it aids in identifying the perpetrators of transnational organized crimes. As mentioned before, a definitive working definition of the term transnational organized crime has not been provided by the United Nations (UN), and this is a deliberate move intended to allow for broader applicability of the UNTOC to new types of crime that emerge constantly as global, regional, and local conditions change over time. The scope of crimes that are defined as transnational under the UNTOC is: firstly, an offence that is committed in more than one country. Secondly, an offence that is committed in one country but a substantial part of the planning, preparation, direction, or control was done in another country. Thirdly, an offence is committed in one country however it was perpetrated by an organized criminal group that has engaged in criminal activities in more than one country. Lastly, an offence that is committed in one country but has a substantial impact on another country (United Nations Convention against Transnational Organized Crime, 2000). This scope is important as it provides an implied definition of transnational organized crime, as a criminal offence, which is done with the aim of profit, that has international implications or impacts, while still giving room for global complexities surrounding the issue and allows for a wide range of joint efforts to overcome this challenge.

The United Nations Convention against Transnational Organized Crime was adopted by the General Assembly resolution 55/25 of 15 November 2000, and entered into force on September 29, 2003 (United Nations Office on Drugs and Crime, 2022). Over the years, the convention has been supplemented by three protocols namely (collectively known as the Palermo Protocol): the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Protocol against the Smuggling of Migrants by Land,

Sea and Air, and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms. Each of the protocols mentioned before has been created to target specific areas as well as manifestations of organized crime (United Nations Office on Drugs and Crime, 2022). The outline for first and second protocols will be outlined due to the specific focus of this paper on women as a vulnerable group to human trafficking while bearing in mind that some of the women in question will be individuals who are migrants smuggled into Kenya from Ethiopia in an effort to flee from conflict and violence (Gezie, Yalew, & Gete, 2019).

The purpose of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children as outlined in Article 2 of the protocol (United Nations Convention against Transnational Organized Crime, 2003):

> *(a)To prevent and combat trafficking in persons, paying particular attention to women and children, (b) To protect and assist the victims of such trafficking, with full respect for their human rights, and (c) To promote cooperation among States Parties in order to meet those objectives.*

This protocol entered into force on December 23, 2003, a landmark event as it is the first legally binding international instrument that provides a definition of trafficking in persons (United Nations Office on Drugs and Crime, 2022). Which is outlined (United Nations Convention against Transnational Organized Crime, 2003):

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

This definition was specifically crafted to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in person cases (United Nations Office on Drugs and Crime, 2022). The second protocol, the Protocol against the Smuggling of Migrants by Land, Sea and Air, was entered into force on January 28, 2004. It was put in place to help deal with the growing challenge of organized criminal groups that have been smuggling migrants across international borders. This is an endeavour that has been noted to often be at high risk to the migrant and great monetary profit to the organized

criminal groups (United Nations Office on Drugs and Crime, 2022). The protocol is notable for being the first legally binding international instrument that provides a definition of the smuggling of migrants (United Nations Convention against Transnational Organized Crime, 2004):

> *'Smuggling of migrants' shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.*

The UNTOC has not been immune to criticism, more than two decades after it came into force, the question is why has transnational crime not diminished? Some critics point towards its lack of a clear definition of transnational organized crime. As Peter Gastrow (2018), former director of the Institute of Security Studies in Cape Town noted, this lack of clarity impeded implementation because as a result the concept of transnational organized crime remaining too vague, and thus, the convention was handicapped and could not effectively deal with the varied forms in which it presented itself, a prime example he explains is the manifestation of cybercrime (Gastrow, 2018). Gastrow also notes some form of indifference towards UNTOC among some countries, as he notes the convention does not seem to have a role as far as law-enforcement cooperation is concerned. Countries like the United States have circumvented the convention through the creation of extraterritorial jurisdictions enabling their law enforcement to function on foreign soil (Gastrow, 2018).

On the African continent, the United Nations Convention against Transnational Organized Crime and the Palermo Protocol are not the only legal instruments created with the aim of tackling the issue of human trafficking. The African Union (AU) in conjunction with the European Union 2006 developed the Ouagadougou Action Plan. This action plan was drafted to help Combat Trafficking in Human Beings, Especially Women and Children. The action plan draws from universal legal documents such as; The Universal Declaration of Human Rights (1948), The UN Convention on the Elimination of all Forms of Discrimination against Women (1979), The UN Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), and A World Fit for Children - UN General Assembly Special Session on Children (2002) among other international conventions (African Union & European Union, 2006). This action plan was also informed by the African 'Banjul' Charter on Human and People's Rights, which was put into force in 1981 under the banner of the Organization of

African Unity (OAU), which was later replaced by the AU, as well as its Protocol on the Rights of Women (2002).

These legal instruments were created at the continental level because the AU recognized the need to address border problems that threaten peace and security. The Ouagadougou Action Plan is a strategic migration policy framework drafted to help deal with the challenge of irregular migration, trafficking, brain drain and migrant rights (African Union, 2019). The need to address migration and the resulting challenges in Africa has grown, as dynamics shift on the continent. There are emerging trends across Africa, for instance following the collapse of Libya, there was a noted increase in the overlap between trafficking in persons and migrant smuggling (African Union, 2019). By 2016, when various states across North Africa and in the Middle East had collapsed there was a noted spike in incidents of irregular migration, while long-recognized forms of trafficking such as child trafficking, trafficking for domestic servitude, forced labour and sexual exploitation continued to proliferate within and beyond the continent (African Union, 2019).

Twelve years after its adoption the Ouagadougou was assessed by the AU to determine how effective the action plan was at assisting Member States to combat human trafficking. The evaluation determined some gaps in the action plan and its subsequent implementation including firstly, that 'trafficking in person' is the leading migration challenge as well as the main cross-border or transnational crime concerning the AU member states, which is the same at the global level (African Union, 2019). Secondly, there was a challenge with the implementation of the action plan. The action plan was not created in tandem with a regional framework or structure dedicated to its oversight or implementation. This led to issues around the direct adoption of the action plan among the AU member states, where member states preferred to use their available National Action Plans backdrop of the UNCTOC and the Palermo Protocol and other regional and international frameworks (African Union, 2019). Lastly, the action plan was not adaptive enough in nature to evolve alongside the challenge of human trafficking. This transnational crime has evolved on the continent with noted increased social, economic, environmental, and political pressures. When this is juxtaposed with the increasingly restrictive migration regimes abroad, notably in European countries, that are pushing vulnerable migrants into the arms of international criminal networks/transnational criminal groups that facilitate human trafficking and smuggling (African Union, 2019).

The existence of the gaps highlighted above in the global and regional instruments dealing with transnational organized crime and more specifically human trafficking means that national instruments to effectively deal with these challenges must address these gaps. While this security challenge is experienced all around Africa, it is worrisome to note that the majority of the international focus has been on West Africa, while transnational crime in East Africa has not garnered the same level of attention (Gastrow, 2011). This has largely been attributed to the 'cocaine corridor' in West Africa that is being utilized to traffick drugs into Europe. Between 2019 to 2021, there were record-breaking seizures of cocaine in West Africa; drawing international attention. The coastal countries stretching from Senegal to Guinea, through Gambia and Guinea-Bisau are once again acting as a major corridor for cocaine enroute to European markets from Latin America (de Luigo, 2021).

This attention has meant that issue of transnational organized crime in East Africa has been overlooked. In 2011 the former executive director of the United Nations Office on Drugs and Crime noted that East Africa had become a free economic zone for all manner of trafficking, including drugs, migrants, guns, hazardous wastes, and natural resources (Gastrow, 2011). The borderlands in the Horn of Africa region have unfortunately been synonymous with economic, social and political marginalization, entrenched poverty, conflict and violence, and forced displacement spilling across national boundaries (World Bank, 2020).

Unfortunately, Kenya is also among the states that are plagued by the security challenges of transnational organized crime. There are an estimated 14.5 million people in Kenya's 21 border counties who are plagued by inadequate means of livelihood and thus some members of the communities in these areas are driven towards committing transnational crimes for survival (National Crime Research Centre, 2019). The identified prevalent borderland-related crimes in the country include drug trafficking, border-point corruption, cross-border robbery, cross-border stock theft/cattle rustling, smuggling of counterfeit goods, illegal possession of forest products (for example charcoal and sandalwood), trafficking of forest products (for example charcoal and sandalwood), use of unauthorized fishing techniques or equipment, provision of safe havens for both local and cross-border criminals, cross-border terrorism, smuggling and proliferation of arms and weapons, cross-border robbery/theft of goods on transit, currency forgery, and human trafficking (National Crime Research Centre, 2019). This paper, however, focuses on human trafficking as a critical challenge in Kenya.

Human trafficking is widespread in Kenya and the country has been identified as a source, en route and destination country for victims of trafficking. There are Kenyan nationals who are trafficked to other countries in Europe, the Gulf, and North America, while nationals from other East African and Asian countries are in transit in Kenya en route to other countries (International Organization for Migration, 2007). The available legal instruments in Kenya created to tackle the challenge of human trafficking include the Counter-Trafficking in Persons Act (2010). The Act provides a definition for 'Trafficking in Persons' under Section 3 (1), which is a criminal offence in Kenya (National Council for Law Reporting with the Authority of the Attorney-General, 2010):

> *(1) A person commits the offence of trafficking in persons when the person recruits, transports, transfers, harbours or receives another person for the purpose of exploitation by means of— (a) threat or use of force or other forms of coercion; (b) abduction; (c) fraud; (d) deception; (e) abuse of power or of position of vulnerability; (f) giving payments or benefits to obtain the consent of the victim of trafficking in persons; or (g) giving or receiving payments or benefits to obtain the consent of a person having control over another person.*

The Counter-Trafficking Persons Act reflects the Government of Kenya's commitment towards the protection of victims of human trafficking. It has a principle of non-punishment as outlined in Section 14 of the article. This section makes it clear that victims of human trafficking shall not be held as liable parties for the offence of being in Kenya illegally, or for any other illegal activity that was committed as a result of being trafficked (National Council for Law Reporting with the Authority of the Attorney-General, 2010). In 2019, the Kenyan Government set up the National Employment Authority (NEA) which is among the set out national preventive measures against human trafficking. This organization's goal is to make it safer for Kenyans to find employment (Odhiambo, 2021). However, these legal instruments have not been sufficient enough to deal with the threat that human trafficking poses to Kenya and the international community.

Drivers of Trafficking of Women in Kenya

Corruption

The prevalence of human trafficking cannot take place without corruption (OECD, 2016). The complicity and collusion between corrupt officials and organized criminal networks have played an important role in the occurrence of human trafficking and it could not have operated on the scale that it does if not for this fact (Leslie, 2009). Tremblay (2009) further argues that human trafficking would not have prevailed and be widely spread if it were not for the leverage supplied by corruption. Corruption is argued to have four goals: Allow the crime to be invisible, facilitate impunity once a case of trafficking in persons is to be detected, facilitate the execution of the crime and assure the re-victimization of the trafficked persons (IACC, 2010). Law enforcement agents who engage in bribery facilitate the recruitment, transportation and exploitation of victims while corrupt criminal justice authorities aid by obstructing investigations and prosecutions of cases as well as hinder the protection of the victims. There is also corruption within the private sector where hotels, travel agencies, marriage bureaus and model agencies have contributed to human trafficking. Corruption is one of the most crucial costs for traffickers as it is a major factor in the success of traffickers (PACO, 2002).

In Kenya, the corruption stages in human trafficking range from, workers in some of the foreign missions, staff members from the United Nations refugee camp in Dadaab (Gastrow, 2011), and law enforcers such as the police, immigration officers, and officers at the criminal justice department. There are also networks that are owned by respected individuals operating under 'legitimate' businesses and with connections with top government and political figures who coordinate and organize the trade, especially in Northern Kenya and Nairobi (IPI, 2010).

Poverty

Populations living in extreme poverty are at a higher risk of being preyed upon by traffickers who take advantage of their situation and approach them with false promises of better living conditions. According to the World Bank macro poverty outlook, estimates showed that the country's extremely poor, living below USD 1.9 (Ksh. 220) a day, to be 34.3 per cent in 2021 (Guguyu, 2022). On the other hand, the women in Kenya who are under the employment umbrella 49.3 per cent (Statistica, 2022). In the gender pay gap, women globally earn 23 per cent less than men. This is according to an article written by *Daily Nation* which also mentioned that the report on Gender Equality in Kenya further states that Kenyan

women on average earn 32 per cent less than men and that with the current rate of change, pay parity may not be achieved before 2069 (*Daily Nation*, 2020).

This shows that there is still a substantive number of not just Kenyans but women who are still vulnerable to human trafficking due to their desperation to overcome poverty. Such women, in an attempt of looking for jobs to better their lives, are usually targeted by traffickers who exploit them by offering better jobs abroad, where they end up as commercial sex workers or subjects of forced labor.

In some instances, some families by reason of being poor end up accumulating huge debt to their fellow community members. The accumulation of the debts forces them to give away their young and middle-aged women up for marriage or to go work as a way of paying back the debts or in order to avoid facing the repercussions. Some of them end up being raped or abused, doing forced labor or prostitution.

Climate Change

Climate Change has become a new global phenomenon that has impacted most countries in the International system, especially with the rise of Global Warming. The effects of Climate Change lead to the disruption of the economic and social environments of the affected people thus increasing their vulnerability both as victims and perpetrators of criminal activities.

Kevin Bales, a professor of contemporary slavery said:

> *'Well, we know environmental change is part of the engine of slavery. The sharp end of environmental change, whether slow, or rising sea levels and desertification, or disastrously sudden like hurricanes or tsunamis, comes first to the poor. I've seen men, women and children, families and whole communities impoverished and broken by environmental change and natural disasters. Homes and livelihoods lost, and these people and communities are easily abused. Especially in communities where corruption is rife, slavers act with impunity after environmental devastation, luring and capturing the refugees, the destitute and dispossessed' (Bales, 2016).*

This means that communities that are dependent on a stable climate for their sources of livelihood would be at risk of being trafficked. According to Malinoski and Schulz (2019), because human trafficking is largely seen as an international crime perpetrated by organized criminal networks such as gangs, mafias and terror groups, and not local or regional individuals, interventions during and after climate disasters focus on humanitarian aspects

with little or no attention on possible incidents of Human Trafficking among the affected population. Like many African countries, Kenya heavily depends on agriculture and self-subsistence farming and in cases where there are no other alternatives, the effects of drought become profound causing an increased vulnerability to human trafficking. This is because the affected communities are forced to engage in negative coping mechanisms such as early marriages, child labor, or commercial sex work in order to guarantee their survival (Malinoski & Schulz, 2019).

Social and Cultural Practices

African countries among their communities possess positive and cultural practices that have helped in shaping some of their national values such as respect for elders, tolerance, solidarity, sharing, helping each other, and mediation and negotiation (Idang, 2010). However, there are some social and cultural beliefs and practices within these African communities that have proven to have harmful effects on particular groups within the communities such as women and children. It has been proven that in nearly every African country, women are subjected to second-class citizen status (Msuya, 2017). There has been an increasing growth in the interconnection between Human Trafficking and some negative cultural beliefs and practices caused by social practices that devaluate women and girls in society making them more vulnerable to traffickers (UNODC, 2013).

In Kenya, there are communities whose practices and beliefs make women vulnerable to trafficking. For example, in some communities, young women have limited access to education because of limited traditions such as being considered ready for marriage once they get to puberty. This also leads us to another cultural belief and practice known as early marriage which in some cultures is considered a way of preventing pregnancy and pre-marital sex which may bring shame and dishonor to the family. Most communities in Kenya put value on dowry payment which is usually given by the groom to the bride's family. This practice is usually abused by traffickers who act as potential husbands and this attracts most greedy or desperate parent or guardians to give away their daughters for financial gains (Msuya, 2017).

There are also some tribes in Kenya that practice Female Genital Mutilation (FGM) also known as Female Genital Cutting (FGC). This refers to all kinds of procedures that involve partial or total removal of the external female genitalia or other injuries to the female genital organs for non-medical reasons (WHO, 2013). FGM is used as a measure to control

the sexual desires of young women so that they can only be satisfied by their husbands once they are married (Musya, 2017). It is also seen as a way that enables men to have easy intercourse with their wives (Wambura & Khaday, 2010). In these communities, girls who have undergone FGM are respected and given higher status in the community. On the other hand, those that rebel is often victimized, stigmatized and thought to bring bad luck to their families and community at large and so, most of them opt to flee to urban areas or better environs where they end up being engaged in forced labor and, or prostitution (UNHCR, 2009), while some manage to go abroad.

Globalization

Globalization has had a positive impact across the world by reducing barriers to movement thus promoting trade and investment among countries and providing access to opportunities which have in turn promoted economic growth. With the improved communication system, people across the world are able to interact freely and also access quickly information in real-time. Despite the positive impact it has had, globalization has also enabled non-state actors such as human traffickers to operate and exploit people across the world for example through the exchange in western cultures such as the feminization of poverty and labor (John, 2019). The perception that the developed states have got more opportunities in terms of employment again, as a result of globalization has attracted Kenyan women who travel abroad especially to the Middle East in search of greener pastures but later end up being used for forced labor or as prostitutes. Also, through globalization, although the tourism sector has flourished, the same industry has promoted Human Trafficking where women have been used as sex workers as a way of entertaining international guests in countries such as England and Thailand (John, 2019). There is also the fact that Africans provide cheap labor just like in the Transatlantic trade.

Porous Borders

Kenya is situated in a position where most of its neighboring countries are prone to political instability and conflicts resulting in people crossing into the country for safety. Aside from this, most people who manage to get into the country use '*panya* routes' (local slang for informal and often illegal routes) which are usually away from the official border crossings with no government officials, checkpoints, patrols or security searches (Ebagir, 2015). This may easily facilitate Human Trafficking. The Common Market, which is the third level of economic integration was established by the East African Community (EAC) as a

way to promote the growth and development of partner states. The Protocol on the Establishment of the East African Community Common Market (the Common Market Protocol) was signed in Arusha, Tanzania by the Republic of Kenya, Uganda, Rwanda, Burundi and the United Republic of Tanzania, on 20 November 2009 (EAC, 2009). Among the provisions is the fact that citizens within EAC are to Move freely within the territories of the Partners States for employment. As good and beneficial as this may sound, and even though the establishment of the Common Market has greatly aided EAC member states economically, it has also given traffickers an opportunity to carry out their business.

Mapping Human Trafficking of Women Across Kenya's Borderlands

Ethiopia-Kenya

The Ethiopia-Kenya borderland is one of the porous borders along Kenya's border that is utilized by human traffickers. The Kenya-Ethiopia border was initially defined in 1907 by the United Kingdom and the Empire of Ethiopia. An independent Kenya and Ethiopia would once again redefine the border between the two states in 1970 (Sovereign Limits, 2022). Apart from Ilemi, the established Ethiopia-Kenya frontier runs for 880 kms to the tripoint with Somalia in the east.

Figure 1: Map of the Kenya-Ethiopia Boundary (Source: Sovereign Limits)

Human trafficking is a security threat to both Ethiopia and Kenya. Subsequently, on November 14, 2022 intelligence and security institutions of Ethiopia and Kenya agreed to jointly prevent human trafficking, terrorism, and in a broader sense all forms of transnational crimes (Addis Standard, 2022). Efforts towards solving this issue in Ethiopia still face certain challenges, as highlighted in the U.S. State Department report on Ethiopia (2022), the effectiveness of overall anti-trafficking efforts is hindered by conflate of human trafficking and migrant smuggling by government officials despite ongoing trainings (U.S. Department of State, 2022). The trafficking profile in Ethiopia indicates that over the last five years, traffickers have exploited girls from impoverished rural areas, who are then forced into domestic servitude and sex trafficking (U.S. Department of State, 2022). The internal conflict that has gripped Ethiopia since November 2020 in Tigray, Afar, and Amhara has left an increasing number of people vulnerable to trafficking. There are reports by international organizations that indicate armed actors such as Eritrean forces, regional forces, the ENDF (Ethiopian National Defence Forces), and the TPLF(Tigray People's Liberation Front), have

committed human rights abuses and GBV(Gender-Based Violence) against women and girls in Tigray, including potential trafficking crimes (U.S. Department of State, 2022).

A study conducted in 2019, which sought to identify the characteristics among Ethiopian returnees which made them more vulnerable to human trafficking reported that younger individuals (18 – 20 years old) were five times more likely to be trafficked that their older counterparts (30 – 50 years old) (Gezie, Yalew, & Gete, 2019). This was justified by the fact that younger people may not have adequate access to information in order to discern what is true or false. Of the group under study, women were identified as more vulnerable to human trafficking in comparison to their male counterparts (Gezie, Yalew, & Gete, 2019). As the study outlines, there are several factors that influence this: firstly, women and girls might not get sufficient attention at home due to gender inequalities and disparities which could be risk factors that increase their vulnerability to exploitation including trafficking. Secondly, females are exploited for a longer period than males. Due to the nature of their work, which is mainly household-related activities, limits their freedom of movement; as a result, they would not have the opportunity to communicate with others to get out of exploitation (Gezie, Yalew, & Gete, 2019).

Trusted community members, known as *manamasas*, recruit and groom vulnerable youth on behalf of local and international human trafficking syndicates by exaggerating the advantages of working abroad. Scarce economic opportunities and poverty, coupled with familial encouragement, compel thousands of Ethiopians, including a substantial percentage of unmarried youths, predominantly below 30 (U.S. Department of State, 2022). One of the routes that is used by these traffickers is the southern route – through the Kenya-Ethiopia borderlands. Once these traffickers are in Kenya, they then transit through Kenya and onward to another destination. There are those whose intended destination is Kenya, as was highlighted in an investigative expose done by the *KTN News* on child trafficking, young girls are trafficked into the country. Some of these individuals have been trafficked into Kenya with the promise of a better life, and although their family members are resistant they agree due to desperation. While other young girls are sold to the cartels directly by their parents. These cartels would then sell these young girls to be domestic workers in households (*KTN News*, 2019). This exposes exposed how young girls and boys were being preyed upon to provide labour within Moyale town.

The current Tigray crisis has made the situation even more complex, at the Kenya-Ethiopia border, particularly for the Moyale region in Marsabit County. It has been noted that the Moyale-Nairobi road is heavily used by traffickers (Wario, 2022), an increase in the number of refugees fleeing conflict makes it easier for traffickers to move across the porous border, blending in among those in need, and increases the number of people vulnerable to trafficking. Northern Kenya already hosts two of the world's largest refugee settlements, Kakuma to the northwest and Dadaab to the northeast. There are scarce resources available to adequately sustain the groups of people in those regions, due to the economic strain following the COVID-19 pandemic and the current food crisis caused by the lack of rain to support agriculture. An influx of migrants puts a strain on these resources and thus increases their vulnerability to exploitation by traffickers.
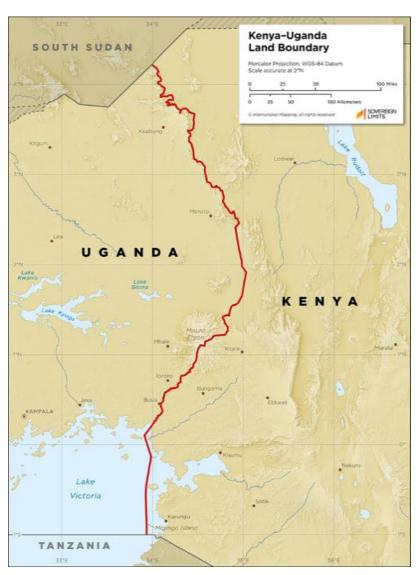
Kenya-Uganda

Figure 2 Map of the Kenya-Uganda Boundary (Source: Sovereign Limits)

The international boundary between Kenya and Uganda was formally drawn in 1926 as a British Order, defining the boundaries of its Uganda Protectorate with Kenya Colony. Reflecting a series of colonial demarcation exercises, the modern-day boundary extends for 870 km from the tripoint with South Sudan in the north to the tripoint with Tanzania in the south (Sovereign Limits, 2022).

Another one of the borderlands that have been utilized in Kenya's human trafficking industry is the Kenya-Uganda borderland. It is estimated that an average of 50 girls are trafficked daily from Uganda into Kenya (Masaba, 2018). In January 2020, 96 Ugandan women were stopped in Nairobi by authorities at the Jomo Kenyatta International Airport, en route to the United Arab Emirates (UAE) (Daghar, 2020). The women, some of whom were identified as minors, had been restricted due to a lack of proper documentation and were later found to be victims of a well-established human trafficking ring established in Kenya. This is one of many cases of human trafficking of young girls from Uganda to Kenya. Eastern Uganda is particularly notorious for having markets in Arapai, Chapi, and Sire.

As was highlighted by ENACT Observer, there are young girls in Uganda who are sold by their families in these markets for as little as USD 5.46 (Okumu & Kirabira, 2021). Loske, a young girl highlighted in a news story, is a minor whose struggle reflects that of many other girls entering Kenya from Uganda. She was trafficked into Kenya through Busia town. From there was then taken to Garissa as a domestic worker, where she was underpaid and sexually abused by the young men in the household. Her position as a minor and an undocumented person left her vulnerable to these circumstances. Later, she found herself abandoned in Nairobi, with no place to go, doing odd jobs to try and make a living (Okumu & Kirabira, 2021). It has been noted that business people in Kenya, notably Eastleigh in Nairobi, exploit young girls from the Karamoja region in Uganda by trafficking them into forced labour and sex trafficking (U.S. State Department, 2022). The Eastern Africa Child Rights Network of Civil Society Organizations estimates that there are over 3,000 Karamojong girls working as domestic workers in Eastleigh, where they are paid an average monthly salary of USD 50 cents (Okumu & Kirabira, 2021).

Uganda's trafficking profile indicates that human traffickers exploit both adults and children, drawing them into certain industries such as agriculture, fishing, mining, street vending, hospitality, and domestic work (U.S. State Department, 2022). Traffickers are noted

to be using social media as a means of advertising opportunities to populations in urban areas, who are then lured to Kampala, and trafficked to Kenya through Busia. Children from the Karamoja region are particularly vulnerable to trafficking due to a lack of economic and educational opportunities in the region (U.S. State Department, 2022). University graduates from Uganda have also been identified as a vulnerable group, who are often lured in by promises of better economic opportunities and then trafficked into Kenya, and then to other regions where they are exploited in domestic servitude (U.S. State Department, 2022).

Conclusion

Human trafficking is a security challenge that goes against the development goals set out by the international community. While efforts have been made by the Kenyan government to deal with the issue, it is imperative that more is done. If Kenya can manage to effectively mitigate the trafficking of women in the country, this would have a flourishing effect on its neighbouring states and Africa at large. Because Kenya is a transit nation and a destination point, tackling of human trafficking in the country can help cripple the networks that transnational criminal groups utilize. These networks are used to commit other transnational organized crimes. Tackling human trafficking also ensures that the illicit funds created through this enterprise will diminish, and may no longer used to fund other criminal activities. Lastly, tackling the trafficking of women is crucial if the country ever hopes to actualize the Sustainable Development Goals (SDGs). The SDGs call for the actualization of a world where all people have access to basic amenities, good education, economic opportunities, and have access to safe environments. Successful rescue of the victims of trafficking helps bring the country and the region to this reality.

Recommendations

Recommendations for Kenya:

- The Government of Kenya should establish shelters for victims of human trafficking instead of relying on international and non-governmental organizations. This would help build trust in the government and make it easier for victims of trafficking to seek help when stranded in the country.
- Continue rigorous public awareness campaigns through media on the issues of human trafficking, as the majority of the women who are victims of human trafficking in Kenya are held in households, it would be effective to equip the public with knowledge on how to deal with victims.

- Create public awareness about the existing public hotlines where victims and those who have identified potential victims can call in for help. These hotlines should also be made more accessible by having shorter numbers/fewer digits that people can easily recall.

- Strengthening anti-trafficking agencies in the Government of Kenya that deal with victims of human trafficking. This is to ensure that there are adequate resources available to ensure that victims are aided and not prosecuted in a similar fashion to illegal migrants.

- Re-evaluate the implementation of the Counter-Trafficking Act in Kenya in regard to the protection of victims of human trafficking.

- Kenya should develop robust County Action Plans dedicated to human trafficking. Tackling Transnational Organized Crimes as one collective problem hinders effective policy formulation that is targeted and formulated to tackle localized problems.

- The government needs to inculcate ethical integrity to overcome issues of corruption.

Recommendations for the Regional and International Community:

- Engage in rigorous trainings and capacity building around the issue of human trafficking through Regional or Global organizations like the East African Community and the United Nations to enhance understanding of Human Trafficking and the difference between human trafficking and smuggling of willing people across international borders. This is to enhance policy development and the regional and national level.

- The East African Community should emulate the (Economic Community of West African States) ECOWAS and SADC (Southern Africa Development Community) in coming up with a regional plan of action on Trafficking in Persons.

- The countries in the East African Region together should formulate a legal framework that clearly captures how victims of trafficking are to be handled. Additionally, member states should harmonize the national policies on Trafficking in Persons to regional action plans and policies. This is to ensure that these people's dignity is upheld. Additionally, they are not repatriated back to their countries of origin and are left vulnerable to trafficking once more.

- The African Union must re-evaluate its regional frameworks on Trafficking in Persons and create programmes that are adaptive in nature, to better capture the changing dynamics in Africa.

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Figures

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