

**ASSESSMENT OF COUNTER TRAFFICKING CHILD PROTECTION LEGAL  
FRAMEWORKS IN KENYA.**

Submitted in partial fulfillment of the requirements of the Bachelor of Laws Degree, Strathmore  
University Law School

By  
**MBURUGU JEAN BEANCA MAPENZI**  
**145857**

Prepared under the supervision of

**DR. JANE WATHUTA**

January 2025

Word count (11,910)

# Table Of Contents

Table Of Contents.....	2
Acknowledgments.....	4
Declaration.....	5
Abstract.....	6
List of Legal Instruments.....	7
List of Cases.....	8
<b>CHAPTER 1: INTRODUCTION.....</b>	<b>1</b>
1.1. Background of the study.....	1
1.2. Statement of the Problem.....	2
1.3. Research Objectives.....	3
1.5. Hypothesis.....	4
1.6. Significance of the study.....	4
1.7. Theoretical Framework.....	4
1.8. Literature Review.....	6
1.9. Research Methodology.....	8
1.10. Limitations of the Study.....	8
<b>CHAPTER TWO: ASSESSMENT OF COUNTER-CHILD TRAFFICKING INTERNATIONAL LEGAL FRAMEWORKS.....</b>	<b>11</b>
2.1. The United Nations Convention on the Rights of the Child.....	11
2.2. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, (Palermo Protocol).....	13
2.3. Worst Forms of Child Labour Convention.....	14
2.4. The African Charter on the Rights and Welfare of the Child.....	15
4.1 The Constitution of Kenya (2010).....	17
4.2. Counter-Trafficking in Persons Act No. 8 of 2010.....	18
4.4. The Sexual Offences Act of 2006.....	22
4.5. The Employment Act of 2007.....	23
<b>CHAPTER FOUR: ASSESSMENT OF REPORTS ON CHILD TRAFFICKING IN KENYA.....</b>	<b>24</b>
Conclusion.....	29
<b>CHAPTER FIVE: RECOMMENDATIONS FOR STRENGTHENING COUNTER-TRAFFICKING CHILD PROTECTION LEGISLATIVE FRAMEWORKS</b>	<b>30</b>
5.1. Recommendations to the national legal framework vis a vis the global legal standards.....	31
5.2. Recommendations to Kenyan Practices from the reports vis a vis the global legal standards.....	33

**5.3. Conclusion..... 33**  
**Bibliography..... 34**

## **Acknowledgments**

To begin with, I would like to offer my sincere thanks to God for His unwavering strength, and guidance during this entire journey. I am truly grateful to my supervisor, Dr. Jane Wathuta, for her constant support, and invaluable feedback which played a crucial role in the completion of this dissertation. Additionally, I would like to extend my profound appreciation to my mother, Margaret Wanja Nyaga, for her prayers, encouragement, and steadfast belief in me, which have been my source of strength. Lastly, I wish to convey my heartfelt thanks to my dear friend Hanifa, whose laughter, encouragement, and support lifted me during difficult times and kept me motivated throughout this process.

## Declaration

I, **MBURUGU JEAN BEANCA MAPENZI**, do hereby declare that this research is my original work and that to the best of my knowledge and belief, it has not been previously, in its entirety or in part, been submitted to any other university for a degree or diploma. Other works cited or referred to are accordingly acknowledged.

Signed: .....**JMapenzi**.....

Date: .....**28/01/2024**.....

This dissertation has been submitted for examination with my approval as University Supervisor.

Signed: *J. Wathuta* ..... *28-01-2025* .....

## **Abstract**

*Child trafficking violates children's fundamental human rights and significantly undermines their overall well-being. Despite existing legal measures to counter child trafficking in Kenya, the practice remains pervasive, raising serious concerns about the effectiveness of the current child protection and counter-trafficking legislative framework. A thorough analysis of this legal framework is essential, as the law forms a cornerstone for shaping policies and regulations to combat child trafficking. It provides the most direct avenue for reform, enabling the enhancement of child protection measures to address this issue.*

*This study critically assesses Kenya's counter-trafficking legal framework and practices from various reports against the best international standards on combatting child trafficking, to identify and recommend the best reforms to curb this vice. To achieve this, a doctrinal research methodology is employed, analyzing primary legal sources such as international treaties, statutes, and court cases as well as secondary materials, including articles, and institutional reports. The research is grounded in Thomas Hobbes and John Locke's Social Contract Theory and Herbert Simon's Bounded Rationality Theory.*

*The key findings indicate that child trafficking remains rampant in Kenya due to gaps and weak enforcement of both international and national legal provisions, as well as the misalignment of Kenya's legislation with the global legal standards practices aimed at addressing this issue. To effectively curb child trafficking, Kenya must strengthen enforcement and close loopholes by aligning its provisions and practices with those of international best practices aimed at addressing child trafficking.*

## **List of Legal Instruments**

### **List of International Legal Instruments**

*African Charter on the Rights and Welfare of the Child*, 11 July 1990, CAB/LEG/24.9/49.

*Trafficking Victims Protection Act* 22 USC.

*United Nations Convention on the Rights of the Child*, 20 November 1989, 1577 UNTS 3.

*United Nations Protocol to Prevent, suppress, and punish trafficking in Persons*, 15 November 2000, 2237 UNTS 319.

*Worst Forms of Child Labour Convention*, 17 June 1999, 2133 UNTS 182.

### **List of National Instruments**

*The Children Act* (Act No. 8 of 2001).

*The Constitution of Kenya* (2010).

*The Counter-Trafficking in Persons Act* (Act No.8 of 2010).

*The Employment Act* (Act No. 11 of 2007).

*The Penal Code* (Cap 63).

*The Sexual Offences Act* (Act No. 3 of 2006).

## **List of Cases**

*Calvin Otieno Okello v Republic* (2019) eKLR.

*Ezra John Nyangena v Republic* (2018) eKLR.

*Ingahitzu & Another v Republic* (2023) eKLR.

*John Kamau King v Republic* (2019) eKLR.

*K.K.R. v Republic* (2010) eKLR.

*M.W.K & Another v Attorney General & 3 others* (2017) eKLR.

*Re NMH (Minor)* (2020) eKLR.

*Wesley Kipkorir Rono v Republic* (2015) eKLR.

## List of Abbreviations

<b>ACERWC</b>	African Committee of Experts on the Rights and Welfare of the Child.
<b>ANPPCAN</b>	African Network for the Prevention and Protection against Child Abuse and Neglect.
<b>CCI</b>	Charitable Children’s Institution.
<b>CRC</b>	Committee on the Rights of the Child.
<b>CMI</b>	Chr. Michelsen Institute.
<b>ENACT</b>	Enhancing Africa's Ability to Counter Transnational Crime
<b>UNCRC</b>	United Nations Convention on the Rights of the Child.
<b>FGD</b>	Focus Group Discussion.
<b>HIV</b>	Human Immunodeficiency Virus.
<b>IOM</b>	International Organization for Migration.
<b>ILO</b>	International Labour Organization.
<b>NCCS</b>	National Council for Children's Services.
<b>PARLEMO Protocol</b>	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially women and children, supplementing the United States. Nations Convention Against Transnational Organized Crime.
<b>UAE</b>	United Arab Emirates.
<b>UN</b>	United Nations.
<b>UNCAC</b>	United Nations Convention against Corruption.
<b>UNICEF</b>	United Nations International Children's Emergency Fund.
<b>US</b>	United States.

# CHAPTER 1: INTRODUCTION

## 1.1. Background of the study

Child trafficking remains a persistent challenge in Kenya, severely impacting vulnerable children as it infringes on their human rights. It is important to highlight that a child in Kenya is one who is below the age of eighteen years.<sup>1</sup> Kenya recognizes children as a vulnerable group whose specific needs require attention from all State organs and public officers.<sup>2</sup> In *M.W.K. & Another v Attorney General & 3 others*, children were recognised as vulnerable for several reasons. First, their mental and physical development renders them incapable of safeguarding themselves from exploitation. Moreover, due to prevailing economic disparities, children are often reliant on those around them, making them particularly vulnerable to manipulation, coercion, and mistreatment by adults within society.<sup>3</sup> Article 3(c) of the United Nations (UN) Palermo Protocol, to which Kenya is a party, defines child trafficking as the recruitment, transportation, transfer, harboring, or receipt of a child for exploitation, with or without force, coercion, fraud, abduction, or abuse of power, and even if consent is obtained through compensation to those in charge of the child.<sup>4</sup> Additionally, the Counter-Trafficking Act provides against the trafficking of children.<sup>5</sup>

In pursuit of a comprehensive understanding and effective intervention against child trafficking in Kenya, it is crucial to examine the widespread and persistent nature of this issue, which persists despite existing legislation frameworks.<sup>6</sup> Children in Kenya are trafficked into forced labor in household work, livestock herding, farming, street hawking, fishing, scavenging and trading scrap materials, glass, and metal, panhandling, and sexual exploitation. NGOs estimate over 2,000 children are trafficked for sex in Kilifi and Kwale counties, with traffickers, including family members and recruiters, using private villas and vacation homes to evade detection. Additionally, reports of human trafficking indicate that minors in Daadab, the largest refugee

---

<sup>1</sup> Article 260, *Constitution of Kenya* (2010).

<sup>2</sup> Article 21(3), *Constitution of Kenya* (2010).

<sup>3</sup> (2017) eKLR.

<sup>4</sup> Article 3 (a), *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons*, 15 November 2000, 2237 UNTS 319.

<sup>5</sup> Section 4, *The Counter-Trafficking in Persons Act* (Act No.8 of 2010).

<sup>6</sup> International Organization for Migration (IOM), *Assessment report on the human trafficking situation in the coastal region of Kenya*, 22 May 2018, 11.

camp complex, are subjected to sex trafficking, while others are forced to work on tobacco plantations.<sup>7</sup> Some Charitable Children's Institutions (CCIs) and Children's Offices, while appearing legitimate, recruit children for trafficking under the guise of aiding orphans and vulnerable children, exploiting legal documentation for trafficking purposes.<sup>8</sup> Additionally, In *Re NMH (Minor)*<sup>9</sup>, the court highlighted the rampant issue of child trafficking in Kenya. This concern influenced the court's decision to repatriate the minor to Uganda, as allowing her to remain with individuals connected to her irregular movement would risk enabling trafficking networks.

Identifying the pull factors driving child trafficking is crucial for targeting effective reforms and interventions. Understanding these factors highlights the vulnerabilities traffickers exploit, allowing policymakers to address the root causes. Over the past decade, pull factors such as promises of a better life, education, employment, independence, escape from poverty or political unrest, the lack of youth employment opportunities, and widespread ignorance among families and at-risk children about the risks of trafficking, have made it easier for traffickers to exploit children.<sup>10</sup>

These statistics highlight the pervasiveness of child trafficking in Kenya, despite the existence of legislation and institutional frameworks aimed at combating it. Therefore, it is crucial to assess Kenya's current legal frameworks and practices against international best practices to effectively address this vice.

## **1.2. Statement of the Problem**

Child trafficking in Kenya persists despite the preventive mandate outlined in Section 4 of the Counter-Trafficking Act and other legislative frameworks intended to combat the issue. This persistent problem raises significant concerns about the effectiveness of the current legal framework in protecting children from trafficking. The law is binding and serves as the backbone for shaping laws and policies responsible for combatting child trafficking in Kenya, offering the

---

<sup>7</sup> The United States Department of State, *Trafficking in Persons Report- Kenya*, 15 June 2023, 5.

<sup>8</sup> National Crime Research Centre, *The Problem Of Human Trafficking In Kenya*, 14 November 2022, 59.

<sup>9</sup> (2020) eKLR.

<sup>10</sup> Chr. Michelsen Institute (CMI), *Legislating the Counter-Trafficking in Persons Act: The Advocacy Role of Civil Society*, 27 April 2015, 6.

most direct route to enhance child protection measures to curb child trafficking in Kenya. This highlights the need to evaluate the effectiveness of these legal frameworks to address child trafficking. This study aims to evaluate Kenya's counter-trafficking child protection framework and practices against global legal standards in curbing child trafficking. Based on this analysis, the study will recommend effective strategies and reforms to curb child trafficking in Kenya.

### **1.3. Research Objectives**

This study evaluates Kenya's counter-trafficking child protection framework in order to curb child trafficking in Kenya as prescribed under Section 4 of the Counter-Trafficking in Persons Act. To support and achieve this aim, the research objectives include:

- i. To assess the international best practices for curbing child trafficking.
- ii. To assess the effectiveness of Kenya's national legal framework in addressing child trafficking against international best practices.
- iii. To evaluate the reports from international and regional bodies and the Kenyan government on Kenya's child trafficking efforts.
- iv. To propose recommendations to Kenya's legal framework based on the identified gaps and weaknesses in both the international and national frameworks to curb child trafficking.

### **1.4. Research Questions**

This study answers the following questions:

- i. What are the key international best practices for curbing child trafficking?
- ii. What does Kenya's legal framework reveal about its effectiveness in addressing child trafficking, based on international best practices?
- iii. What do reports by international and regional organizations, and the Kenyan government reveal about Kenya's child trafficking prevention efforts?
- iv. What are the best reforms that can be recommended to enhance Kenya's efforts to prevent child trafficking?

## **1.5. Hypothesis**

Effectively addressing the rampant issue of child trafficking in Kenya requires an assessment of the national counter-trafficking child protection framework against international best practices to identify best practices for combating child trafficking in Kenya.

## **1.6. Significance of the study**

This study is significant as it offers recommendations to curb child trafficking which is a violation of their human rights and a threat to their overall well-being. Additionally, this research addresses a gap in existing studies, which have predominantly focused on human trafficking while offering limited attention to child trafficking, despite children being among the most vulnerable members of society. By evaluating Kenya's counter-trafficking frameworks against global legal standards, the study aims to provide actionable insights for policymakers, lawmakers, and researchers on the most effective approaches to combat child trafficking. The findings will offer targeted recommendations to strengthen current counter-child trafficking laws, ultimately contributing to a more comprehensive and effective response to curb child trafficking in Kenya.

## **1.7. Theoretical Framework**

To achieve the objectives of this study in providing an effective response to curbing child trafficking in Kenya, it is vital to understand the susceptibility of children to trafficking and the critical need for their protection. Therefore, this study is grounded by the following theories; The Bounded Rationality Theory and The Social Contract Theory as discussed below.

### **Bounded Rationality Theory**

The Bounded Rationality Theory, introduced by Herbert Simon, posits that individuals make decisions based on the available information and their cognitive capacity. Cognitive capacity refers to the mental processes involved in acquiring knowledge and understanding through thinking, sensory perception, and experience. The theory also posits that behavior can be rational or irrational. The theory underpins that even though human beings struggle for rationality, it is restricted within the limits of their knowledge. These limitations affect people's ability to: know

all possible options, predict outcomes, and make complex calculations.<sup>11</sup> This theory suggests that children's decision-making abilities are limited by their cognitive capacity, as their cognitive skills are still developing during the early years of life.<sup>12</sup>

The theory posits that children do not possess the ability to fully comprehend complex situations, anticipate future consequences, or critically evaluate the intentions of others. This cognitive immaturity makes them especially susceptible to deception and exploitation, as they may be easily misled by false promises or manipulative tactics that they cannot fully understand or anticipate which easily leads to child trafficking. Given this vulnerability, it is imperative to assess the counter-trafficking child protection framework in Kenya and give recommendations on the best practices to curb child trafficking in Kenya.

### **The Social Contract Theory**

The concept of the social contract originates from the philosophies of early thinkers such as Protagoras and Epicurus. However, Thomas Hobbes revitalized the idea in the modern context, and was subsequently further developed by philosophers like Jean-Jacques Rousseau and John Locke each offering their unique perspectives on the theory.<sup>13</sup> Hobbes posits that man possesses an inherent desire for order and security. To ensure their safety and survival, and to escape suffering and hardship, man enters into a contract. Hobbes proposes that individuals willingly give up their rights and freedoms to authority through a social contract, which requires their obedience. In return, this authority, now the most powerful, is responsible for safeguarding their lives and property.<sup>14</sup>

John Locke, unlike Hobbes, posits that mankind can only give up their liberties by consent. In his conception of the Social Contract, a single ruler does not acquire all of society's rights; rather, they merely give them the power to uphold law and order. Through the formation of a government by mutual agreement, individuals gain three essential elements they previously lacked: clear laws, judges to resolve disputes, and the power to enforce those laws. Locke asserts that the primary responsibility of government is to protect individuals' natural rights. As long as

---

<sup>11</sup> Faisal Land Etan A, 'Theorizing Child Trafficking in Young Adult Literature: A Review of the Literature' 1 *Arab World English Journal* 1, 2016, 148.

<sup>12</sup> Bjorklund D, *The Adaptive Value of Cognitive Immaturity: Applications of Evolutionary Developmental Psychology to Early Education*, 1ed, Springer International Publishers, Switzerland, 2016, 23.

<sup>13</sup> Agostino D, Derald G, and John T, 'Contemporary Approaches to the Social Contract' in Edward N and Uri N(eds), *The Stanford Encyclopedia of Philosophy*, Stanford University Press, California, 2024, 1.

<sup>14</sup> Manzoor L, 'Social Contract Theory by Hobbes, Locke and Rousseau' 3 *SSRN Electronic Journal* 2, 2013, 3.

the government fulfills this duty, its laws remain legitimate and must be obeyed. However, if the government fails to protect these rights, its laws lose their legitimacy, and the people have the right to overthrow it.<sup>15</sup>

Similar to Locke, Jean-Jacques Rousseau emphasizes that a state is legitimate only if it aligns with the "general will" of its people. In the social contract, Rousseau seeks to reconcile individual freedom with state authority, arguing that individuals can be free within a society if they collectively agree to laws that represent the general will. This will is formed by the common interest of all citizens, ensuring that they remain subject to their own will and thus maintain their freedom, unlike in a state of inequality or class-based oppression.<sup>16</sup>

In unison, Hobbes, Locke, and Rousseau contend that the government has an essential role in safeguarding its citizens which underscores the state's legitimate duty to safeguard children from trafficking. Hobbes would support a powerful authority to enforce laws that prevent trafficking, ensuring the safety and security of children. Locke would argue that the government's primary duty is to protect children's natural rights and freedom, and any failure to do so—such as allowing child trafficking—would delegitimize the government. Rousseau would view child trafficking as a betrayal of the collective will and the common good, asserting that a legitimate government must prioritize the protection of children as part of its commitment to societal welfare. Together, these views reinforce the idea that a government has a legitimate duty to take strong, coordinated action to prevent child trafficking and safeguard the rights of children.

## **1.8. Literature Review**

This literature review examines the multifaceted issue of child trafficking, focusing on the interplay between child vulnerability, and national and international legal frameworks.

In his paper '*Examining Nigeria's Existing Domestic and International Legal Framework for Combating Trafficking in Children*,'<sup>17</sup> Akpotaire provides a comprehensive assessment of international laws aimed at improving the legal framework for addressing child trafficking in

---

<sup>15</sup> Manzoor L, 'Social Contract Theory by Hobbes, Locke and Rousseau' *3 SSRN Electronic Journal* 2, 2013, 4..

<sup>16</sup> Bertram C, 'Jean Jacques Rousseau' in Edward N and Uri N(eds), *The Stanford Encyclopedia of Philosophy*, Stanford University Press, California, 2024, 1.

<sup>17</sup> Clive A, 'Examining Nigeria's Existing Domestic and International Legal Framework for Combating Trafficking in Children' published PhD Thesis, University of Leicester, Leicester, 2022, 102.

Nigeria. His study highlights areas where Nigeria has complied with international standards and offers recommendations to various stakeholders on the best reforms to curb child trafficking effectively. While Akpotaire's research focuses on Nigeria, this study will focus on Kenya and will extend the discourse by not only assessing the global legal standards, but also identifying its gaps in order to propose best international practices and leverage them against Kenya's national legal framework and practices to effectively combat child trafficking in Kenya.

In their paper titled *Kenya's Constitution and Child Trafficking as a Security Threat*,<sup>18</sup> J. Kassily and Odhiambo S analyze child trafficking as a significant threat to Kenya and its borders. They argue that Article 14(4) of the Kenyan Constitution inadvertently facilitates child trafficking by creating exploitable loopholes. While this study acknowledges that the provision on citizenship can be exploited by traffickers, it also explores broader inconsistencies between Kenya's legal framework and its actions in relation to global legal standards for combating child trafficking. Furthermore, this study goes beyond framing child trafficking solely as a security threat, recognizing it as a severe violation of children's rights that endangers their physical and psychological well-being.

In their work *'Advocacy Communication And The Child Trafficking Situation In Kenya: The Case Of Mathare Constituency Primary Schools'*,<sup>19</sup> Mbogo, and Komen evaluated the effectiveness of advocacy communication in addressing the challenges posed by child trafficking. Their study analyzed reports on Kenya's stance on child trafficking as documented by humanitarian organizations, child welfare groups, crime prevention agencies, and non-profit organizations. Their paper highlighted the severity of child trafficking in Kenya and the role of advocacy communication in tackling the issue through the reports. Building on this foundation, this study will examine reports on child trafficking in Kenya to determine the country's current the global legal practices in child trafficking legislation in order to provide actionable recommendations to strengthen Kenya's efforts to combat child trafficking effectively.

---

<sup>18</sup> Odhiambo S and Kassily J, 'Kenya's Constitution And Child Trafficking As A Security Threat' 3 *Journal of Defense Resources Management* 2, 2012, 82.

<sup>19</sup> Mbogo B, and Komen L, 'Advocacy Communication And The Child Trafficking Situation In Kenya: The Case Of Mathare Constituency Primary Schools' 9 *International Journal For Innovation Education And Research* 2, 2021, 2.

In her paper ‘*A Critique of the Role of the Government in Combatting Human Trafficking in Kenya*,’<sup>20</sup> Tracy Adhiambo identifies gaps in policy and Kenya’s legislation to enhance Kenya’s standing in the fight against human trafficking. Her report offers recommendations for curbing human trafficking in Kenya by addressing legal measures for prosecuting offenders and proposing practical approaches for government organizations and foundations to combat this issue. While her report provides valuable insights, this study will take a more focused approach by addressing the legal gaps in both international and national laws and practices from reports. This report will then provide recommendations grounded in the global legal standards, offering actionable solutions to strengthen Kenya’s efforts in combating child trafficking.

### **1.9. Research Methodology**

This study employs a doctrinal legal research methodology to critically evaluate Kenya's legal framework on child trafficking. This approach involves assessing the effectiveness of international and national legal frameworks, in combating child trafficking and evaluating Kenya’s legal framework against international best practices in order to curb child trafficking.

This research relies on primary sources, including the Palermo Protocol, the United Nations Convention on the Rights of the Child, the Constitution of Kenya, the Sexual Offences Act, the Children Act, the Employment Act, and the Counter-Trafficking in Persons Act. Additionally, this study draws on secondary sources such as textbooks, articles, journals, theses, research papers, working papers, institutional reports, newspaper articles, and relevant online resources. These sources collectively inform the analysis and provide the basis for understanding and recommending the best practices for addressing child trafficking in Kenya.

### **1.10. Limitations of the Study**

There is a notable scarcity of reliable literature addressing child trafficking within the specific context of Kenya’s legal system, as access to comprehensive and up-to-date research materials—such as scholarly articles and empirical studies—remains limited. Additionally, the study's reliance on doctrinal research, excluding fieldwork, confines its scope to desktop-based analysis. Furthermore, deeply ingrained moral and cultural values in some communities

---

<sup>20</sup> Tracy A, ‘A Critique of the role of the Government in Combatting Human Trafficking in Kenya’ Published LLB Dissertation, Strathmore University, Nairobi, 2017, 30.

contribute to a societal tolerance of exploitation, fostering environments that inadvertently enable and resist efforts to combat child trafficking.<sup>21</sup>

## **Chapter Breakdown**

### **Chapter One: Introduction**

This chapter analyses the background and the problem statement of the study. It outlines the research objectives, research questions, hypothesis, significance, and limitations of the study.

### **Chapter Two: International Legal Frameworks on Preventing Child Trafficking**

This chapter will analyse key international legal frameworks aimed at preventing child trafficking, including conventions and charters to which Kenya is a member state. While these frameworks are part of Kenyan law, they will be examined separately in this chapter as the analysis will also identify gaps within the international legal framework, from which international best practices will be derived. Kenya's domestic legal framework will then be assessed against international best practices to inform strategies for effectively combating child trafficking.

### **Chapter Three: Assessment of Kenya's Legal Frameworks**

This chapter will evaluate Kenya's legal frameworks aimed at countering child trafficking against international best standards. It will assess the extent to which these frameworks align with global benchmarks such as the Palermo Protocol, the Worst Forms of Child Labour Convention, the United Nations Convention on the Rights of the Child (UNCRC), and the African Charter on the Rights and Welfare of the Child (ACRWC) to effectively combat child trafficking.

### **Chapter Four: Evaluation of Reports by International Bodies and the Kenyan Government**

This chapter will examine reports from international and regional organizations, as well as the Kenyan government, on the state of child trafficking in Kenya. These findings will be analyzed against international best practices to identify ways to strengthen prevention measures, improve child protection, and enhance efforts to curb child trafficking in Kenya.

---

<sup>21</sup> International Organization for Migration, *Guidelines for Assisting Victims of Human Trafficking in the East Africa Region*, 19 May 2011, 17.

## **Chapter Five: Recommendations for Strengthening Kenya's Frameworks**

This chapter will propose actionable recommendations for gaps found in international frameworks and gaps in Kenya's alignment with international best practices to combat child trafficking in Kenya.

## **CHAPTER TWO: ASSESSMENT OF COUNTER-CHILD TRAFFICKING INTERNATIONAL LEGAL FRAMEWORKS**

### **Introduction**

Child trafficking is a transnational organized crime that transcends national borders.<sup>22</sup> This section examines global legal standards established over the years to prevent child trafficking, with a focus on frameworks to which Kenya is a state party. Since treaties ratified by Kenya form part of Kenyan law,<sup>23</sup> these standards will serve as a benchmark for critically evaluating Kenya's national legislation and practices. Additionally, this section will assess the effectiveness, enforceability, and limitations of international legal frameworks, using these insights as the best international practices to enhance Kenya's efforts to combat child trafficking.

### **2.1. The United Nations Convention on the Rights of the Child**

The UNCRC is specifically designed to safeguard children's rights, guarantee their welfare, and promote their best interests. The Declaration of the Rights of the Child, upon which the Convention is based, acknowledges that children require special protections and care, including suitable legal protection, due to their physical and mental immaturity.<sup>24</sup> This acknowledgment of the inherent vulnerability of children increases their susceptibility to child trafficking and aligns with the principles of Bounded Rationality Theory. The UNCRC legally binds all state parties to safeguard children's rights, reflecting the principles of the Social Contract theory, as governments have a legitimate duty to safeguard the rights and freedoms of children as part of their obligation to uphold the social contract with their citizens.

The UNCRC stresses that the welfare of the child must be the foremost consideration in all decisions and actions that impact them.<sup>25</sup> Child trafficking violates these core principles by

---

<sup>22</sup> Nanci S and Madyasah A, 'The prevention of child trafficking crimes and its legal reform' Published PhD Thesis, Universitas Sumatera Utara, Medan, Indonesia, 2018, 2.

<sup>23</sup> Article 2, *Constitution of Kenya*, (2010).

<sup>24</sup> Preamble, *Convention on the Rights of the Child*.

<sup>25</sup> Article 3, *Convention on the Rights of the Child*.

exploiting and endangering children, contravening their best interests; thus, the UNCRC directly addresses its prevention. The Convention mandates state parties to take action to stop unlawful transfers and guarantee the repatriation of minors, ensuring child protection from trafficking across borders. The Convention requires state parties to safeguard children against economic exploitation and dangerous labor that could harm their development and to provide penalties for the same.<sup>26</sup> This addresses root causes and deters child trafficking. The Convention establishes a Committee on the Rights of the Child (CRC) to monitor and evaluate the progress made by state parties in meeting their obligations under the Convention and make general recommendations from the state reports received.<sup>27</sup> This ensures that efforts to combat child trafficking are continuously assessed and improved among member states.

The Convention however lacks detailed guidance on the minimum practical measures for preventing and combatting child trafficking in Article 35. The design of such conventions avoids imposing detailed obligations on state parties to respect state sovereignty, increasing the likelihood of ratification by countries.<sup>28</sup> This provision allows state parties, including Kenya, the discretion to develop their own prevention and protection strategies, which might not be sufficient to combat this vice. For example, despite legislation designed to combat child trafficking, the case of *John Kamau King v Republic* illustrates how child trafficking persists despite the laws present to curb it.<sup>29</sup> Additionally, in the case of *Re NMH (Minor)*<sup>30</sup>, the court highlighted the rampant issue of child trafficking in Kenya. This also questions the effectiveness of the CRC and the special agencies that ensure the implementation of protection of children from child trafficking.

In order to form international best practices, the UNCRC should collaborate with independent monitoring bodies in addition to state reports. This approach would ensure that progress is not solely reliant on the good faith of state reports, but also on an objective, third-party evaluation of each country's efforts. This external oversight minimizes the risk of states failing to uphold their

---

<sup>26</sup> Article 32, *Convention on the Rights of the Child*.

<sup>27</sup> Article 45(d), *Convention on the Rights of the Child*.

<sup>28</sup> Nur R, Muhammad S, Ida S, 'Implications of State Sovereignty for The Ratification of International Law' 8 *Journal of Islamic and International Affairs* 2, 2023, 134.

<sup>29</sup> (2019) eKLR.

<sup>30</sup> (2020) eKLR.

commitments, intentionally or otherwise, and ensures a more accurate assessment of the ground realities to effectively combat child trafficking.

## **2.2. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, (Palermo Protocol).**

The Protocol emphasizes the protection of vulnerable children, supported by the Bounded Rationality Theory, and requires state parties to safeguard the rights of women and children, aligning with the principles of the Social Contract Theory. The case of *K.K.R. v Republic*,<sup>31</sup> was significant as the court recognized the Palermo Protocol's role in informing domestic trafficking laws in Kenya. The court adhered to the protocol and ruled that once a child's age is established as under 18, only the act and purpose of trafficking need to be proven, eliminating the need to prove threat, deception, or consent.<sup>32</sup>

The Protocol goes beyond the UNCRC's focus on prevention mechanisms to prosecution mechanisms by requiring States Parties to criminalize child trafficking as well as related activities<sup>33</sup> closing legal loopholes through sanctions and ensuring accountability in order to deter child trafficking. It emphasizes the protection of victims through measures such as confidentiality, access to recovery services like housing, counseling, and medical care, and the ability to participate in legal processes without fear or compromise, guaranteeing that victims receive comprehensive support justice, and protection from re-trafficking. It also highlights the importance of granting humanitarian residence permits to trafficking victims and ensuring their safe repatriation<sup>34</sup> considering the best interests of the child, which safeguards children from re-trafficking exploitation, and harm.

To prevent trafficking, the Protocol mandates research, awareness campaigns, and initiatives addressing root causes such as poverty and inequality.<sup>35</sup> These initiatives help citizens become more aware and reduce the success rate of factors that make children more susceptible to trafficking. The Protocol fosters collaboration with NGOs and civil society to build a support

---

<sup>31</sup> (2010) eKLR.

<sup>32</sup> (2010) eKLR.

<sup>33</sup> Article 5, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

<sup>34</sup> Article 7, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

<sup>35</sup> Article 9, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

network for vulnerable populations including children.<sup>36</sup> Leveraging the resources, expertise, and outreach of these organizations, strengthens community-based efforts to safeguard children from trafficking. Additionally, like the UNCRC, the Protocol strengthens global cooperation through the sharing of information and training of law enforcement.<sup>37</sup> This enables better detection, prevention, and prosecution efforts in child trafficking in Kenya. Like the UNCRC, the Protocol provides for border security, with enhanced controls, document verification, and sanctions for non-compliance by carriers,<sup>38</sup> which aim to unravel child-trafficking networks.

The Protocol lacks a dedicated monitoring body to oversee its implementation as seen by the CRC, placing the burden of enforcement solely on individual states. In Kenya, where child trafficking is widespread, this absence amplifies challenges in ensuring compliance, accountability, and effective action against child trafficking networks.

To form international best practices, the UN should establish an independent monitoring body to oversee the realisation of the Protocol. This body would ensure compliance, enhance accountability, and assist countries like Kenya in effectively combating child trafficking.

### **2.3. Worst Forms of Child Labour Convention**

This Convention aims to prohibit and eradicate the most harmful forms of child labor including child trafficking.<sup>39</sup> This highlights children's vulnerabilities as explained by the Bounded Rationality Theory. The Convention legally binds state parties to adhere to its provisions, in line with the Social Contract Theory, which asserts that governments have a duty to protect the rights of their citizens, including children.

The Convention defines these worst forms to include trafficking, forced labor, sexual exploitation, and involvement in drug production which are key contributors to child trafficking. By designating these practices as illegal, the Convention mandates state parties to take steps to end child trafficking. The Convention mandates member states to create action programs in collaboration with government institutions, employers, workers' organizations, and other

---

<sup>36</sup> Article 29 (3), *Constitution of Kenya* (2010).

<sup>37</sup> Article 9, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

<sup>38</sup> Article 11, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

<sup>39</sup> Article 1, *Worst Forms of Child Labour Convention*, 17 June 1999, UNTS 2133.

stakeholders.<sup>40</sup> These programs focus on eliminating child trafficking and strengthening protection for vulnerable children. The Convention mandates member states to establish mechanisms to monitor its implementation, ensuring that counter-child trafficking laws are enforced in order to counter child trafficking. The Convention mandates states to prevent children's involvement in trafficking and directly support their removal, rehabilitation, and assimilation into society.<sup>41</sup> This reduces the pool of potential trafficking victims and ensures that former child laborers receive the necessary support, decreasing the risk of re-trafficking. Similar to the Palermo Protocol, the Convention mandates member states to implement its provisions by including the imposition and implementation of penalties in their legislation. This mandate establishes legal consequences for offenders, deterring potential traffickers through the imposition of punishment.

The Convention however, lacks clear minimum penalty standards on penal sanctions, which leaves enforcement at the discretion of individual countries, contributing to variability in punishments as seen in the Counter-Trafficking in Persons Act and the Sexual Offences Act. Such inconsistencies weaken deterrence and reduce accountability for offenders making it more challenging to effectively combat child trafficking.<sup>42</sup>

To form international best practices, the UN should set minimum penalty standards and enforcement in relation to child trafficking in the Convention. This framework would provide clear, binding guidelines on penal sanctions, ensuring consistent punishment across countries and strengthening deterrence.

#### **2.4. The African Charter on the Rights and Welfare of the Child**

The ACRWC, unlike the UNCRC which provides a global framework for safeguarding children's rights, provides a regional perspective on child protection.<sup>43</sup> The Preamble acknowledges the privileged position children hold within African societies as explained by Bounded Rationality theory, and mandates states to protect their rights. This duty aligns with

---

<sup>40</sup> Article 6, *Worst Forms of Child Labour Convention*.

<sup>41</sup> Article 7, *Worst Forms of Child Labour Convention*.

<sup>42</sup> Christina T and Cathleen S, 'The Exploitation of Women and Children – A Comparative Study of Human Trafficking Laws between the United States-Mexico and China-Vietnam' *GlobaLex*, 2021, 4 -[https://www.nyu.edu/global.org/globalex/human\\_trafficking1.html](https://www.nyu.edu/global.org/globalex/human_trafficking1.html) on 15 May 2021.

<sup>43</sup> ANPPCAN, *The African Charter on the Rights of the Child*, 15 June 2021, 1.

Social Contract theory, which holds that governments must safeguard the welfare of their most vulnerable citizens.

Like the UNCRC, The Charter provides for the protection of children from economic exploitation and hazardous work that could harm their development,<sup>44</sup> addressing factors that cause child trafficking. Like the UNCRC, Article 24 of the ACRWC requires state parties to prevent inter-country adoption and use it as an alternative means of child care.<sup>45</sup> However, the Charter enhances this provision by requiring inter-country adoption to be a last resort.<sup>46</sup> This safeguard is crucial as it prevents child trafficking under the guise of inter-country adoption.

The ACRWC adopts a similar approach to the CRC by emphasizing the importance of monitoring progress and implementation through the establishment of a dedicated body, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) whose work is to ensure the realisation of the Charter by state parties.<sup>47</sup> This ensures the effective monitoring of child protection measures in state parties, thereby reducing the risk of child trafficking.

Rampant child trafficking in Kenya and other state parties raises questions about the effectiveness of the ACERWC.

To provide best international practices that combat child trafficking in its member states, the ACERWC should enhance monitoring, establish regional standards, collaborate with international organizations, and raise public awareness. Strengthening law enforcement and advocating for standardized penalties will improve the protection of children's rights in Kenya.

## **Conclusion**

Although international legal frameworks are essential in combating child trafficking, they exhibit significant gaps in specificity, enforcement, and practical measures. These limitations result in inconsistent implementation, as evidenced by the ongoing prevalence of child trafficking in Kenya. Strengthening these frameworks with clearer guidelines form the best international practices, which are then assessed against Kenya's national legislation, to ensure more effective action against child trafficking in the country.

---

<sup>44</sup> Article 15, *The African Charter On The Rights And Welfare Of The Child*.

<sup>45</sup> Article 24, *The African Charter On The Rights And Welfare Of The Child*.

<sup>46</sup> Article 24 (b), *The African Charter On The Rights And Welfare Of The Child*.

<sup>47</sup> Article 42, *The African Charter On The Rights And Welfare Of The Child*.

## **CHAPTER THREE: ASSESSMENT OF KENYA'S LEGAL FRAMEWORKS ON CHILD TRAFFICKING.**

### **Introduction**

This chapter critically assesses existing counter-trafficking laws in Kenya and how they align with the global legal standards, ultimately highlighting areas where reforms are needed to enable Kenya to curb child trafficking. The primary legislation will be assessed first, followed by secondary legislation in order of their scope concerning counter-child trafficking efforts.

### **4.1 The Constitution of Kenya (2010).**

The Constitution is dedicated to promoting and safeguarding the welfare of both individuals and communities across the country.<sup>48</sup> While the Constitution does not directly deal with the issue of child trafficking, it incorporates broad protections and principles that can be applied to combat this vice.

Article 21(3) recognizes children as part of society's vulnerable groups, requiring state organs and public officers to ensure their needs are addressed.<sup>49</sup> This highlights the government's legitimate duty to safeguard its citizens' rights, as outlined in the social contract theory, while also emphasizing children's vulnerabilities stemming from their limited cognitive abilities, as explained by the bounded rationality theory. Article 30<sup>50</sup> prohibits forced labor and Article 53<sup>51</sup> guarantees children protection from harmful practices, violence, inhuman treatment, and exploitative labor. Article 53 is reinforced by Article 25, which classifies freedom from harsh, inhuman, or cruel treatment, including torture as a non-derogable right.<sup>52</sup> Given that child trafficking often involves forced labor and inhumane practices, such as coercing children to work in brothels, construction sites, or other exploitative environments, these acts are expressly prohibited under these constitutional provisions and are in accordance with the UNCRC. The Constitution prioritizes the best interests of the child in all matters concerning them<sup>53</sup> which

---

<sup>48</sup> Preamble, *Constitution of Kenya* (2010).

<sup>49</sup> Article 21(3), *Constitution of Kenya* (2010).

<sup>50</sup> Article 30, *Constitution of Kenya* (2010).

<sup>51</sup> Article 53, *Constitution of Kenya* (2010).

<sup>52</sup> Article 25, *Constitution of Kenya* (2010).

<sup>53</sup> Article 53, *Constitution of Kenya* (2010).

aligns with the UNCRC. In the case of *Re MM (Baby)*,<sup>54</sup> the court attempted to define the best interests of a child, and emphasized that decisions in tandem with the best interests of a child must prioritize their safety, happiness, emotional growth, and mental health particularly as they transition into early adulthood. This interpretation underscores the need for a holistic approach to decision-making that centers on the child's overall well-being. Finally, the Constitution empowers county governments to establish childcare facilities that provide protection and support for trafficked children which curbs the risk of re-trafficking.

Although the Constitution offers safeguards for all Kenyans, Article 14(4) may inadvertently facilitate child trafficking. This provision presumes that children under the age of eight, whose nationality is unknown, are Kenyan citizens.<sup>55</sup> This creates a potential loophole that offenders exploit to smuggle children into the country for trafficking purposes and shows the gap this provision has with Article 35 of the UNCRC, Article 9(4) of the Palermo Protocol, and Article 29 of the ACRWC. Although Article 30 of the Constitution prohibits forced labor and safeguards children from harmful practices such as trafficking, its enforcement remains weak. This is highlighted in *Ingahitzu & another v Republic*,<sup>56</sup> where a child was trafficked and exploited for labor despite these constitutional protections. This shows the gap between the Constitution's enforcement and Article 32 of the UNCRC and Article 15 of the ACRWC.

#### **4.2. Counter-Trafficking in Persons Act No. 8 of 2010.**

The primary objective of this Act is to align Kenya's legal framework with obligations under the Palermo Protocol,<sup>57</sup> hence incorporates the Protocol's definition and prevention of child trafficking.<sup>58</sup> This reflects the Kenyan government's commitment, as a duty-bearer, to safeguarding children's rights, in alignment with the principles of the Social Contract theory. Notably, the Act specifies its scope to address instances of child trafficking occurring within and outside Kenya's borders aligning with Article 11 of the Palermo Protocol.<sup>59</sup>

---

<sup>54</sup> (2021) eKLR.

<sup>55</sup> Article 14(4), *Constitution of Kenya* (2010).

<sup>56</sup> (2023) eKLR.

<sup>57</sup> Long title, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>58</sup> Article 3, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

<sup>59</sup> Section 3(4), *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

Section 4 of the Act criminalizes actions that facilitate child trafficking, such as offering guardianship, adoption, or foster care with the intent to traffic<sup>60</sup> implementing the mandate under Article 5 of the Palermo Protocol.<sup>61</sup> Individuals convicted of this offense are subject to strict penalties, including a minimum prison term of 30 years, a fine of at least 20 million shillings, or both, with life imprisonment for repeat offenders.<sup>62</sup> This provision addresses actions by Charitable Children’s Institutions (CCIs) and individuals involved in facilitating adoption or guardianship for trafficking purposes<sup>63</sup> and establishes clear sanctions in tandem with Article 5 of the Palermo Protocol. The Act also imposes life imprisonment to offenders whose actions cause death or permanent life-threatening harm to the victims of trafficking including children<sup>64</sup> which mirrors Article 5 of the Palermo Protocol. The Act provides that convicted offenders who had adopted, fostered, or had guardianship of a trafficked child will have those arrangements rescinded, with the child being placed under the care provisions of the Children Act.<sup>65</sup> This provision ensures that child trafficking practices in this form are not continued, and ensures children are placed in a protective environment free from child trafficking in line with Article 35 of the UNCRC and Article 29 of the ACRWC. Section 6 deters fraudulent acquisition of travel documents used in trafficking, imposing penalties of at least 10 years imprisonment, and a fine of at least 10 million shillings<sup>66</sup> to disrupt trafficking networks and prevent the exploitation of children.

Section 13 addresses the restitution of victims involved in trafficking, empowering courts to order convicted offenders to compensate victims<sup>67</sup> including children. Holding offenders accountable for the discourages child trafficking activities and deters future crimes. In line with Article 39 of the UNCRC, Section 15 ensures trafficked children receive comprehensive support, including reintegration, shelter, psychosocial care, and medical and legal assistance, It makes victims less susceptible to re-trafficking and empowers victims to aid in prosecuting traffickers. In line with Article 9 of the Palermo Protocol, Section 22 establishes the National Assistance

---

<sup>60</sup> Section 4(1), *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>61</sup> Article 5, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

<sup>62</sup> Section 4(3), *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>63</sup> National Crime Research Centre, *The Problem Of Human Trafficking In Kenya*, 14 November 2022, 59.

<sup>64</sup> Section 9, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>65</sup> Section 26(3), *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>66</sup> Section 6, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>67</sup> Section 13, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

Trust Fund to finance these services,<sup>68</sup> using proceeds from parliamentary appropriations, confiscated assets, investments, and donations, thereby supporting recovery, disrupting child trafficking networks, and deterring future crimes.

In recognizing the global nature of trafficking, Kenyan citizens or permanent residents who commit trafficking offenses outside Kenya can be prosecuted and penalized under the Act, as long as they haven't previously been acquitted in the nation where the offense was committed,<sup>69</sup> which is in line with Article 15 of the Palermo Protocol. This provision ensures that offenders cannot evade accountability by exploiting jurisdictional gaps and deters Kenyan nationals from participating in trafficking networks globally. Further penalties are outlined in Section 26, including the immediate deportation of non-citizens convicted under the Act, who are permanently barred from re-entering Kenya after serving their sentence<sup>70</sup> to prevent re-trafficking of children. This section also penalizes government officials who knowingly issue travel documents to promote child trafficking with imprisonment for a term of not less than - shillings, or both.<sup>71</sup> This ensures accountability within public institutions and deters corruption that enables child trafficking networks.

It can be noted from the assessment that the Act aligns with the prevention, protection, and prosecution paradigms required in the Palermo Protocol. However, while the Act takes strides in curbing child trafficking in Kenya as discussed, several gaps in the international legal framework and in preventing child trafficking in Kenya are noted. Section 26 provides for penalties to any government official who knowingly issues or approves travel documents, or fails to follow prescribed procedures to assist in trafficking. However, the phrasing in this section—stating that the individual "commits an offence and is liable to imprisonment for a term of not less than - shillings, or to both"—appears to be incomplete or ambiguous. This ambiguity raises concerns about the enforceability of the provision, as unclear penalties can undermine the effectiveness of the legal framework and lead to challenges in prosecution or sentencing revealing a gap between the Act with Articles 5, 9, and 11 of the Palermo Protocol. Finally, the punishment for child trafficking in Kenya is adequately stringent, aligning with the terms of imprisonment prescribed

---

<sup>68</sup> Section 22, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>69</sup> Section 25, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>70</sup> Section 26, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>71</sup> Section 6, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

for other serious offenses under the Penal Code of Kenya. However, the inclusion of a fine as an alternative to imprisonment undermines the gravity of the crime. Unlike serious offenses such as manslaughter and robbery, which do not permit fines as an alternative penalty, this provision diminishes the severity with which trafficking is treated.<sup>72</sup>

#### **4.3. The Children Act of 2022.**

The Children Act was established to implement Article 53 of the Kenyan Constitution.<sup>73</sup> It accords special rights to children acknowledging their vulnerabilities as underpinned by the Bounded Rationality Theory. The aim of furthering Article 53 by providing provisions to safeguard children's rights aligns with the social contract theory, which asserts that the government has a legitimate obligation to safeguard children's rights.

The Act aligns with the Palermo Protocol's definition of child trafficking and goes further to classify it as a form of child abuse.<sup>74</sup> It prohibits child abuse, including trafficking, and prescribes a penalty of imprisonment not exceeding five years, a fine of at least two million shillings, or both, for violators. The threat of imprisonment and hefty fines acts as a deterrent for potential child traffickers and is in line with the Palermo Protocol. The Act prioritizes the child's best interests in all decisions by institutions, courts, and authorities,<sup>75</sup> in line with the Constitution of Kenya.<sup>76</sup> The Act establishes specific parameters for determining a child's best interests, including factors that affect both their mental and physical health, as outlined in the First Schedule<sup>77</sup> unlike the UNCRC and ACRWC, which lack such defined parameters. This provision directly addresses issues caused by child trafficking, using them as grounds to prevent trafficking practices and protect vulnerable children. The Act establishes the National Council for Children's Services (NCCS) and offers the Cabinet Secretary advice on issues pertaining to child safety. The NCCS is tasked with accrediting adoption centers, monitoring CCIs, and submitting reports on matters relating to adoption to the Cabinet Secretary, ensuring transparency

---

<sup>72</sup> Claire A ' Prosecution of human trafficking in Kenya: Assessing the effectiveness of the legal framework in light of international standard' in Julian R, Malinowski R and Redhead R (eds) *10 years of Countering Human Trafficking in Kenya*, Leeds Beckett University Press, Leeds, 2023, 78.

<sup>73</sup> Long Title, *Children Act* (Act No 29 of 2022).

<sup>74</sup> Section 2, *Children Act* (Act No 29 of 2022).

<sup>75</sup> Section 8, *Children Act* (Act No 29 of 2022).

<sup>76</sup> Article 53(2) *Constitution of Kenya* (2010).

<sup>77</sup> Section 8 (1)(b), *Children Act* (Act No 29 of 2022).

and preventing practices that could enable child trafficking in the CCIs and adoption centers.<sup>78</sup> This is similar to how the UNCRC and ACRWC establish bodies responsible for monitoring the implementation of child protection measures from child trafficking. The Act classifies trafficked children as needing care and protection. It requires anyone who believes a child needs care to report it to an authorized officer, who must secure a court order for safe placement. County governments or charitable institutions may intervene in urgent cases to ensure the child's safety until court-arranged care is provided.<sup>79</sup> This is in line with Article 7 of the Worst Forms of Child Labour and enables urgent intervention by authorities and individuals with reasonable cause, breaking trafficking cycles, and safeguarding victims which prevents re-trafficking, and deters child trafficking.

The third schedule of the Act bars individuals with prior convictions for trafficking in persons from adopting children,<sup>80</sup> effectively safeguarding against repeat offenders using the adoption process for trafficking purposes. The Act requires Charitable Children's Institutions (CCIs) to be registered and operate strictly within the law,<sup>81</sup> preventing their use in child trafficking. It also imposes penalties of up to five years imprisonment or a fine of five million shillings,<sup>82</sup> which mirrors Article 6 of the Palermo Protocol and deters unregistered CCIs from being exploited as fronts for child trafficking operations.

While the Act takes strides in helping curb child trafficking, notable gaps are seen. The NCCS' designation on monitoring adoption and CCIs which are deemed to be insufficient at best and detrimental at worst and are still hotspots of child trafficking<sup>83</sup> gives rise to the question of the effectiveness in fulfilling its mandated roles revealing a gap with the requirement of effective implementation provided under Article 7 of the Worst Forms of Child Labour Convention<sup>84</sup>.

---

<sup>78</sup> National Crime Research Centre, *The Problem Of Human Trafficking In Kenya*, 14 November 2022, 59.

<sup>79</sup> Section 144, *Children Act* (Act No 29 of 2022).

<sup>80</sup> Third Schedule, *Children Act* (Act No 29 of 2022).

<sup>81</sup> Section 67, *Children Act* (Act No 29 of 2022).

<sup>82</sup> Section 65, *Children Act* (Act No 29 of 2022).

<sup>83</sup> Michelle O, Kristen C and Michelle K, 'Child Trafficking to Charitable Children's Institutions: Challenges and opportunities to combat the problem in Kenya' in Julian R, Malinowski R and Redhead R (eds) *10 years of Countering Human Trafficking in Kenya*, Leeds Beckett, Leeds, 2023, 40.

<sup>84</sup> Article 7, Worst Forms of Child Labour Convention.

#### **4.4. The Sexual Offences Act of 2006.**

The Sexual Offences Act complements the Counter Trafficking Act by addressing instances where children are trafficked for sexual abuse. It provides for perpetrators of child trafficking who organize travel arrangements, publish information, and facilitate contact for child sexual exploitation. Upon conviction, these individuals face a minimum imprisonment term of ten years, while legal entities are subject to a fine of no less than two million shillings<sup>85</sup> whose penalties hold accountable offenders in line with Article 7 of the Worst Forms of Child Labour and deter future forms of child trafficking practices.

While the Act provides methods to curb forms of child trafficking, its sanctions are less stringent and inconsistent with those in the Counter-Trafficking in Persons Act<sup>86</sup> which undermines the severity of the legal response to child trafficking revealing a gap with Article 35 of the UNCRC. The cases of *Ezra John Nyangena v Republic*<sup>87</sup> and *Calvin Otieno Okello v Republic*<sup>88</sup> reveal a significant gap in handling offences tied to child trafficking due to the repeal of Section 13 of the Sexual Offences Act and its replacement by the Counter Trafficking in Persons Act. In both instances, convictions for child trafficking were quashed because the charges were brought under non-existent provisions of the repealed Section 13. Unlike in *Wesley Kipkorir Rono v Republic*,<sup>89</sup> where the court amended the charges to align with the Counter Trafficking in Persons Act, other courts failed to take similar corrective action. This inconsistency highlights critical gaps, including inadequate legal training, lack of uniformity in judicial application, and oversight in managing repeals without considering ongoing or transitional cases, which ultimately allowed offenders to evade accountability.

#### **4.5. The Employment Act of 2007.**

The Employment Act defines a child to be anyone under eighteen years, aligning with the Palermo Protocol and the ACRWC.<sup>90</sup> It provides for the prohibition of these worst forms of child labour under Section 53,<sup>91</sup> thereby targeting and preventing practices that exploit children

---

<sup>85</sup> Section 14, *Sexual Offences Act* (Act No. 3 of 2006).

<sup>86</sup> Section 4(3), *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

<sup>87</sup> (2018) eKLR.

<sup>88</sup> (2019) eKLR.

<sup>89</sup> (2015) eKLR.

<sup>90</sup> Section 2, *Employment Act* (Act No. 11 of 2007).

<sup>91</sup> Section 53, *Employment Act* (Act No. 11 of 2007).

including the trafficking of children. Children under 13 are prohibited from employment, while those aged 13 to 16 can only engage in light labor that doesn't interfere with their education, development, or health, and are banned from working with machinery. This contrasts with the reality in Kenya, where children as young as five are employed and made to work with machines.<sup>92</sup> However, the penalties for engaging in the worst forms of child labour, including trafficking are up to 200,000 shillings, or imprisonment of at least 12 months, or both.<sup>93</sup> These penalties ensure accountability with respect to offenders and disrupt child trafficking in line with Article 7 of the Worst Forms of Labour Convention.

While this Act is key in promoting the curbing of child trafficking, several gaps are noted. The penalties in this Act highlight inconsistencies with the penalties under section 4 of the Counter-Trafficking in Persons Act.<sup>94</sup> This disparity undermines the establishment of a cohesive and uniform legal framework for combating trafficking.

## **Conclusion**

This chapter has critically explored the relationship between international frameworks and national laws in tackling child trafficking, highlighting key gaps and challenges. Notably, some gaps in national laws expose additional issues not explicitly highlighted in the reports and frameworks, including ambiguities in legal language, inconsistencies in penalties, and Insufficient enforcement by the institutions responsible for implementation. To effectively combat child trafficking, Kenya must address these gaps by aligning its provisions and actions with international best practices.

---

<sup>92</sup> Peter M, 'Child labor and school attendance in Kenya' 6 *Academic Journals* 1, 2011, 26.

<sup>93</sup> Section 64(2), *Employment Act* (Act No. 11 of 2007).

<sup>94</sup> Section 4, *Counter-Trafficking in Persons Act* (Act No. 8 of 2010).

## **CHAPTER FOUR: ASSESSMENT OF REPORTS ON CHILD TRAFFICKING IN KENYA.**

### **Introduction**

This chapter will critique reports done on child trafficking in Kenya as they guide practical interventions for combating child trafficking in Kenya.

This section will commence by analysing reports produced by international and regional organizations such as the Trafficking in Persons (TIP) Report and International Organisation for Migration (IOM) Report and the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) Report. The discussion will then transition to reports generated by Kenyan institutions, with a focus on the National Crime Research Center (NCRC) Report. This analysis will form the basis for assessing Kenya's legislative framework and practices in curbing child trafficking, highlighting areas for reform to effectively combat child trafficking.

### **3.1. The U.S. Department of State 2024 Trafficking in Persons Report: Kenya**

This report evaluates Kenya's efforts to combat trafficking in persons, including child trafficking, highlighting both achievements and gaps. The report highlights the state's duty to safeguard children from trafficking, reflecting the Social Contract Theory's principle of safeguarding children's rights.

The Trafficking in Persons (TIP) Report acknowledges some progress made by the Kenyan government in combating trafficking including that of children. Kenya's progress includes introducing a victim identification tool, adopting the 2022-2027 National Action Plan, improving labor recruitment agency oversight, and protecting Kenyan victims abroad, especially migrant workers.<sup>95</sup>

The report denotes that while Kenya has made strides in combatting trafficking including that of the child, there are notable gaps. First, the TIP Report ranks countries in three tiers according to

---

<sup>95</sup> United States Department of State, *2024 Trafficking in Persons Report: Kenya*, 27 June 2024, 4.

their adherence to the 2000 Trafficking Victims Protection Act (TVPA). Kenya is ranked Tier 2, showing progress but non-compliance with the TVPA standards. These standards require prohibiting trafficking, imposing severe penalties for crimes involving force, fraud, coercion, or child victims, and sustained efforts to eliminate trafficking but Kenya does not fully meet them.<sup>96</sup> This provision shows gaps in the implementation of Article 19 of the UNCRC. The report also denotes that Kenya's protection services for victims, remain limited and unpredictable. Further, the government heavily relies on civil society organizations to provide most victim care, such as shelter, without adequate financial or material support, limiting the effectiveness and accessibility of protection measures, particularly for children. These provisions reflect gaps in the implementation of Articles 6 and 9 of the Palermo Protocol that require state parties to provide adequate victim support systems. Furthermore, despite ongoing concerns about official involvement with trafficking offenses that significantly impede law enforcement efforts and victim identification, the government has not revealed any steps taken against allegedly complicit officials.<sup>97</sup> This lack of accountability compromises both the credibility and efficacy of Kenya's anti-trafficking initiatives revealing a gap between the practices and Article 35 of the UNCRC.

Another gap the report identifies is the misclassification of trafficking cases as other crimes, which hinders accurate tracking and prosecution of offenders.<sup>98</sup> This shows a gap with Article 5 of the Palermo Protocol which requires trafficking offences to be specifically criminalized and appropriately categorized in national legislation to ensure effective prosecution. Additionally, the penalties under the Counter-Trafficking in Persons Act, while stringent on paper, are undermined by the provision allowing fines as an alternative to imprisonment for sex trafficking. This leniency diminishes the law's deterrent effect compared to punishments for other severe crimes like rape.<sup>99</sup> Finally, the government's failure to provide awareness-raising materials in local languages limits its ability to effectively educate and engage local communities on the dangers of trafficking, leaving many vulnerable populations unaware of the risks or the legal protections available to them. This shows a gap between Kenyan practices and Article 9 of the Palermo Protocol and Article 42 of the UNCRC.

---

<sup>96</sup> Section 7106 (a), *Trafficking Victims Protection Act* 22 USC.

<sup>97</sup> United States. Department of State, *2024 Trafficking in Persons Report: Kenya*, 27 June 2024, 1.

<sup>98</sup> United States. Department of State, *2024 Trafficking in Persons Report: Kenya*, 27 June 2024, 1.

<sup>99</sup> United States. Department of State, *2024 Trafficking in Persons Report: Kenya*, 27 June 2024, 3.

### **3.2. African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) Baseline survey for Child trafficking in Busia, Mandera, and Marsabit**

Unlike the TIP report which reports on the status of trafficking including that of the child nationally, The ANPPCAN 2017 reports on the current state of child trafficking. in Busia, Mandera, and Marsabit regions. The report provides that Busia, Mandera, and Marsabit are high-risk areas for child trafficking due to porous borders and their roles as transit points for children from Uganda, Somalia, Ethiopia, and Eritrea. Busia serves as a major entry point, while Mandera and Moyale are key transit zones, emphasizing the need to focus on these vulnerable regions.<sup>100</sup>

The report highlights a widespread misunderstanding of child trafficking, with many communities perceiving it as acceptable and beneficial, hindering its recognition as a serious crime.<sup>101</sup> This shows a gap between these practices with Article 9(2) of the Palermo Protocol, which emphasizes the importance of sensitization campaigns, particularly in vulnerable communities, and Article 2(a) of the Palermo Protocol, which ensures the recognition of trafficking as a crime and dispelling misconceptions that normalize or trivialize its impact. Additionally, the report highlights significant gaps in victim assistance as seen in the TIP report but in this report particularly to Mandera and Moyale, due to weak referral systems and rehabilitation structures. This shows a gap in implementing measures under Article 6(3) of the Palermo Protocol, which requires states to assist and safeguard victims, through shelter, medical care, psychological support, and physical safety. Additionally, the report denotes there is limited awareness of reporting mechanisms and legal frameworks further complicates victim protection<sup>102</sup> as also revealed in the TIP report which shows a gap in implementing Article 9(2) of the Palermo Protocol, which provides for the widespread sensitization of anti-trafficking measures to local communities. Moreover, the report denotes that CCIs in Busia and Moyale, coupled with corruption at border points, where officials are bribed to facilitate the illegal movement of children, exacerbate child trafficking in Kenya. This shows the practice has gaps in

---

<sup>100</sup>African Network for the Prevention and Protection against Child Abuse and Neglect, *Baseline survey for Child trafficking in Busia, Mandera, and Marsabit*, 5 May 2017, 1.

<sup>101</sup> African Network for the Prevention and Protection against Child Abuse and Neglect, *Baseline survey for Child trafficking in Busia, Mandera, and Marsabit*, 5 May 2017, 7.

<sup>102</sup> African Network for the Prevention and Protection against Child Abuse and Neglect, *Baseline survey for Child trafficking in Busia, Mandera, and Marsabit*, 5 May 2017, 29.

the implementation of Article 11(1) UNCRC, Article 79 of the Constitution of Kenya,<sup>103</sup> and the UN Convention against Corruption (UNCAC),<sup>104</sup> which both aim at preventing corruption. that could be used to facilitate child trafficking in Kenya.

### **3.3. Assessment Report on Human Trafficking situation in the Coast Region of Kenya by the International Organization for Migration**

This report offers a detailed examination of the prevalence, factors, and impacts of human trafficking, with a specific regional focus on the coastal area. This approach mirrors the APPCAN report, which concentrated on regions like Busia, Moyale, and Marsabit, in contrast to the TIP report, which provides a national overview of human trafficking including that of the child. The research emphasizes the prevalence of human trafficking is in the coastal area., with child trafficking accounting for 97% of reported cases.<sup>105</sup>

The report highlights that poverty, unemployment, and tourism, coupled with a widespread social acceptance of child sex work, make it easy for children to drift into exploitative trade in Coastal Kenya.<sup>106</sup> This demonstrates Kenya's failure to conform to Article 9(4) of the Palermo Protocol, which mandates actions to address the underlying causes of human trafficking, including poverty and unequal opportunity. Similar to the TIP and ANPPCAN, the report identifies porous borders as a key challenge in combating human trafficking in coastal Kenya. This shows a gap with Article 11 of the Palermo Protocol, which requires state parties to strengthen border security to impede child trafficking. Similar to the TIP and ANPPCAN, the report also provides there are, limited law enforcement resources, which shows a gap with Article 10 of the Palermo Protocol, which emphasizes cooperation and capacity-building among law enforcement agencies. Similar to the TIP and ANPPCAN, the report provides there is corruption showing a gap between the UNCAC and Article 79 of the Constitution of Kenya, which demands the creation of impartial anti-corruption organizations to prevent corruption in state officers. The report also denotes that efforts are further hindered by a lack of awareness of counter-trafficking laws, as also revealed in

---

<sup>103</sup> Article 79, *Constitution of Kenya*, (2010).

<sup>104</sup> Article 5, *United Nations Convention Against Corruption*, 31 October 2003, 2439 UNTS 173.

<sup>105</sup> International Organization for Migration (IOM), *Assessment report on the human trafficking situation in the coastal region of Kenya*, 22 May 2018, 19.

<sup>106</sup> International Organization for Migration (IOM), *Assessment report on the human trafficking situation in the coastal region of Kenya*, 22 May 2018, 15.

the TIP and ANPPCAN report this shows gaps in the implementation of Article 9(2) of the Palermo Protocol which recommends public education campaigns, ensuring information is accessible to vulnerable populations.<sup>107</sup>

### **3.4. National Crime Research Center On The Problem Of Human Trafficking In Kenya Report**

The National Crime Research Center's report on human trafficking in Kenya identifies the primary challenges and factors contributing to both domestic and international trafficking, where children are often trafficked for forced labor and sex to North America, Europe, the Middle East, and other parts of Africa.

The report identifies poverty, unemployment, and limited livelihood opportunities as challenges in curbing child trafficking in Kenya,<sup>108</sup> which shows a gap with Article 9(4) of the Palermo Protocol which calls for measures to address factors that cause trafficking, such as poverty and lack of equal opportunity.<sup>109</sup> Similar to the TIP report, the report shows illiteracy and a lack of awareness further compound the problem, leaving individuals unaware of trafficking risks or the protections available. This reveals a gap with Article 9(2) of the Palermo Protocol, which provides for the widespread sensitization of anti-trafficking measures to local communities. The report reveals corruption among public officials which enables child trafficking this shows a gap with Article 5 of the UNCAC which aims to prevent corruption, which could subsequently cause child trafficking. Finally, weak stakeholder collaboration undermines coordinated efforts to combat trafficking. This shows gaps in implementing Article 10(1) of the Palermo Protocol which provides for the establishment of task forces and information-sharing mechanisms, improves coordination, and ensures a holistic response.

### **Conclusion**

In conclusion, the recurrent issues highlighted across the various reports on child trafficking in Kenya—such as poverty, corruption, inadequate victim support, weak legal frameworks, and limited awareness—underscore the persistent systemic challenges in addressing this crime. The international frameworks, including the Palermo Protocol, ILO Conventions, and the UNCRC,

---

<sup>107</sup> Article 9(2), *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

<sup>108</sup> National Crime Research Center, *The Problem Of Human Trafficking In Kenya*, 132.

<sup>109</sup> Article 9(4), *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

provide comprehensive guidelines to address these challenges. Hence to effectively combat child trafficking, Kenya must fully implement these provisions while tailoring them to its unique socio-economic and cultural context.

## CHAPTER FIVE: RECOMMENDATIONS FOR STRENGTHENING COUNTER-TRAFFICKING CHILD PROTECTION LEGISLATIVE FRAMEWORKS

### Introduction

Child trafficking remains a critical issue in Kenya, driven by legal loopholes, weak enforcement, and systemic gaps. To address this, Kenya must align its efforts with the global standards as discussed below.

#### 5.1. Recommendations to the national legal framework vis a vis the global legal standards.

Article 14(4) of the Constitution of Kenya 2010 creates a significant loophole that traffickers exploit to smuggle children into Kenya claiming them as citizens.<sup>110</sup> Article 35 of the UNCRC<sup>111</sup> and Article 9(4) of the Palermo Protocol emphasize that state parties must protect children from trafficking, including through measures to prevent the unlawful transfer or abduction of children.<sup>112</sup> To close this loophole, Kenya should amend Article 14(4) of its Constitution. Instead of automatically presuming that children under the age of eight, whose nationality is unknown, are Kenyan citizens, the provision should require a thorough investigation in tandem with the rest of the countries into the child's nationality, focusing on their welfare and safety.

Furthermore, although Article 30 of the Constitution prohibits forced labor and protects children from harmful practices, its enforcement remains weak, as evidenced in cases like *Ingahitzu & Another v Republic*.<sup>113</sup> International frameworks, including Article 32 of the UNCRC, Articles 1 and 3 of the Worst Forms of Child Labour, and Article 15 of the ACRWC, call for not only prohibiting but also effectively enforcing laws against child labor and trafficking. To address these gaps, Kenya must strengthen enforcement by enhancing training for law enforcement and judicial officers and ensuring consistent application of constitutional protections in court cases in order to curb child forced labour a key facilitator of child trafficking.

---

<sup>110</sup> Article 14(4), *Constitution of Kenya* (2010).

<sup>111</sup> Article 35, *Convention on the Rights of the Child*.

<sup>112</sup> Article 9(4), *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

<sup>113</sup> (2023) eKLR.

Section 26 of the Counter-Trafficking in Persons Act provides penalties for government officials who knowingly issue travel documents or fail to follow procedures that assist in trafficking. However, the language used in this section is ambiguous, making it unclear what penalties are to be applied. Articles 5, 9, and 11 of the Palermo Protocol stress the importance of clear and specific penalties for offences related to human trafficking, including those involving government officials, as strong penalties are necessary to create a deterrent effect and ensure accountability at all levels of government. Kenya should amend Section 26 of the Counter-Trafficking in Persons Act to clarify the penalties for government officials involved in trafficking. These penalties should be explicit and proportionate to the severity of the crime in order to curb child trafficking through government officials.

Gaps from the Children Act indicate that some of these institutions remain hotspots for child trafficking, raising concerns about the NCCS's ability to effectively oversee these areas. Article 7 of the Worst Forms of Child Labour Convention, calls for the effective implementation of measures to prevent child trafficking, including oversight of adoption processes. Therefore Kenya should strengthen the capacity of the NCCS to monitor adoption processes and CCIs effectively. This can be achieved by providing additional resources, training, and authority to ensure that these institutions are properly regulated and that trafficking is prevented.

In the Counter-Trafficking in Persons Act, Children Act, Employment Act, and Sexual Offences Act, the punishment for child trafficking, though, includes the option of a fine as an alternative to imprisonment. This undermines the gravity of the crime, especially when compared to other serious offenses like manslaughter or robbery, which do not permit fines as an alternative penalty. This is despite the fact that children are among the vulnerable members of the society. Article 7 of the Worst Forms of Child Labour Convention stresses the importance of imposing severe penalties for child trafficking. Therefore, Kenya should amend the national legislation to remove the option of fines as an alternative penalty for child trafficking, as the law should treat child trafficking as a grave offense that warrants imprisonment, in line with the severity of the crime.

Cases such as *Ezra John Nyangena v Republic*<sup>114</sup> and *Calvin Otieno Okello v Republic*<sup>115</sup> reveal significant gaps in the application of the law in child trafficking cases. The repeal of Section 13 of the Sexual Offences Act and its replacement with the Counter-Trafficking in Persons Act has led to confusion, with some courts failing to amend charges in accordance with the new law. Kenya should implement mandatory training programs for judges, prosecutors, and law enforcement officers to ensure consistent application of the Counter-Trafficking in Persons Act. Additionally, guidelines should be established for handling cases involving repealed provisions and transitional legal issues. This will help ensure uniformity in judicial application and prevent offenders from evading justice due to legal inconsistencies.

## **5.2. Recommendations to Kenyan Practices from the reports vis a vis the global legal standards.**

Poverty, unemployment, and lack of education are the primary drivers of child trafficking in Kenya. States are mandated by Article 9(4) of the Palermo Protocol to implement or improve policies addressing poverty, underdevelopment, and unequal opportunity in order to lessen their susceptibility to human trafficking.<sup>116</sup> Therefore, Kenya should implement targeted poverty alleviation programs, ensure free and accessible education for vulnerable children, and create job opportunities for at-risk communities.

Kenya lacks a centralized system for tracking trafficking cases, resulting in fragmented data and weak coordination among stakeholders. Article 10(2) of the Palermo Protocol encourages states to share information on trafficking and establish systems to collect and analyze data for coordinated anti-trafficking efforts. Therefore, Kenya should establish a national database for trafficking cases, enabling coordination among law enforcement agencies, NGOs, and international partners.

## **5.3. Conclusion**

To curb child trafficking in Kenya, this study underscores the need to strengthen the country's legal frameworks through alignment with global legal standards, addressing legislative

---

<sup>114</sup>(2018) eKLR.

<sup>115</sup>(2019) eKLR.

<sup>116</sup> Article 9(4), *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.

ambiguities, and enhancing enforcement mechanisms. Amending loopholes in the Constitution and national laws, ensuring severe penalties for offenders, and providing resources for institutional oversight are critical steps. Additionally, fostering inter-agency coordination, implementing anti-corruption measures, and addressing socio-economic vulnerabilities such as poverty and lack of education are key. By addressing these gaps, Kenya can build a comprehensive counter-trafficking legal framework that effectively safeguards children from trafficking.

## **Bibliography**

### **i. Books**

Bjorklund D, *The Adaptive Value of Cognitive Immaturity: Applications of Evolutionary Developmental Psychology to Early Education*, 1ed, Springer International Publishers, Switzerland, 2016.

Stephen O, *Convenient Fictions: A Comparison And Critical Analysis Of Hobbes' And Locke's Social Contract Theories*, 8 ed, The Western Australian Jurist, Australia, 2010.

### **ii. Chapter in Books**

Agostino D, Derald G, and John T, 'Contemporary Approaches to the Social Contract' in Edward N and Uri N(eds), *The Stanford Encyclopedia of Philosophy*, Stanford University Press, California, 2024, 1-15.

Bertram C, 'Jean Jacques Rousseau' in Edward N and Uri N(eds), *The Stanford Encyclopedia of Philosophy*, Stanford University Press, California, 2024, 16-21.

Claire A ' Prosecution of human trafficking in Kenya: Assessing the effectiveness of the legal framework in light of international standard' in Julian R, Malinowski R and Redhead R (eds) *10 years of Countering Human Trafficking in Kenya*, Leeds Beckett University Press, Leeds, 2023, 76- 83.

Michelle O, Kristen C and Michelle K, 'Child Trafficking to Charitable Children's Institutions: Challenges and opportunities to combat the problem in Kenya' in Julian R, Malinowski R and Redhead R (eds) *10 years of Countering Human Trafficking in Kenya*, Leeds Beckett, Leeds, 2023, 40- 47.

### **iii. Journal Articles**

Chemhuru M, 'Gleaning the social contract theory from the African communitarian philosophy' *36 South African Journal of Philosophy* 4, 2017.

Faisal L and Etan A, 'Theorizing Child Trafficking in Young Adult Literature: A Review of the Literature' *1 Arab World English Journal* 1, 2016.

Kinuthia, C., Mbogo, B. & Komen, L, 'Advocacy Communication And The Child Trafficking Situation In Kenya: The Case Of Mathare Constituency Primary Schools' *9 International Journal For Innovation Education And Research* 2, 2021.

Manzoor L, 'Social Contract Theory by Hobbes, Locke, and Rousseau '21 *SSRN Electronic Journal* 3, 2013.

Nur R, Muhammad S, Ida S, 'Implications of State Sovereignty for The Ratification of International Law' 8 *Journal of Islamic and International Affairs* 2, 2023.

Odhiambo S, Kassilly J, Maito T, Onkware K and Oboka A, 'Kenya's Constitution And Child Trafficking As A Security Threat' 3 *Journal of Defense Resources Management* 2, 2012.

Peter M, 'Child labor and school attendance in Kenya' 6 *Academic Journals* 1, 2011.

Sutter C, 'Factors Influencing The Girl Child In Urban Domestic Service Labour In Eldoret, Uasin-Gishu County, Kenya' 23 *International Journal Of Humanities And Social Science* 12, 2018.

#### **iv. Online Journals**

Christina T and Cathleen S, 'The Exploitation of Women and Children – A Comparative Study of Human Trafficking Laws between the United States-Mexico and China-Vietnam' *GlobaLex*, 2021, 4 -[https://www.nyulawglobal.org/globalex/human\\_trafficking1.html](https://www.nyulawglobal.org/globalex/human_trafficking1.html).

#### **iv. Reports**

ANPPCAN, *The African Charter On The Rights And Welfare Of The Child*, 15 June 2021.

Chr. Michelsen Institute (CMI), *Legislating the Counter-Trafficking in Persons Act: The Advocacy Role of Civil Society*, 27, April 2015.

ENACT Africa, *Global Organised Crime Index: Kenya*, 26 September 2023.

International Organization for Migration (IOM), *Assessment report on the human trafficking situation in the coastal region of Kenya*, 22 May 2018.

International Organization for Migration, *Guidelines for Assisting Victims of Human Trafficking in the East Africa Region*, 19 May 2011.

National Crime Research Centre, *The Problem Of Human Trafficking In Kenya*, 14 November 2022.

The United States Department of State, *Trafficking in Persons Report: Kenya*, 15 June 2023.

The United States Department of State, *Trafficking in Persons Report- Kenya*, 19 June 2012.

United States Department of State, *2024 Trafficking in Persons Report: Kenya*, 27 June 2024.

#### **v. Dissertation and Theses**

Clive A, 'Examining Nigeria's Existing Domestic and International Legal Framework for Combating Trafficking in Children' published PhD thesis, University of Leicester, Leicester, 2022.

Nanci S and Madyasah A, 'The prevention of child trafficking crimes and its legal reform' Published PhD Thesis, Universitas Sumatera Utara, Medan, Indonesia, 2018.

Tracy A, 'A Critique of the Role of the Government in Combatting Human Trafficking in Kenya' Published LLB Dissertation, Strathmore University, Nairobi, 2017.

#### **vi. Self-Published Articles**

Christina T and Cathleen S, 'The Exploitation of Women and Children – A Comparative Study of Human Trafficking Laws between the United States-Mexico and China-Vietnam' Globalex, 2021.