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HUMAN TRAFFICKING AS A SECURITY ISSUE: SELECTED CASE STUDIES

By

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I trust they and their generation will grow up in a more secure world without human traffickers

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LIST OF ABBREVIATIONS

AU	African Union
BCOCC	Border Control Operational Coordinating Committee
CCHS	Canadian Consortium on Human Security
CEPR	Centre for Economic Policy Research
CHS	Commission on Human Security
CIS	Commonwealth of Independent States
CPI	Corruption Perceptions Index
CSAE	Study of African Economies
CSEC	Congress against Commercial Sexual Exploitation of Children
DHA	Department of Home Affairs
DRC	Democratic Republic of Congo
EU	European Union
Europol	European Police
FBI	Federal Bureau of Investigation
GDP	Gross Domestic Product
HDI	Human Development Index
HDR	Human Development Report
HRL	Human Rights League
HSRC	Human Sciences Research Council
ILO	International Labour Organisations
IMF	International Monetary Fund
IOM	International Organisation for Migration
KPCS	Kimberly Process Certification Scheme
NCACA	National Campaign against Child Abuse
NGO	Non-Governmental Organisations

NPA	National Prosecuting Authority
OSCE	Organisation for Security and Co-operation in Europe
SABC	South African Broadcasting Corporation
SADC	Southern Africa Development Community
SALRC	South African Law Reform Commission
SAMSA	South Africa Maritime Safety Authority
SANDF	South African National Defence Force
SAP	Structural Adjustment Programme
SAPS	South Africa Police Service
SMME	Small Medium and Micro Enterprises
TI	Transparency International
TVPA	Victims of Trafficking and Violence Protection Act of 2000 (US)
UAE	United Arab Emirates
UK	United Kingdom
UNDP	United Nations Development Programme
UNGIFT	Global Initiative to Fight Human Trafficking
UNICEF	United Nations International Children Education Fund
UNODC:	United Nations Office on Drugs and Crime
UNPF	United Nations Population Fund
USSR	Union of Soviet Socialist Republics
WGCF	Working Group on Contemporary Forms of Slavery
WHR	World Human Rights

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CHAPTER 1

INTRODUCTION

1   IDENTIFICATION OF THE RESEARCH THEME

Terms related to human trafficking are "smuggling" and "kidnapping" of persons". Although kidnapping, trafficking and smuggling of persons are sometimes synonymously used in the literature they can be conceptually differentiated[1]. A distinction between the terms can be made using four criteria, namely, consent, exploitation, transnationality, and source of profit[2]. While smuggled persons in most cases consent to being smuggled into another country, trafficked victims in most cases do not consent to being trafficked. Exploitation of victims of trafficking continues even after arrival at their destinations, while exploitation of smuggled persons, by the smugglers, in most cases, ends with the arrival of victims at their destinations. While trafficking and smuggling of persons are mostly transnational in nature, trafficking may in some cases, be entirely domestic. Smugglers of persons profit mainly from transportation of their victims to their destinations, while human traffickers profit from continuous exploitation of victims in their countries of destination[3].

Kidnapping is described as the forceful procurement of persons for financial, sexual and other exploitations. Unlike trafficking and smuggling, which in some cases may involve the consent of victims, kidnapped victims are held against their will. Kidnappers profit from demanding ransom from the state, organisations, or relatives of their victims. In many cases victims are released after the payment of ransom to kidnappers. However, there are extreme cases in which victims are killed even after ransom has been paid to kidnappers. Kidnapping is mainly domestic, but can also be international in some cases. Importantly too, kidnapping may be politically motivated, when it is used, for example, as part of a broader strategy of terror by a non-state actor engaged in political contestation with a legitimate government to obtain concessions from the state. In this case, kidnapping may not necessarily involve financial gains[4].

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Globally, human trafficking is not a completely new phenomenon. Its history is extensive and may be arguably traced back to the 19th Century[5]. Earlier discourses on human trafficking associated it mainly with women (white women), children and prostitution. Thus, the term "white slavery" was widely used to describe "the procurement, by force, deceit, or drugs, of a white woman or girl against her will, for prostitution"[6]. Though the emphasis was placed on white women, it does not however, imply the absence of trafficking of white men for sexual exploitation and forced labour. It also does not imply the absence of trafficking of men and women of races other than white, for sexual exploitation and other purposes during those times.

The end of the Cold War has seen human trafficking increase in scope and form in Africa and in Southern Africa in particular. Different manifestations of the phenomenon are identifiable from research reports and publications by international institutions, governments, researchers and non-governmental organisations (NGOs). According to the International Organisation for Migration (IOM), for example, human trafficking in Southern Africa takes the following identifiable forms[7].

- Child trafficking for farm and domestic labour exploitation across countries;
- trafficking of women and men for sexual exploitation within the region, particularly in South Africa;
- trafficking of women outside the region for sexual exploitation; and
- trafficking of women from outside Africa to Southern African for sexual exploitation.

The increase in different forms of human trafficking in Southern Africa is attributed to several factors. One of such factors is the history of political instability in the region, wars and counter-wars as well as globalisation, poor economic development and the existence of local and international trafficking agents[8].

Although human trafficking has existed in Southern Africa for a very long time, it is not often viewed as a security issue by states in the region. The most plausible explanation

could be that policy makers do not explicitly consider human trafficking to pose an "existential threat"[9] to the states, governments, territories and societies in the region. Such reasoning is nevertheless, narrow, state centric and anachronistic because it tends to ignore the expansion of the security sphere and fails to properly situate people as the foundation of states. It is acknowledged that certain national and international policy measures are in place to combat human trafficking. These policies view the phenomenon as more of a socio-political than a security issue. Human trafficking is not always seen as part of organised crime and hence a threat to national security, although it is often linked to other forms of smuggling. As Buzan, *et al*, point out, politicisation of a problem makes it "part of public policy, requiring government decision, and resource allocation, or more rarely, some other form of communal governance"[10]. However, politicisation does not securitise a public policy issue. Securitisation of an issue means defining the issue as "an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure"[11]. The state approach to the phenomenon of human trafficking in Southern Africa, weakens policy measures in place to address the problem and other forms of trafficking, for example drugs and illegal weapons.

2   STUDY OBJECTIVES

The main objective of this study was to assess the security dimensions of human trafficking with specific reference to South Africa and Mozambique. Attempts to achieve this objective entailed the conceptualisation of security beyond its traditional state centric understanding and in line with the arguments of scholars such as Buzan[12], Buzan, *et al*[13], and Kaldor[14].

By adopting the expanded meaning of security, the study attempted to provide the link between human trafficking and the primary purpose of the state, which is the protection of lives and territory and the provision of collective goods within its territorial boundaries. Similarly, the study also pointed out that state functions of protection and provision of common goods are not limited to the domestic arena only, but are also extendable internationally. Thus, through a complex network of interdependence, states

have to extend these functions beyond their national territories usually through ratification and implementation of international protocols, conventions, agreements and laws. Specifically, international pressure is placed on countries regarded as sources of human trafficking to adopt legislation and other measures to counter trafficking. This is against the background that trafficked persons are not always able to access domestic state protection and international protection provided by different legal frameworks. Consequently, trafficking victims are exposed to insecurities which not only threaten their survival and human dignity, but further impoverish and expose them to deadly diseases[15].

Against the background of this situation, the study aimed to realise two further interrelated (secondary) objectives. Firstly, in situating human trafficking within the broader perspective of security and the primary role of the state, the study explored the link between human trafficking and other forms of organised crime such as the drug trade. Secondly, the study also assessed different policy responses aimed at preventing, suppressing and punishing human traffickers at global, regional and national levels.

Realisation of the primary and secondary objectives of the study also required the examination of the trends and patterns of human trafficking, the sources of trafficking, and destinations of trafficked persons as well as the conditions under which victims live[16]. Invariably, the study highlighted and discussed human trafficking in South Africa and Mozambique and the extent of the threat that they pose to states in the region. The involvement of organised crime syndicates in human trafficking, for example, poses a serious threat to the security of states in Southern Africa. This is because law enforcement agencies such as the police and the judiciary are often targeted by organised crime groups in different countries in the sub-region. Human trafficking is also linked to other forms of trafficking such as narcotic drugs and illegal weapons[17].

3   LITERATURE SURVEY

The literature on human trafficking is growing as the phenomenon increases globally. Scholarly works on the problem can be grouped into four categories. In the first category are works that focus mainly on origin and victims of human trafficking. Explored in these works are, among other things, the plights of victims, and the conditions that make them vulnerable to trafficking as well as the impact of trafficking on victims' human dignity and rights[18]. In the second category, are works that focus on the criminals involved in the illicit activity. These works explore the profile of traffickers, methods of recruitment from countries of origin, and different forms of exploitation at final destinations[19]. While the third category of works on human trafficking deals mainly with legislation designed to combat the activities of human traffickers, the fourth category deals with theoretical aspects of the phenomenon[20]. In practice, however, these studies overlap. One work, for example can deal with all four categories mentioned.

3.1   Origin, Victims, Conceptual and Causal Issues

Commenting on the phenomenon of human trafficking, Barry claims that it is not as recent as it seems as its history is extensive and traceable back to the 19th Century, when it was associated mainly with white women (white slavery) and children forced into prostitution[21]. While historically human trafficking was associated with white slavery, it has nevertheless expanded to involve people of all races and classes and has attracted attention from governments, institutions and scholars. Feingold supports the claim that human trafficking is not a new phenomenon. He maintains that the trade in human beings is as old as the "laws of supply and demand"[22]. However, Feingold acknowledges that the only thing new about the phenomenon is the volume of the trade and the fact that until recently, little has been done to combat it[23]. Thus, in their review of scholarly literature on human trafficking and organised crime, Bruckert and Parent note that questions regarding the "trade" or trafficking of human beings began to be raised during the latter part of the 1980s but did not enter into the academic mainstream until the 1990s. They

further maintain that it was only during the latter part of the 1990s that publications on the issue began to emerge mainly in the form of research reports and media coverage[24]. While Bruckert and Parent had Canada as their point of reference, their findings are nevertheless extendable to other regions of the world.

Stressing the global nature of human trafficking, Louise examines the different forms, causes and business models of human trafficking[25]. Specifically, her work highlights and discusses "the operations of the trafficking business and the nature of the traffickers themselves"[26]. Using a historical and comparative approach, the author argues that "there is more than one business model of human trafficking" and that "there are enormous variations in human trafficking in different regions of the world"[27]. On the basis of her findings, Louise draws the conclusion that "human trafficking will grow in the twenty-first century as a result of economic and demographic inequalities in the world, the rise of conflicts, and possibly global climate change"[28]. As insightful as the work of Louise is, its main focus on the commercial side of human trafficking leaves little room for discussion on the security implications of human trafficking. The author did however, point out that the only reason human trafficking continues to rise globally, is that governments do not view the problem as a serious threat like other forms of trafficking such as narcotics[29].

Several of the works on human trafficking, have a regional focus and tend to concentrate on certain aspects of the problem such as forced labour and sexual exploitation of victims, particularly women. In the light of this, Nicola[30] describes the Asian region as the hub of trafficking in persons, particularly for the purpose of sexual exploitation. According to the author, the largest number of children and women trafficked are within or from Asia. Drawing instances from Africa, South America, North America, Eastern and Central Europe, Nicola argues that human trafficking is multifaceted in nature and is not only a national and international issue but also essentially a regional issue. Feingold agrees that trafficking is endemic in the Asian region and posits that the literature on human trafficking is dominated by works which focus on sexual exploitation of women and girls. Although he describes human trafficking as a "vile and heinous violation of

human rights", he contends that labour and not sexual trafficking may probably be the most prevalent form of trafficking in the Asian region. On the basis of this, the author questions the statistics on "end use" in trafficking activities and contends that sexual exploitation is over represented in available statistics. To buttress his argument, Feingold, states that men are mostly excluded from trafficking statistics in countries such as Thailand[31].

The unreliability of data on human trafficking is noted in the literature on human trafficking in Africa. Human trafficking literature in Africa is dominated by research reports by international organisations often in collaboration with NGOs. Different aspects of the problem such as its operational definition, types and forms as well as trafficking routes have been studied. In Southern Africa, for example, the problem of human trafficking is discussed as modern slavery in the literature and closely associated with women and prostitution. Thus, the IOM in its report in 2003 argues that "despite immense profit trafficking for sexual exploitation generates for criminal syndicates, and the lawlessness, social and political disarray to which they contribute, this contemporary slave trade in women and children has yet to be addressed adequately in Southern Africa"[32]. The link between human trafficking and organised crime as a causal factor is further corroborated by the *United Nations Convention against Transnational Organised Crime* of 2000 (Palermo Convention). In the Sixth Session of the Conference of the Parties to United Nations Office on Drugs and Crime (UNODC) in October 2012, it was reported that "Traffickers in human beings make an estimated $32 billion annually in an illicit market that affects millions of victims worldwide every year"[33].

Still on human trafficking in Africa, Adepoju in his review of the phenomenon in Sub-Saharan Africa appears to recognise a conceptual distinction between smuggling and trafficking in human beings. Thus, he points out that "recent years have witnessed a gradual increase in the smuggling of migrants and trafficking in human beings, to and from Africa as well as within the continent"[34]. Besides making a statement indicating a distinction, Adepoju does not provide further conceptual differentiation between the two terms. Rather he goes on to posit that "the exploitative nature of the treatment of the

victims of trafficking often amounts to new forms of slavery"[35]. He also describes the trends, types and forms of recruitment, and transportation of victims of trafficking. Certain countries in Southern Africa such as Mozambique are described as "supply states" while South Africa is a typical example of a destination state within the continent. Among European nations mentioned as destination states outside of Africa, are the Netherlands, Italy, France, Spain, the United Kingdom (UK) and Switzerland[36].

From works reviewed so far, there seems to be confusion regarding the boundary between human trafficking, slavery and prostitution on the one hand and between smuggling, kidnapping and illegal migration on the other hand. In this regard, Bruckert and Parent conclude that "analysts agree that there is no consensual definition of trafficking in human beings"[37]. However, Bruckert and Parent accept the definition of human trafficking by the United Nations (UN) as well as the definition by Wijers and Lap-Chew[38]. A closer examination of the definitions by the UN and Wijers and Lap-Chew will show that human trafficking is almost equated with sexual and labour exploitation of women[39]. Laczko attributes the lack of clear distinction between human trafficking and related concepts to the multifaceted nature of the problem. He further notes that one challenging aspect of research into human trafficking noticeable from the literature is the equating of trafficking with related trades such as slavery[40].

Authors tend to describe human trafficking in different ways arguably to suit the purpose of their inquiries and mainly to influence policy making in that direction. The application of interrelated terms such as "slavery", "smuggling", and "illegal migration", interchangeably with human trafficking, has implications for data collection on the problem. Thus, Nicola further states that reliable data on human trafficking that would allow comparative analysis and design of precise counter-measures is scarce[41]. This argument supports the assertion of Feingold as previously stated. Feingold in his assessment of human trafficking, especially in Asia had contended that the information on trafficking activities is unreliable as it tends to over-represent sexual exploitation of women and children[42]. These assertions, notwithstanding, many countries are beginning

to gather data on human trafficking based on the number of arrests, trials, and successful prosecution. The IOM is also playing a crucial role in this regard.

3.2   Theoretical and Legislative Issues

Literature on efforts to combat human trafficking at the global, regional and national levels is increasing. The majority of the works mainly deal with major strengths and weaknesses of the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Palermo Protocol). In this regard, Truong and Angeles examined the *Palermo Protocol* and reached the conclusion that it is the most important international attempt aimed at combating human trafficking nationally, regionally and globally[43]. Their conclusion appears to be based on the criminalisation of all forms of trafficking as well as methods of recruitment in the protocol. Although international legislation criminalising human trafficking provides a broad definition of the problem, some scholars such as Lee argue that it presents difficulties with respect to policy making[44]. Similarly Milivojevic and Segrave also posit that the international instrument has not provided a specific guideline for the identification of victims of human trafficking[45].

The identified weaknesses of the *Palermo Protocol*, tend to be present in regional and national legislation because these were based on the international protocol. Several authors have also expressed concern over the lack of a precise definition of the term "exploitation" in the protocol[46]. In this regard Mollema posits that human trafficking legislation "contain provisions that may result in inconsistent standards being applied in a region"[47]. She argues that the reason for inconsistent application of standards is that "some instruments focus more on certain issues, areas, persons or criminal acts than others"[48]. Mollema specifically posits that "some treaties contain provisions only on certain themes such as criminal justice, human rights or migration, while others may deal with only children or women"[49]. The conclusion that can be drawn from Mollema's argument and the submissions of others is that the selective application of the provisions

of trafficking legislation in different countries constitutes a hindrance to preventive efforts.

Among several issues relating to human trafficking found in the literature is the challenge of how to theorise the phenomenon especially within the African context. Thus, several works deal with the description of the main issues involved in human trafficking, rather than providing a reliable conceptual framework to guide empirical research and data collection on the issue. For example in the 2003 report of the IOM on the trafficking of women and children for sexual exploitation, researchers who contributed to the report, mainly dealt with issues such as the operations of traffickers; the conditions of victims; methods of recruitments, and the routes of trafficking[50]. Some of the works also dealt with the consequences of human trafficking and migration in general. In this regard, Handmaker and Parsley[51], examined the issues of migration, refugees and racism and their attendant consequences for South Africa. They argue that South Africa's legacy of racial segregation has a direct impact on the nature of its migration and refugee policy implementation as well as the growth of xenophobia directed at migrants. Migrants in this context include both legal and illegal migrants. Trafficked persons are often grouped together with illegal migrants and are exposed to the dangers of xenophobia[52].

Troung[53] does make a contribution to the conceptualisation of human trafficking in Africa. In her studies she tries to explain the phenomenon from economic, political, and socio-cultural perspectives. First she attempts to show how failures of economic programmes such as structural adjustment programmes (SAPs) of the World Bank and the International Monetary Fund (IMF); undemocratic governance; and culturally based gender discriminations, contribute to an increase in poverty in Sub-Saharan Africa. Second she argues that the failure of state institutions to perform basic functions exacerbates the problem of poverty and provides stronger motivation for migration at all cost[54]. Trafficking agents sustain their operations by exploiting fears and the deplorable conditions of victims. They are also helped by the process of globalisation and the working of the legal systems of different trafficking destinations. Troung's work also explores how to improve policies that are geared toward countering human trafficking.

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However, one noticeable shortcoming of Troung's work is her framing of human trafficking as more of a social and human rights problem rather than a security issue.

Troung's description of the plight of trafficked women and children evokes emotion and causes her to present trafficked persons as "total victims". This image of an innocent "total victim" is too simplistic and deprives trafficked persons of the voice to explain their actions as Bruckert and Parents had observed[55]. Feingold too does not support the argument of "innocent total victims". As a result he argues that "although some trafficking victims are literally kidnapped, most leave their homes voluntarily and become trafficked on their journey"[56]. While the argument of Feingold may be true to some extent, it is necessary to point out that majority of trafficking victims were deceived, coerced or forced into it.

Kempado, supports the assertions of Truong regarding the impact of globalisation on human trafficking in developing countries. He argues that global capitalist restructuring has impacted negatively on national economies; increased poverty, and uprooted rural dwellers and low income earners in developing countries. Consequently, decreases in social programmes in relation to high expectations, makes people, especially women, vulnerable to trafficking[57]. Chitupila also tends to reach similar conclusion when she links the increase in human trafficking to high mortality rates as a result of HIV/AIDS. She argues that the disease has led to, "a loss of the professional generation and millions of children have lost their parents"[58]. She notes that "ailing parents are unable to support their children financially or emotionally and family poverty is heightened by lack of income, high cost of medical care and eventually funerals"[59]. Chitupila sustains the argument that children who find themselves in situations such as these are often socially isolated and vulnerable to trafficking[60].

From the field of criminology, Van der Hoven and Maree discuss key theoretical attributes relevant to contact crime victimisation[61]. Of relevance to this study are attributes of the theory such as "victim vulnerability"; "victim precipitation"; "susceptibility"; "opportunity"; "attractiveness"; and "impunity". Victim vulnerability

relates to the chances of someone becoming the victim of crime due to the person's personal characteristics and behaviour as well as the person's interaction with criminals[62]. Victim precipitation describes an individual's actions or words conveyed in ways that tend to encourage or precipitate an offender's behaviour[63]. Susceptibility refers to an individual's exploitable traits, behaviour and personal circumstances that make the individual vulnerable to victimisation[64]. Opportunity and attractiveness refer to a person's exposure to criminals at a particular time or possessing of attractive valuables that criminals cannot resist[65]. For example, the absence of parents at home may expose their young children to the risk of human trafficking as traffickers may be tempted to take advantage of the situation. In several instances, criminals act with impunity because victims do not have access to the law. This is usually the case when victims are illegally residing and working in a country or engaged in illegal activities in the country[66].

Lutya applied the same theoretical assumptions as Van der Hoven and Maree to study the trafficking of young women and girls for sexual exploitation in South Africa. She argues that "many young South African women and girls spend a significant amount of free time in entertainment establishments that sell liquor (shebeens, nightclubs and bars), abusing intoxicating substances such as drugs and alcohol, engaging in risky sexual behaviour, as well as participating in criminal activities"[67]. On the basis of this, Lutya concludes that "these lifestyles place them within close proximity to human traffickers"[68]. In another study, Lutya also argued that human trafficking victims encourage or cause their victimisation by seeking help or assistance from strangers[69]. The offering of assistance appears genuine and harmless to the potential victims as a result of being unaware of their harmful consequences which are often well hidden by human traffickers[70]. Reasons why victims ask and receive assistance vary, but are largely based on poor socio-economic conditions. Thus, unemployment, poverty, domestic violence, and stigmatisation may force trafficking victims to seek help or assistance from strangers, in the hope that they may help them out of these situations. While it may not totally be wrong to ask for assistance from strangers, Lutya argues that human traffickers exploit the lack of adequate knowledge about human trafficking on the part of victims who seek assistance from strangers. This conclusion supports the argument of Bruckert and Parents

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as previously mentioned that human trafficking victims may not necessarily be total victims as mostly portrayed in the literature[71]. Furthermore, Lutya's argument is also supported by Feingold's assertion to the effect that most victims of human trafficking voluntarily decided to leave their homes and became trafficked in the process.

3.4   Security Issues

With respect to the security implications of human trafficking, there is no separation between human trafficking and organised crime in the literature. According to the *Palermo Convention*, organised crime is: "a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit"[72]. Accordingly, Brock, *et al*, in their study, seem to conclude that even law enforcement agencies and the media associate human trafficking with sexual exploitation of women and organised crime[73]. The link between human trafficking and organised crime is also supported by Stoecker, who strongly argues that "human trafficking is, without a doubt, a major branch of organised crime"[74]. Similarly, Salt offers three possible suggestions in support of the strong association of human trafficking with organised crime[75]. Firstly, he argues that in many cases different nationalities are found among the same group of trafficked persons brought into a country by a criminal syndicate. Secondly, he points out that travelling entails good logistics which only organised crime can provide for victims. Thirdly, money is also needed to process documents for trafficked persons. This assertion is also corroborated by Caldwell, *et al*, who claim in their study that the Russian Mafia is involved in the trafficking of women from Russia and former Soviet territories to other parts of the world[76].

In linking human trafficking to organised crime, illegal migration and security, Burgess describes human trafficking as involving the "movement of men, women, and children from one place to another and placing them in conditions of forced labour"[77]. He lists domestic labour, sweatshops, factory or restaurant work and forced prostitution as current

forms of human trafficking. Burgess further argues that human trafficking deprives victims of state-based systems of social welfare and protection (both physical and emotional), human rights and dignity, and negatively impacts on their health and global governance. Furthermore, he posits that human trafficking impacts on public health in general as well as on global security through its linkage to illegal migration, "networks of international crime, money laundry, weapons and drug trafficking"[78]. Kruger agrees with this finding as well as with those of the IOM by stating that human trafficking has "a dangerous consequence" for countries. The consequence according to the IOM is that human trafficking "brings with it a greater presence of criminal organisations which can lead to problems of national security; violations of national legislation; and a decline in public confidence in the government"[79]. These works touch on the core focus of this research, namely the security dimension of human trafficking.

From the foregoing, it can be seen that human trafficking is closely associated with organised crime, prostitution and forced labour. Similarly, there is no generally accepted conceptual framework to guide research and empirical studies on the issue. The security dimension of human trafficking is also sparsely dealt with in the literature. Many of the works examined present the issue mainly as a socio-political problem that requires attention by governments. Others tend to highlight and discuss its international political significance by emphasising its cross-border forms and the involvement of organised criminal groups in the illicit trade. The main challenge for this study therefore is to conceptualise human trafficking in such a way that also reflects its security implications.

Little contribution in the area of theory building on human trafficking may be a direct result of a lack of adequate quantitative data on the issue, particularly in Southern Africa. According to Adepoju, "data based on the number of convictions, number of complaints launched, number of victims assisted, and medical data about trafficked victims simply do not exist in the region"[80]. This finding is also shared by the IOM and other research organisations. On the possible explanation of the lack of adequate data on trafficking, Adepoju further states that "many people do not yet see trafficking as a serious crime, and many countries in the region do not have appropriate legal frameworks that makes

trafficking a punishable offence"[81]. Recently though, several countries in Southern Africa have adopted or introduced legislation on human trafficking, for example, Mozambique (2008) and South Africa (2013).

Considering the absence of a single theory capable of comprehensively explaining human trafficking, syntheses of theories dealing with globalisation, population migration, socio-political and economic instability in developing countries and those that relate to security of states were used in this study. Thus, the works of scholars such as Buzan, Waever and Jaap de Wilde on national and human security were indispensable to this study as well as those of Kempando[82], and Salt and Stein[83]. Salt and Stein, present human trafficking as a form of trading activity. This, Bruckert and Parent have noted makes their approach suitable for analysis of the problem in terms of "migration, public order, organised crime or immoral conduct"[84]. These aspects of human trafficking have a direct bearing on security.

4   IDENTIFICATION AND DEMARCATION OF THE RESEARCH PROBLEM

From the literature survey, it was clear that the phenomenon of human trafficking has various dimensions. While all aspects of the problem are considered important, this study specifically focused on the security dimension of human trafficking. For a study of the security dimensions of the phenomenon, relevant primary and secondary research questions were formulated. The main research question was formulated as follows:

To what extent and how, does human trafficking constitute a security issue in Southern Africa and in South Africa and Mozambique specifically?

This question was important to this study because human trafficking is not always viewed as a security issue, especially in Southern Africa in general and South Africa and Mozambique in particular. From the literature survey, it could be seen that human

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trafficking is mostly presented as a socio-economic and political problem and attention is mainly focused on its exploitative nature and impact on human rights and dignity.

Furthermore, based on the secondary research objectives of the study, the following research questions were also formulated. Firstly:

- How and to what extent is human trafficking linked to organised crime specifically in South Africa and Mozambique?

It is known that organised crime syndicates are involved in human trafficking. The question directed the assessment of the extent to which criminal syndicates are involved in human trafficking and how their involvement impacts on human as well as national security. Secondly:

- How, is human trafficking perceived by policy makers in South Africa and Mozambique, and to what extent does their perception impact on attempts to combat the problem?

This question helped in the exploration of the understanding of human trafficking in the securitisation spectrum of South Africa and Mozambique, "ranging from non-politicised through politicised to securitised"[85]. The question was also used to assess the prioritisation of human trafficking by South African and Mozambican policy makers as well as the exploration of the main challenges facing these Southern African countries in dealing with the problem of human trafficking.

Against the background of the research questions posed, the following research assumptions were then formulated:

- Human trafficking is a security issue in Southern Africa and in South Africa and Mozambique specifically, both in terms of human and national security.

The relevance of this assumption was based on reports from organisations such as the IOM which indicated that about 1000 Mozambicans alone were trafficked across borders to South Africa annually, and the illegal trade was causing lawlessness, and social and political disarray.

- Human trafficking is closely linked to organised crime and other forms of cross-border crimes such as illegal migration, as well as to the drug trade and the trade in illegal weapons and contraband goods.

This assumption was relevant because several sources indicated that human and other forms of trafficking generated immense profit for criminal syndicates.

- Human trafficking is not yet adequately conceptualised and prioritised by policy makers in South Africa and Mozambique.

This assumption was considered relevant because human trafficking is a socio-political as well as a security issue and a proper understanding of its various forms and the factors that sustain it, can lead to effective policies to combat it.

The study examined human trafficking in Southern Africa as a global phenomenon and in South Africa and Mozambique in particular, from 1989 to 2013. The increase in human trafficking became more noticeable from 1989, and some scholars have attributed this to the collapse of the Soviet Union and the economic and political consequences it had for countries such as Mozambique. The choice of South Africa and Mozambique as case studies was informed by the fact that they represent "destination" and "source" countries in the human trafficking business. While South Africa is a human trafficking destination in Southern Africa, Mozambique is widely regarded as a source country. Mozambique adopted specific legislation to combat human trafficking in 2008 while South Africa's specific human trafficking bill introduced in Parliament in March 2010, was passed into law in 2013.

5   METHODOLOGY AND SOURCES

Systematic research into human trafficking is fraught with several obstacles which present methodological limitations and difficulties. Firstly, human trafficking is shrouded in secrecy in general, also in Southern Africa. What this implies is that both victims of trafficking and trafficking agents are often suspicious of inquiries into processes and activities of traffickers. As such they have been described as a "hidden population". Guri, describes a hidden population as a group of individuals of whom the size and boundaries are unknown[86]. Besides its clandestine nature, there are also problems arising from different conceptualisations of human trafficking; disagreements over the identification of a victim, as well as a lack of consistent methods of gathering quantitative data. As a result of lack of a systematised data gathering methods, overestimation and underestimation characterise human trafficking studies, surveys and research reports[87]. The consequences of using these estimates which may not be based on sound methodologies, is that they can lead to misinformation and negatively impact on policy interventions.

Secondly, discourses on human trafficking are sometimes emotional because they tend to portray those targeted by traffickers as "total victims" who have fallen prey to inhumane traffickers[88]. However, as previously stated Bruckert and Parents correctly point out that the depiction of trafficked persons as total victims is too "simplistic and gives the victims no voice to explain the meaning of their actions and greatly reduces the scope of the problem of trafficking in humans"[89]. Studies in sociology have also shown that victims in many cases also play an active role in their victimisation[90]. Thirdly, as noted earlier, theories and analytical frameworks that guide research into human trafficking are inconsistent and at times not well suited for many of the issues and complicities of human trafficking[91]. These obstacles make it difficult to maintain systematic data on human trafficking. The limited empirical data on human trafficking implies that the prospect of adopting an approach using mainly quantitative data, will be inadequate.

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Against the background of envisaged limitations to this study as well as its objectives, the gathering of "soft data" or information was considered most suitable for the study. Data of this nature relates mainly to expressed opinions, perceptions, and views concerning the subject matter of a study[92]. Various views, opinions, and perceptions of states, institutions, scholars and researchers concerning human trafficking, can be obtained through qualitative research methodology. Generally, Henning describes qualitative research as "the type of enquiry in which the qualities, the characteristics or the properties of a phenomenon are examined for better understanding and explanation"[93]. This study therefore largely follows a qualitative research methodology.

5.1   Justification of Research Methodology

The adoption of a qualitative approach for this study was justified by several reasons. Firstly, the adoption of a qualitative research approach allowed for a holistic exploration of human trafficking and the provision of a detailed understanding of it. Secondly, the qualitative approach allowed for an extensive literature review on human trafficking and the provision of the rationale to study it. Thirdly, the employment of a qualitative research methodology was considered suitable for the study because it allowed the problem statement to be generally and broadly formulated to reflect diverse national, regional and global experiences of human trafficking. Fourthly, the use of the qualitative method also allowed for the collection of information from various sources. Fifthly, the employment of qualitative research method allowed for text analysis and interpretation of the meaning of findings of the study[94]. Furthermore, qualitative methodology, allowed for discussion and analysis of the phenomenon with the aim of improving understanding of its complex nature and impact on individual, regional, national, and global security[95].

5.2   Research Method

Considering that the qualitative research methodology includes several data or information gathering techniques such as interviews, it was necessary to state the specific qualitative methodology adopted for this study. In this regard, the method of

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documentary analysis with a case study approach was used. According to Yin a case study approach is "an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident"[96]. Document and case study methods depend on multiple sources of evidence and take advantage of existing theoretical propositions to guide information gathering and analysis[97]. While the methods were largely qualitative in nature, quantitative data such as estimates of numbers of trafficked victims were also cited and integrated in the analyses[98].

South Africa and Mozambique were chosen as human trafficking destination and source countries respectively, because they met the criteria of "exemplary case studies"[99] postulated by Yin. Firstly, human trafficking in these countries attracts global, regional and national attention and theoretical assumptions regarding human trafficking could also be tested by examining empirical experiences of the phenomenon in these countries. Secondly, information relating to the research questions addressed in this study could also be collected from South Africa and Mozambique.

5.6   Sources

Information for this study was collected mainly by means of documentary analysis, which is a non-interactive qualitative approach. A variety of primary and secondary sources were used to formulate a comprehensive description of human trafficking. Primary sources included UN documents, current South African and Mozambican legislation, and several other sources relating directly or indirectly to human trafficking. Among official government documents consulted were South Africa's *Prevention and Combating of Trafficking in Persons Act 7* of 2013; *The Criminal Law (Sexual Offences and Related Matters) Amendment Act No.32* of 2007; *The Sexual Offences Amendment Act) and the Children's Act* of 2005 *(Act No. 38* of 2005)*; Mozambique's *Prevention and Combating of Human Trafficking Law No.6* of July, 2008, (*Lei* n.º6/2008 *de Julho*) and the Southern Africa Development Community (SADC) *Protocol on Gender and Development*, August 2008.

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Several UN conventions and protocols as well as the IOM documents relating to the problem of human trafficking in general were also consulted. For theoretical perspectives, information was collected from a range of secondary sources such as books, journal articles, periodicals, monographs, magazines and newspaper reporting. These were used to develop a conceptual framework as well as for a discussion and analysis of human trafficking in Mozambique and South Africa specifically. Some of these secondary sources included, Coplan[100], Estes[101] and Borner[102]. In order to establish the validity of findings, the method of triangulation was used. This entailed the consultation and comparison of multiple secondary publications with the aim of identifying similarities and differences in conclusions reached regarding the impact of human trafficking on individual, national, regional, and global security.

5.3   Data Analysis

The assessment of information collected from primary and secondary sources relating to human trafficking in general and its impact on individual, national, regional and global security, were based on certain criteria. For example, the selection of cases of human trafficking was guided by the definition of the concept in the *Palermo Protocol* as replicated in regional and national legislation. The evaluation of counter human trafficking policy measures in South Africa and Mozambique, was done based on the extent to which they address the security dimension of the problem. Analysis of the extent to which human trafficking constitutes a threat to individual, national and global security was also done based on the criteria suggested by the UN[103], as well as those proposed by Buzan, *et al*[104], and Hough[105] and by the application of securitisation theory.

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6   STRUCTURE OF THE RESEARCH

The study was structured as follows:

Chapter 1:   Introduction

The first chapter served as an introduction and outlined the study objectives; the structure of the research as well as the research problems, and a number of assumptions which were assessed in the concluding chapter, were formulated.

Chapter 2:   Human trafficking: a conceptual framework

In this chapter, concepts such as human trafficking and security were discussed and analysed. This entailed examining national and state security and the link with human security and explaining how these are affected by human trafficking. Other types of cross border movements such as illegal migration and smuggling were also addressed and distinguished from human trafficking. The differences between domestic, regional and international human trafficking were also highlighted and discussed.

Chapter 3:   Overview of human trafficking as a global phenomenon

This chapter drew from several sources to provide a global overview of human trafficking. This was not a chronological account of global human trafficking activities but an examination of the conditions, patterns, trends, and causes of human trafficking globally. The situation in Africa and Southern Africa was specifically also addressed to form a background for subsequent country case studies.

Chapter 4:   Human trafficking in South Africa

This chapter focused on cases of human trafficking in South Africa. South Africa is primarily regarded as a human trafficking destination or receiving country. Trafficking

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victims from Mozambique especially, are transported across borders to South Africa where they are subjected to different forms of exploitation. This chapter specifically examined the patterns, trends, and methods of trafficking as well as conditions that make South Africa a human trafficking destination.

Chapter 5:   Human trafficking in Mozambique

The fifth chapter focused on human trafficking in Mozambique. Mozambique is largely regarded as a source as well as transit route for human trafficking in Southern Africa. Victims are recruited from major cities in Mozambique and transported to South Africa and to Europe. Trafficking agents from other countries also use Mozambican cities as transit routes into South Africa and to Europe. Against this background, methods of recruitment and transportation as well as conditions which facilitate the use of Mozambique as source and transit point for human trafficking, were discussed and analysed.

Chapter 6:   Policy responses to human trafficking in a global and Southern
African and national context

In this chapter, legislation and policies to counter human trafficking on the global level, and on selected regional and national levels, were examined. In this context, international protocols such as the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, were also examined. Regionally, documents such as the SADC *Protocol on Gender and Development*, were analysed as well as the national legislation of South Africa and Mozambique aimed at countering human trafficking.

Chapter 7:   Evaluation

The final chapter presented the main findings of the study. This entailed a summary of the text chapters; an evaluation of the assumptions formulated in the introductory chapter, and some broad conclusions.

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CHAPTER 2

HUMAN TRAFFICKING AS A SECURITY ISSUE: A CONCEPTUAL FRAMEWORK

The knowable world is incomplete if seen from any one point of view, incoherent if seen from all points of view at once, and empty if seen from nowhere in particular.

(Richard A. Schweder)

1   INTRODUCTION

Human trafficking has always been part of the global socio-economic and security challenges to mankind, even though it received insufficient attention in the past. The phenomenon is not exclusive to any country or region. Consequently, increased cases of human trafficking in recent times have attracted widespread attention from governments, regional and global bodies as well as academic researchers and NGOs. Despite this, not all forms of human trafficking and their implications for states have been sufficiently examined[1].

Among the various aspects of human trafficking yet to be sufficiently examined is the link between trafficking and the crime-security nexus. Therefore, considerable gaps and limitations exist in the knowledge and understanding of whether human trafficking constitutes an existential threat to the state, individual, society, region and the international system or forms a "normal" law and order issue. The incomplete understanding may be related to different factors which include, but are not necessarily limited to, the equating of human trafficking with terms such as slavery, smuggling, and kidnapping as well as the subjective meaning of security. While human trafficking, slavery and smuggling share certain observable similarities which tend to blur their separation lines and result in some analysts to equate them, it has also been observed that human trafficking is often confused with kidnapping or abduction.

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Kidnapping is conceptually different from human trafficking. As previously stated, it is the forceful procurement of persons for financial, sexual and other exploitation. Kidnappers profit from demanding ransom from the state, organisations, or relatives of their victims. In many cases victims are released after the payment of ransom to kidnappers. However, there are extreme cases in which victims are killed even after ransom has been paid to kidnappers. Kidnapping is mainly domestic, but can also be international in some cases. Importantly too, kidnapping may be politically motivated, when it is used, for example, as part of a broader strategy of terror by a non-state actor engaged in political contestation with a legitimate government to obtain concessions from the state. In this case, kidnapping may not necessarily involve financial gains[2]. The main difference between the two concepts is therefore in the method of exploitation. Human traffickers exploit the services of their victims whereas kidnappers exploit anyone directly or indirectly connected to their victims. Despite conceptual differences, kidnapping or abduction, empirically, may be used as a method of recruitment by human traffickers linked to organised crime. This fact is recognised in the *Palermo Protocol*. In this case, contact and demand of ransom from those connected to the victims may be unnecessary as the traffickers may be interested in sexual or labour exploitation of the victims over the longer term.

While human trafficking, slavery, smuggling and kidnapping may be linked to some extent, it is sometimes difficult to establish the link between human trafficking and security. This is even more difficult when security is defined purely from a traditional Cold War perspective in which military threats are regarded as the only major national security (existential) threat to the state. However, a post-Cold War perspective of security has shown that states can be objectively threatened from a variety of sources other than the military. In this regard, human trafficking linked to organised crime has serious security implications for individuals and the state. At the individual level, trafficking affects the human dignity, safety, and health of victims[3]. At the state level, human trafficking undermines state capabilities by corrupting state security institutions such as the police, and the judiciary as well as senior government officials[4].

Thus, this chapter aims to provide conceptual clarifications regarding human trafficking and to identify how it is linked to security. Human trafficking will be distinguished from other cross-border activities such as smuggling or illegal migration, as well as slavery. Such a distinction is

necessary as it will enhance existing knowledge and understanding of human trafficking; present a more focused study; and aid the collection and analysis of information. An analysis such as this invariably entails an examination of the specific definitions of these terms as found in the international instruments relating to them, as well as their specific features as found in the literature. Identifying the link between human trafficking and security will also entail an examination of the concept of security in all its ramifications from classic, contemporary and Third World perspectives. The concept of organised crime will also be discussed, as will the criteria for labeling social issues security threats.

2   THE CONCEPT OF HUMAN TRAFFICKING

Providing an acceptable definition of human trafficking is not as uncomplicated as it seems. Since the last century, several attempts have been made to provide a generally accepted definition of human trafficking. In this regard, Rijken, for example, traces the origin of such attempts to 1904 with the adoption of the *International agreement for the Suppression of White Slave Traffic of* 1904[5]. While this international instrument did not address all forms of trafficking as presently understood, Rijken's assertion is correct to the extent that it addressed several issues related to human trafficking. The difficulty encountered in attempting to define human trafficking has prompted scholars such as Gould to conclude that human trafficking is "a slippery concept, something that is hard to pin down and come to grips with"[6]. The "slippery" nature of human trafficking stems from its involvement in different activities that are social, political, economic, and criminal in nature. According to the United States of America (US) State Department, human trafficking involves different forms of exploitation such as sexual and labour exploitation as well as trafficking in body organs, child trafficking, forced marriage and adoption, begging, conscription and other criminal activities[7]. In support of this assertion, Laczko and Gramegna conclude that[8]:

> Trafficking in persons is used as an umbrella term to cover a range of actions and outcomes. Viewed as a process, trafficking can be used to entail several phases - recruitment, transportation (which could cross several borders), and control in the place of destination. Different groups, agents or individuals may be involved in different phases of the process, and can organise recruitment, transportation and

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control in different ways. There is thus immense diversity between and within trafficking systems.

2.1   Defining Human Trafficking

Prior to the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Palermo Protocol), there was no generally accepted definition of human trafficking. From the literature, different definitions of the concept are noticeable as well as the employment of terms such as "trafficking in persons"[9], "human trade"[10], "human smuggling"[11], kidnapping and "modern day slavery"[12], synonymously with human trafficking.

Bale, for example, equates human trafficking with slavery and defines it as "the complete control of a person for economic exploitation by violence or the threat of violence"[13]. He argues that as a new form of slavery, human trafficking is characterised by temporary ownership, low purchase cost, high profit, debt bondage and forced labour. Burgess on his part sees human trafficking as an act that, "involves moving men, women and children from one place to another and placing them in conditions of forced labour. Among current practices are domestic labour, agricultural labour, sweatshop, factory or restaurant work and forced prostitution"[14]. To Hughes, human trafficking is the same as sexual exploitation. Accordingly, human trafficking involves "moving people within and across local or national borders for the explicit purpose of sexual exploitation. This movement may be as a result of force, coercion, manipulation, deception, abuse of authority, initial consent, family pressure, past and present family and community violence or economic deprivation"[15]. In these three definitions of human trafficking, emphasis is placed on exploitation and control of victims as well as movement of people within and across national borders.

In the context of movement across national borders, some institutions describe human trafficking as part of the challenge of the global migration process with specific reference to human rights violations. For example, the IOM defined human trafficking thus[16]:

A migrant is illicitly engaged (recruited, kidnapped, sold, etc.) and/or moved, either within national or across international borders; [and] intermediaries (traffickers) during any part of this process obtain economic or other profit by means of deception, coercion, and/or other forms of exploitation under conditions that violate the fundamental rights of migrants.

This definition tends to acknowledge human trafficking as part of the problem of global migration. It also tends to confirm the national and international dimensions of human trafficking; the involvement of agents or traffickers in the process, and the exploitative and rights violation tendencies of the problem. Although not explicitly stated, the definition also appears to suggest that human trafficking is carried out through illegal means only. Nevertheless, empirical evidence supports the claim that legal means may also be used to perpetuate human trafficking[17]. Similarly, although human trafficking may have certain features of migration, it is different from migration. The difference lays in the fact that migration, whether legally or illegally embarked upon, is consciously and purposefully done whereas victims of trafficking, in most cases, are unaware of being trafficked.

The exploitative and violent nature of human trafficking appears to compel the UN Population Fund (UNPF) to view human trafficking as modern day slavery[18]. The US also equates human trafficking with slavery and sexual exploitation. Thus, in US legislation, namely the *Victims of Trafficking and Violence Protection Act* of 2000 (the TVPA), human trafficking is defined as[19]:

sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or ... the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

The US definition of human trafficking captures different methods and phases involved in the trafficking process. Thus, the uses of force, fraud or coercion as means of recruitment and exploitation are important features of human trafficking. By highlighting commercial sex, the

definition seems to acknowledge that children and women may be the most targeted group in human trafficking. Equally highlighted in the definition are different practices similar to slavery such as "involuntary servitude", "debt bondage" and "peonage".

The definition provided by the TVPA is similar to the one provided in the *Palermo Protocol*. In the protocol, human trafficking is elaborately defined as follows[20]:

> (a) Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
>
> (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
>
> (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
>
> (d) "Child" shall mean any person under eighteen years of age.

The above definition is comprehensive in that it covers a wide range of issues involved in human trafficking. It also tends to agree with other definitions on certain aspects of trafficking such as child trafficking. For example, the *Palermo Protocol* agrees with the TVPA that a child is any person under the age of 18. The *Palermo Protocol* and the TVPA also agree that the term trafficking applies whether a child was voluntarily or involuntarily trafficked. Other aspects of the *Palermo Protocol* which are in agreement with the US legislation, include the phases of trafficking such as recruitment, transportation, harbouring and receiving of victims. There is also a general agreement that human trafficking is a criminal act, coercive and exploitative in nature and involves human rights violations. The lack of a precise definition of "the exploitation of the

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prostitution of others" leaves room for different interpretations. For example, it can be argued that though women are mostly the focus of discussions on prostitution; men could also be trafficked and sexually exploited, thus, the *Palermo Protocol* appears to protect both sexes.

Generally, human trafficking is a socio-economic, political and security phenomenon associated with the movement of people within and across national borders either legally or illegally and which has forced labour, sexual exploitation, human rights violations and insecurity as some of its consequences. From the literature, six approaches to its conceptualisation are noticeable. First, it is equated with slavery. Second, human trafficking is described as part of transnational organised crime. Third, it is seen as part of the global migration challenge. Fourth, it is conceptualised as a human rights violation problem. Fifth, it is synonymous with prostitution and sixth, it is the negative aspect of globalisation[21].

Since there are no radical differences between the definitions of human trafficking provided by scholars and those provided by official documents; this study will adopt the definition of human trafficking provided by the *Palermo Protocol* on the basis of its comprehensiveness and widespread acceptance. The essence of the protocol is to prevent and combat human trafficking in all its ramifications and to suppress and punish human traffickers and by so doing protect vulnerable groups in the society, especially women and children. The *Palermo Protocol* also supplements *the United Nations Convention against Transnational Organised Crime* (the Palermo Convention).

2.2   Typologies of Human Trafficking

Human trafficking is both domestic (national) and international in nature though dominant discourses on the subject tend to centre on its international aspects. The classification is done based on whether human trafficking is happening within the borders of one country (domestic) or involves the crossing of international borders (transnational).

2.2.1   Domestic Trafficking

Domestic trafficking is a term used to describe human trafficking which takes place within the national geographic territory of a country; for example, the trafficking of people from rural to urban areas in South Africa. In most cases children are victims of such trafficking. A link exists between child labour and the trafficking of children in South Africa. The most vulnerable group in domestic trafficking are people, especially children from impoverished rural areas. Usually they are promised work and better living conditions in the cities, but as Koen and Van Vuuren note, the conditions of employment are often similar to slavery, sexual violence and debt bondage[22]. Bermudez has also observed that well organised employment agencies engage in domestic child labour and trafficking[23].

2.2.2   International Trafficking

The planning, recruitment, transportation, harbouring and receiving of trafficking victims often cover different countries and involve different nationalities. Human trafficking has widespread effects not only in source and destination countries, but also the region and the world in general. Against this background, human trafficking can be regarded as a transnational crime[24]. Human trafficking is international when as stated, it takes place across international borders, for example, the trafficking, of people from Mozambique to South Africa or to other parts of the world such as Europe and North America.

Human trafficking, in its domestic and international forms, exhibits the same characteristics. These characteristics distinguish human trafficking from other cross border activities. Exercise of control over victims, for example, is an important feature, which distinguishes human trafficking from other criminal activities such as smuggling. This will be discussed in the next section of this study.

3   CONTROL AS AN INSTRUMENT OF HUMAN TRAFFICKING

Certain distinguishing features of human trafficking can be gleaned from the definition of the concept in the *Palermo Protocol*, and scholarly discourses on the subject as found in the

literature. Common features can be observed in both domestic and international trafficking. The exercise of control over victims has been identified as an important distinguishing characteristic of human trafficking. Thus, categorising an activity as human trafficking requires identifying how control over victims is exercised[25].

There are different types of control to which trafficking victims are subjected. According to Defeis human trafficking involves "actions in which offenders gain control of victims by coercive or deceptive means or by exploiting relationships"[26]. This fact is also corroborated by other scholars such as Louise who maintains that control over victims is central to their continued exploitation by traffickers even after arrival at their destinations[27]. Control over victims is also what separates human trafficking from other related cross border crimes such as smuggling.

The exercise of control is reinforced by the use of violence and coercion. Human trafficking cases involve physical assault, intimidation and abuse, imprisonment in one place and threats of blackmail and violence to victims and their families[28]. These coercive means instill fear in victims and compel them to obey and submit to the whims and caprices of their traffickers. Other coercive methods employed in trafficking include the confiscation of travel documents of victims, especially of those who travelled legally to trafficking destinations[29]. Haynes reveals that confiscation of victims' travel documents renders them illegal in the country and vulnerable to exploitation. Consequently, victims are unable to access state protection[30].

A complementary method to travel document confiscation is the separating of victims from the local population[31]. Victims are kept in secured locations and allowed only limited access to public places. In this regard Kruger notes that even when victims are allowed to leave their places of entrapment, they are often accompanied by escorts who monitor their movement and the people they interact with[32]. When it appears that a particular location is no longer safe, victims are relocated to perceived safer locations. This frequent relocation strategy, prevents victims from becoming familiar with the local population and therefore minimizes the risk of escape. Zimmerman *et al*, also support this assertion by reporting that traffickers maintain control over women by creating an atmosphere of fear and insecurity[33]. The essence of these strategies is to perpetuate control and the exploitation of victims.

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Apart from physical restrictions, the UNODC and the UN Global Initiative to Fight Trafficking (UNGIFT) have also documented that trafficking victims are often prevented from communicating with their families[34]. Limited interaction with the outside world minimizes the risk of exposure, arrest and prosecution by local law enforcement agents and increases the vulnerability of victims to all forms of exploitation. Furthermore, physical isolation may also be accompanied by what has been described as "cultural or social isolation"[35]. This double sense of isolation is made possible by the confiscation of victims' travel documents; lack of language skills, especially of their destination countries; and loss of social networks and ignorance of the culture and laws of the destination countries[36].

Control over trafficking victims is further ensured through debt bondage. This is common to both domestic and international human trafficking[37]. This important aspect of control of human trafficking is strongly emphasized in the *Palermo Protocol* as well as in the TVPA. Traffickers impose debt on victims and force them to repay the debt through various working conditions similar to slavery[38]. Thus, forced labour is an integral part of the control mechanism employed by traffickers to perpetuate exploitation of victims. Often, trafficking victims are physically abused, live and work in unhygienic conditions, and are consequently in poor health[39]. Many have also been found to be addicted to hard drugs possibly as a means of coping with their conditions. Drug use could also be forced on victims by traffickers[40]. On the basis of that, Kruger posits that traffickers administer drugs to their victims to form addiction and perpetually depend on traffickers who provide the drugs. In the longer term, drug dependency becomes an effective means of control and perpetuation of exploitation of victims[41].

From the foregoing, it can be seen that though human trafficking can be domestic and international in nature, its main distinguishing feature is control over victims, and this can be achieved through various means such as threats of violence, isolation, debt bondage and drug addiction. Having identified the specific features of human trafficking, it is important to distinguish between human trafficking and related concepts such as slavery and smuggling.

3.1 Human Trafficking and Slavery

Empirically, separating human trafficking and slavery is difficult. According to the *Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention* of 1926 (also referred to as the 1926 Slavery Convention), slavery is defined as[42]:

> (t)he status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. Slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.

The definition of slavery provided in the 1926 *Slavery Convention* shows that certain aspects of human trafficking were addressed in the international instrument. This includes, for example, the use of force and deprivation of freedom. Furthermore, the *Convention on Abolition of Slavery, the Slave Trade and Institution and Practices Similar to Slavery* of 1956, which supplements the 1926 *Slavery Convention*, broadened the definition of slavery by criminalising debt bondage, serfdom, servile marriage and child labour. These criminalised features of slavery are also integral characteristics of human trafficking as currently defined. On the basis of this, some scholars and institutions equate slavery with human trafficking. In fact, in 1998, the Working Group on Contemporary Forms of Slavery (WGCF) recommended that transnational trafficking of women for sexual exploitation be considered as a contemporary form of slavery[43].

The empirical similarities between slavery and human trafficking notwithstanding, the two terms can be conceptually separated. It is suggested that slavery can be conceptually differentiated from human trafficking in five key areas, namely: exercise of ownership rights, legal personality, immutable social status, intention of the perpetrators, and methods of operation.

3.1.1   Exercise of Ownership Rights

Socio-economically, the ownership and commodification of slaves were legally supported. Thus, slavery is different from human trafficking in the way that ownership and control are exercised. In slavery, it was legal for slave owners to exercise ownership rights over their slaves. The rights of ownership included among others: "the right to possess the property, the right to manage the property by deciding when, where, how and by whom the owned property is used"[44]. Others included, "the right to the income derived from the owned property, and the right to dispose of, or pass on, the interest in the property to others by, for example, selling it"[45]. In human trafficking, traffickers do not exercise legal ownership rights over their victims. They exercise illegal coercive control over their victims through means such as debt bondage and forced labour[46].

It has been suggested that non-inclusion of ownership as a requirement in the *Palermo Protocol* was sensible, because its inclusion would have narrowed down the definition of human trafficking with the consequence that many role players in the trafficking ring would have gone unpunished[47]. It is further noted that "while the trafficker often exercises control over the victim, other agents in the trafficking ring, such as the recruiter, the transporter and the kingpin, usually do not exercise ownership powers over the trafficked person"[48]. Proving the difference between human trafficking and slavery in reality may be very difficult, given the fact that acts which were legally committed under slavery are illegally carried out in human trafficking. As such in the literature, authors do not all agree on distinguishing slavery from human trafficking on the basis of exercise of ownership rights. Some criminal law experts argue that there are existing international instruments relating to slavery under which human trafficking can be prosecuted[49].

3.1.2   Legal Personality

Human trafficking is also considered different from slavery on the basis of the social and legal personality of victims. It is posited that in slavery, slaves were not considered as equal rational human beings entitled to certain rights by law, but as objects or commodities of trade for their owners. It is against this background that Smith, arguing from a legal perspective, maintains that slavery is "essentially a narrow concept entailing the total eradication of the legal personality of the individual concerned"[50]. In human trafficking, victims are regarded as legal persons[51]. Many

have argued though that the conditions, in which trafficking victims live, deprive them of their legal personalities through disorientation and inability to make decisions on their own[52]. Similarly, it is argued that the redefinition of a problem does not necessarily provide a solution to the problem. For the purposes of conceptual clarification however, it is safe to posit that slavery and human trafficking are separated on the issue of the socio-legal personality of victims, based on the definition of human trafficking in the *Palermo Protocol* which retains the legal personality of trafficking victims[53].

3.1.3   Immutable Social Status

Further differentiation between slavery and human trafficking can also be made on the basis of the social status of the victims at birth. It is a truism that the social status of slavery is inheritable at birth. Differently stated, someone could be born into slavery. While slavery lasted, the subservient social status of slaves was legally unchallengeable[54]. Thus, it is noted that, despite the conditions similar to slavery under which trafficking victims live, their social status is not immutable. This is also affirmed by the *Palermo Protocol*[55].

3.1.4   Intent of Traffickers and Slave Dealers

The intentions of traffickers are also substantially different from those of slave owners. This differentiation can be ascertained from the definitions of both social phenomena as contained in international instruments relating to them. Both slavery and human trafficking have the common objective of exploitation. However, slave owners exploit the slavery of persons whereas human traffickers exploit not only the labour of persons, but also their prostitution and in some case their body organs[56].

3.1.5   Methods of Operation

Human trafficking is different from slavery based on the methods of operation used. In slavery as previously mentioned, slaves were considered as valuable articles of trade by their owners. Slave owners considered not only the services of slaves to be profitable but also the slaves themselves and their unborn children. However, in human trafficking, traffickers are only interested in profiting from the services of their victims[57]. It is the services of victims of trafficking that are

considered profitable and not the victims as human beings. It is therefore for this reason that whenever a victim becomes incapacitated by disease or drug use and can no longer render profitable services, the victim is disposed of or left destitute. Morawska clarifies this point further by noting that slave masters bought and kept slaves for themselves, and in many cases for their entire life span. However, human traffickers, recruit, transport, and sell victims to make profit. Whenever, the victims become a burden to the traffickers, they dispose of them[58]. Furthermore, trafficking involves several role players in the recruitment, transportation, harbouring and receiving processes of the phenomenon, whereas slavery only involved slave dealers and buyers. Louise has also pointed out that human traffickers use threats against, and intimidation of both victims and their families, to perpetrate their exploitation. Thus, it is argued that the ability to threaten and intimidate "both the victim and the family at home differentiates contemporary trafficking from the slave trade of earlier centuries"[59].

Despite the conceptual differences between human trafficking and slavery, it is reiterated that the two phenomena are very difficult to separate empirically. Thus, the argument of those who regard human trafficking as contemporary slavery cannot be completely negated. Bales has succinctly argued that human trafficking, as a new form of slavery, is not marked by legal ownership or permanent enslavement of one human being by another but by temporary ownership, low purchase cost, high profit, debt bondage and forced labour[60]. In 1998, as previously mentioned, the WGCFS recommended that transnational human trafficking involving women and children for sexual exploitation be considered a contemporary form of slavery[61].

However, this study as stated, will follow the definition of human trafficking provided in the *Palermo Protocol*, which does not explicitly regard human trafficking as slavery. Having highlighted and discussed the differences between slavery and human trafficking, it is also important to distinguish human trafficking from human smuggling. This is another concept that is often synonymously used with human trafficking.

3.2   Human Trafficking and Human Smuggling

Human trafficking is different from human or migrant smuggling, the similarities between the two concepts notwithstanding. Both human trafficking and smuggling are criminalised globally

and involve the movement of victims from one location to another within or across international boundaries. Conceptually, distinctions between the two terms can easily be made. Empirically, however, such distinctions are difficult to make. One of the reasons is that similar processes are involved in the two concepts. Thus, the tendency exists for a process to start as smuggling but eventually end in trafficking[62]. The main differences are highlighted and discussed in the following sections.

3.2.1   Conceptual Differentiation

The articulation of different definitions for the two phenomena in the international instruments relating to them is the first indication that, though related, the two terms differ. In previous sections, the definition of human trafficking was examined and it is therefore, imperative to examine the definition of smuggling in order to identify its distinctive features. According to the *Protocol against the Smuggling of Migrants by Land, Sea and Air* (Smuggling Protocol) of 2000, human smuggling is defined as follows: "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" [63]

An important part of this definition is its emphasis on the international nature of human smuggling. From the definition, smuggling is mainly concerned with illegal migration into a country without the intention of continuous exploitation. In human trafficking, the exploitation of victims continues in the destination countries. This is what tends to separate smuggling from human trafficking. Graycar argues that smuggling is mainly concerned with the way in which a migrant enters a country with the help of third parties, while trafficking is complicated because it deals not only with how a person enters a country, but also the person's working conditions in the country[64]. In the *Smuggling Protocol,* strong emphasis is also laid on "illegal entry" and it is defined as "crossing borders without complying with the necessary requirements for legal entry into the receiving State"[65]. In contrast, many trafficking victims comply with the necessary requirements for legal entry into their destination countries. Traffickers provide them with the necessary documentations which are subsequently taken from them on arrival in the destination country. Implicit also in the definition in the *Smuggling Protocol* is the recognition of the consent of smuggled persons in the act.

3.2.2   Motivation of Migrant Smugglers

In accordance with the definition of human trafficking considered in the previous sections, human traffickers are motivated by the exploitation of their victims. According to the *Palermo Protocol* victim exploitation implies at a minimum: "the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs"[66]. Whereas, there is no limit to the extent of exploitation of a trafficking victim, the motivation of a human smuggler is to make profit from assisting people to enter another country illegally. Thus, the smuggler and the smuggled appear to benefit mutually from the smuggling act[67].

3.2.3   Methods of Operation

Unlike human trafficking, human smuggling does not necessarily involve the use of force, and deceptive and coercive methods[68]. Thus, smuggled persons are not deceived into participating in smuggling for the purposes of gaining illegal entry into another country. Salt however, cautions that while smuggling is primarily concerned with illegal entry into a country, human rights abuses of smuggled persons in the process cannot be completely ruled out. He reasons that "smuggling is a risky activity and migrants often undergo very hazardous journeys which sometimes result in tragedies occurring"[69]. While Salt's observation is correct, it is also important to point out that cases in which human smuggling turns to human trafficking may be regarded as exceptional cases.

3.2.4   Consent

From the literature, it is reasonably clear that one of the issues that separate human smuggling from human trafficking is the consent of the participants to being smuggled. While in human trafficking, force, deception or both, may be used to obtain the consent of victims, smuggled persons can be regarded as willing accomplices. The absence of deception or the use of force in human smuggling activities implies that smuggled persons consent to being smuggled into a country. In this context, they may be fully or partially aware of the kind of conditions they are

likely to face in the country. In this regard, smuggled persons cannot be regarded as victims but "rather as clients involved in an illegal business deal"[70]. Viewed from this perspective, it is contended that a kind of "business relationship exists between the smuggler as a service provider and a client, because the smuggler delivers a service for a fee to the smuggled"[71]. In this case, there is no deception, but voluntary agreement on the part of a person to be smuggled illegally into another country. For human trafficking, the relationship is that of a perpetrator and a victim.

3.2.5   Control of Victims

Human trafficking is also different from human smuggling on the basis of control over victims. While in human smuggling the relationship between a smuggler and a smuggled person ends on arrival at the destination country, the relationship between a trafficker and a victim continues even after arrival at the destination country. Traffickers continue to control and exploit victims in destination countries through isolation, restriction of movement, and imposition of debt bondage, forced labour and prostitution[72].

3.2.6   Nature of Human Trafficking

As noted earlier, human trafficking is both domestic and international in nature. In domestic trafficking victims do not cross international borders but are moved from rural areas to urban areas or from one urban area to another within the same country. The conditions under which they live are not different from those trafficked to other countries. Human smuggling only involves illegal crossing of international boundaries (transnational in nature). Similarly, international human trafficking may be carried out through legal means. It has been observed that many victims of human trafficking legally travelled to their destination countries having obtained the necessary travel documents from their countries of origin, and obtained entry visas to their destination countries[73]. On the basis of this, Salt argues that human trafficking is associated with organised crime. He points out that travelling entails good logistics and money to process documents and only organised criminal groups can provide these for victims. With this strategy victims are deceived into believing the promises made to them by their traffickers. In human or migrant smuggling, smuggled persons do not travel legally. However, it is acknowledged that organised criminal groups may equally be involved in human smuggling[74].

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3.2.7   Source of Profit

A further distinction between the two socio-security phenomena can also be made on the basis of how profits are made. Human traffickers make their profit through continuous exploitation of the labour or prostitution of their victims; human smugglers make profit by charging exorbitant fees for helping smuggled persons cross international borders illegally. It is in light of this that Haynes also noted that smugglers make once-off profits, whereas traffickers see their victims, as "highly profitable, reusable, and expendable commodities"[75]. The commodification of people is what separates human trafficking from human smuggling.

From the foregoing, it can be seen that human trafficking is conceptually different from slavery, human smuggling and kidnapping. Empirically, however, it is acknowledged that human trafficking and human smuggling overlap and may have similar consequences in some cases. Both phenomena involve human right abuses. Smuggling can also turn into kidnapping and human trafficking in cases where illegal immigrants are unable to pay for the services of smugglers, and are detained until they have done so. Furthermore, organised crime syndicates may also be involved in both activities[76]. The involvement of organised crime in human trafficking is of security significance and as such deserves to be examined further. Although domestic trafficking is not included in what follows, it is important to note that organised crime may also be involved in domestic trafficking.

4   THE CONCEPT OF ORGANISED CRIME

Transnational crimes are those crimes that cross international borders. Two forms of such crimes are identifiable, on the basis of organisation, sophistication, scale of operation and people involved. The first type of transnational crime is "transnational organised crime"[77]. Transnational organised crimes are perpetrated by organised criminal groups such as the Chinese Triad, and the Russian Mafia. The second is "unorganised" transnational crime committed by individuals who do not belong to any organised criminal group[78]. International human trafficking involving organised criminal groups constitutes transnational organised crime. International human trafficking without the involvement of an organised criminal group is only a transnational

crime. The *Palermo Protocol* is specifically concerned with transnational or international human trafficking perpetrated by organised criminal organisations.

4.1   Defining Transnational Organised Crime

The international instrument which deals with transnational organised crime is the *Palermo Convention* of 2000. This convention neither contains a precise definition of transnational organised crime, nor a list of crimes that constitute it. What it does however provide, are certain criteria that must be met before an offence can be regarded as transnational organised crime. Accordingly, an offence constitutes transnational organised crime if[79]:

- it is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- it is committed in one State but involved an organised group that engages in activities in more than one State; or
- it is committed in one State but has substantial effects in another State.

Since transnational organised crimes are perpetrated by organised criminal groups, the *Palermo Convention* defines an organised criminal group as[80]:

- a group of three or more persons that was not randomly formed;
- existing for a period of time;
- acting in concert with the aim of committing at least one crime punishable by at least four years' incarceration;
- in order to obtain, directly or indirectly, a financial or other material benefit.

From the characteristics of a transnational organised crime and organised criminal group, it is clear that the major characteristic of an organised criminal group is a profit motive. Criminal groups establish links across borders and are able to co-operate despite social, cultural, linguistic and geographical differences. Linguistic and geographical difference may be overcome if the same ethnic group with links in different countries is involved. Consequently, based on the characterisation of transnational organised crime and organised criminal group, the different forms of transnational organised crime are considered.

4.2   **The Nature of Transnational Organised Crime**

There are different forms of transnational organised crime. According to the UNODC, transnational organised crimes include, but are not limited to, drug trafficking, illegal weapons trafficking, and fake goods as well as migrant and wild life smuggling[81]. Transnational organised crime is ever-changing as new forms of crime emerge. Different forms of transnational organised crime are subsequently considered.

4.2.1   Drug Trafficking.

Drug trafficking is commonly regarded as the most profitable transnational organised crime. According to the UNODC *World Drugs Report* of 2012, drug trafficking continues to be the most lucrative form of business for criminals, with an estimated annual value of $320 billion[82]. A breakdown of this figure shows that cocaine and opiate were respectively worth $85 billion and $68 billion in 2012. Apart from the illegal trade in drugs, there is also an illegal trade in pharmaceutical products. It is reported that criminals traffic fraudulent pharmaceutical products from Asia, in particular to South-East Asia and Africa to the value of $1.6 billion annually[83].

4.2.2   Illegal Weapons Trafficking

Illegal weapons trafficking is another major form of transnational organised crime. In the Southern African context, illegal weapons smuggling is considered as one of the causes of high crime rate in countries such as South Africa. It is also observed that a strong correlation exists between homicide rates and illegal weapons trafficking in some regions of the world[84].

4.2.3   Illegal Trafficking in Natural Resources

This form of transnational organised crime includes, but is not limited to, trafficking of illegal gold and diamonds, as well as oil bunkering and logging. The illegal trade in diamonds for example led to the establishment of the Kimberly Process Certification Scheme (KPCS) in 2003. Its main objective is to prevent the so called "conflict" or "blood" diamonds from entering the international diamond market[85].

4.2.4 Cybercrime

This is an emerging form of transnational organised crime. Although no physical borders are crossed, criminal groups are able to co-ordinate their activities electronically. Thus, in the age of information communications technology, the use of telephone, mobile phones, and the Internet is indispensable to this form of transnational crime. Through the Internet, criminals gain access to bank data and private information of people, especially their identities and credit card details. It is estimated that cybercrime generates about $1 billion annually[86].

4.1.5 Human Trafficking

This is the form of organised crime that is the focus of this study. Although authentic figures do not exist regarding the monetary value of this crime, it is estimated that human trafficking generates billions of dollars annually and its victims are also estimated to be in the millions. Wheaton, *et al*, have suggested that human trafficking involves low risk with high profit potential, and may be more lucrative than the drug trade[87]. As a form of domestic and international organised crime, human trafficking has several implications for the political and socio-economic development of states as well as for human and state security. Several reasons have been suggested for the steady global increase of this phenomenon. The next section will examine the major causes of human trafficking.

5 CAUSES OF HUMAN TRAFFICKING

There are several causes of human trafficking. The root causes are political, economic, socio-cultural and technological in nature. Although the causes of human trafficking are many and may vary from region to region and from country to country, there are factors that have been observed to be present in many regions and countries where human trafficking is widespread. The root causes of human trafficking have been discussed in the context of "push" and "pull" factors[88]. Push factors are internal problems such as poverty, unequal development, conflicts, natural disasters, dysfunctional families and social and gender discrimination, which tend to force people to leave their countries. Pull factors are external factors such as global demand for cheap labour;

improved communications systems; improved transport networks by air, land and sea and expanding global tourism. While push factors intensify vulnerability to trafficking, pull factors facilitate the demand for trafficked victims in destination countries[89]. The different causes of human trafficking are subsequently examined in three clusters of factors, namely, socio-cultural; politico-economic; and globalisation.

5.1   Socio-cultural Factors

Poverty has been identified as a major "push" factor facilitating human trafficking globally. Conditions of poverty entail the lack of meaningful employment opportunities; poor living conditions, and lack of employable skills. The situation is worsened by the absence of an effective social welfare system to mitigate the effects of poverty, especially for the most vulnerable groups in society. Human traffickers exploit these vulnerable conditions by promising victims higher incomes and better living conditions in foreign countries[90]. Poverty in some cases, may force vulnerable families to allow their children to live away from their homes, especially with relatives in urban areas where the chances for finding good jobs are greater. Neglect by their relatives and harsh economic conditions in the urban areas may make the children vulnerable to human trafficking. In extreme cases, poverty can force parents to sell their children to human traffickers in order to free themselves from debt bondage[91]. Similarly, poverty also places adults, especially women, in conditions where they may be forced to engage in sex for money, food, and shelter[92].

High rates of illiteracy especially in developing countries also make people vulnerable to human trafficking due to the inability to read and write, and fully understand developments in other parts of the world and the dangers of trafficking. Although there have been exceptional cases in which well educated people have been found among trafficking victims, illiteracy contributes immensely to human trafficking[93].

The family as a social unit contributes to human trafficking in several ways. Families in which physical, emotional and sexual abusive prevail, are usually not conducive to raising children. One of the consequences of such a family setting is that children often escape from it in search of freedom and survival in the streets. Living in the streets renders the children vulnerable to human trafficking. Similarly, family breakdown as a result of divorce and remarriage; death; or disease such as HIV/AIDS, results in tensions in family relationships. Remaining members of the family

may be forced to move out or send children away to work and help support the family. Families can also become homeless as a result of family breakdown, and parents may become unable to properly care for and protect their children, thus exposing them to the dangers of human trafficking[94].

Gender discrimination as a socio-cultural issue equally causes human trafficking. Due to culturally induced discrimination against women in some situations, they are often denied a voice and a right to protection against violence. This limits their access to education, employment and property rights, resulting in a low income earning capacity and forced early marriage. Situations, such as this, place young women in a vulnerable position for human trafficking[95]. Truong is also of the view that lack of empowerment of women due to culturally based gender discrimination contributes to an increase in poverty in Sub-Saharan Africa, and explains why victims of human trafficking are mainly women and children[96].

5.2   Politico-economic Factors

Rapid political and economic transitions have immediate effects on the society and population of a state. Politico-economic transitions such as from communism to capitalism causes dramatic structural changes in political, economic and social systems on which the livelihood of people depends[97]. In a globalising world, this may entail the easing of protective measures in the economy, thus allowing for the entrance of foreign competitors; privatisation; deregulation of the economy and the creation of highly technical jobs, which require advanced skills. These structural changes marginalise subsistence agriculture and result in mass unemployment as the people may lack the requisite skills for new jobs. People are therefore forced to migrate (in-migration) to other places, especially urban areas in search of new opportunities. Forced in-migration, in turn weakens family affinities and marital unions which function as networks for mutual protection[98]. This situation renders children and adults vulnerable to both domestic and transnational human trafficking.

Political instability; civil unrest; ethnic marginalisation, and internal armed conflict, significantly facilitate human trafficking. Internal armed conflict, for example, causes internal displacement of people and refugee crises both internally and in neighbouring states. Deplorable situations such as this, increase the chances of people becoming vulnerable to exploitation by traffickers. Women and children are usually the worst affected by displacement as evidence in places such as Darfur in Sudan shows.

The absence of adequate laws to combat human trafficking equally facilitates the phenomenon. Even in countries where legal instruments exist, but are ineffectively implemented, human traffickers carry out their activities with relative impunity. This is also the case where corruption exists. It is reported that corrupt law enforcement officials in both source and destination countries, facilitate human trafficking operations by accepting bribes from traffickers[99]. Furthermore, the failure of state institutions such as the judiciary to perform basic functions not only exacerbates the problem of crime, but most importantly provides stronger motivation for people to migrate at all cost[100]. Human trafficking agents therefore sustain their operations by exploiting the fears and the deplorable conditions of their victims.

In Troung's view, the steady increase in human trafficking globally, regionally and nationally is partially attributable to the failures of economic programmes such as the structural adjustment programmes (SAPs) of the World Bank and the International Monetary Fund (IMF) in Africa during the 1980s and 1990s. The failure of SAPs to stimulate economic growth and development led to an increase in unemployment, and poor social infrastructure[101]. Kempado has also noted that global capitalist restructuring impacts negatively on national economies; increases poverty, and uproots rural dwellers and low income earners in developing countries. Consequently, decreases in social programmes in relation to high expectations, make people, especially women, vulnerable to trafficking[102].

Economically too, the risks involved in human trafficking are low, but accruable profit from the activity is high. Therefore, human trafficking is on the increase because of the financial gains that traffickers derive from it. It is also reported that the financial expenses that traffickers incur in the form of securing travelling documents, transportation, food, clothing and shelter for victims, are recovered in several folds through exorbitant fees and victims' indebtedness, forced labour and prostitution[103].

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5.3 Globalisation

Globalisation is synonymous with the interconnectedness and interdependence of people and countries. It is a process that has been made possible through changes in state and institutional policies as well as the easing of border control to facilitate the flow of goods and services, people and ideas. Although globalisation is portrayed as positive for economic development, it also creates and facilitates several global problems. In this regard, Berdal and Serrano observe that the dark side of globalisation is the growth of transnational crime of which human trafficking is one. They argue that "as transaction costs have fallen, there are ever greater opportunities for illicit traders to operate in an unrestricted fashion across borders… nowhere is this more true than in the coercive or deceitful movement of human beings across borders for purposes of exploiting them economically"[104].

The global increase in human trafficking is also connected to the high demand for migrant workers in destination countries coupled with the existence of recruitment agencies and persons willing to facilitate jobs and travel[105]. As McCabe notes, globalisation creates market demand for cheap and low skilled labour in sectors such as domestic service, home care, sex work, labour intensive manufacturing and agriculture. The existence of opportunities in these sectors, provide motivation for traffickers to actively recruit victims to work under exploitative working conditions. Moreover, these sectors are also difficult for state authorities to monitor. Desperation coupled with the expression of a desire and willingness to work abroad and in the aforementioned sectors, renders people vulnerable to the exploitation of human traffickers[106].

From the foregoing, it can be seen that human trafficking is caused by a combination of several factors which are political, economic and social in nature. Human trafficking has also persisted because of its clandestine nature. Though mainly considered as a socio-economic problem, human trafficking has significant security implications for the state, individual, society, region and even the international system. Thus, in the subsequent sections, attempts will be made to examine the concept of security, its nature, and its link to human trafficking.

Generally, security is a very broad concept. It has two inherent characteristics, namely "vulnerability and threat" which are "objectively definable social facts"[107]. Threats refer to identifiable, immediate, clearly visible, and commonly acknowledged dangers to a state or society that requires quick response[108]. Vulnerabilities on the other hand are "potential risks that do not offer a clear policy response"[109]. However, "vulnerabilities left unchecked over time can become threats"[110]. Buzan equally agrees that security simply implies protection from threats or against danger[111].

Scholars do not agree on a common definition of the concept of security. This disagreement centres on the sources of threats and referent objects of security. In view of this, different approaches have emerged in the search for a common definition of security. Among these are the classic (traditional or Cold War) and more contemporary (post-Cold War) approaches. There is also the suggestion that Western circumstances and conceptions of security may be different to Third World views of security.

6.1   The Classic View of Security

The classic or traditional view of security was prevalent during the Cold War era and is orientated towards external and more specifically military threats[112]. Security is viewed in the objective and subjective senses. Objective security means the absence of threats to vital values, while subjective security implies the absence of fear that such values will be attacked[113]. Thus, survival of the state in the face of external aggression is a central theme in the traditional view of security. Against this background, Bellamy contends that, "security itself is a relative freedom from war, coupled with a relatively high expectation that defeat will not be a consequence of any war that should occur"[114]. In the same light, Lippman maintains that "a nation is secure to the extent to which it is not in danger of having to sacrifice core values if it wishes to avoid war, and is able, if challenged, to maintain them by victory in such a war"[115]. In support of Bellamy and Lippman's assertions, Luciani, sees security as, "the ability to withstand aggression from abroad"[116].

These definitions of security are state-centric and narrow in their emphasis on external threats to the state, and primarily military threats. States can face existential threats from internal as well as external sources. Thus, Ayoob recognises the internal aspects of threats to the state when he argues that, "security-insecurity is defined in relation to vulnerabilities- both internal and external- that threaten or have the potential to bring down or weaken state structures, both territorial and institutional governing regimes"[117]. The internal and external vulnerabilities seem to be what Ullman calls the "sequence of events". In his view, "a threat to national security is an action or sequence of events that (1) threatens drastically and over a relatively brief span of time to degrade the quality of life for the inhabitants of a state, or (2) threatens significantly to narrow the range of policy choices available to the government of a state or to private, non-governmental entities (persons, groups, corporations) within the state"[118]. Ullman seems to equate state (national) security with individual and societal security and he argues that when a state is secured, the citizens are also secured or protected. Kolodziej recognises not only the state as the main referent object of security, but also offensive and defensive strategies for its protection as well as diplomatic strategies for creating co-operation[119]. Buzan also seem to suggest that security has different meanings to strong (Western countries) and weak states (Third World countries). While strong states are more concerned about external sources of threat to security, weak states are more concerned about internal sources of threats[120].

6.2   The Contemporary View of Security

The definitions of security considered so far, tend to marginalise the individual as referent object of security. Therefore, more contemporary approaches to viewing security also see the individual and society as important referent objects. This is a radical shift away from the state centric view of security during the Cold War. Vigorous arguments have been raised to counter classic views which emphasize sources of threats to security to be external and military in nature and the state as the primary referent object of security. Booth, for example, places the individual and not the state at the centre of security and seems to de-emphasize the application of force for the purposes of achieving political order. He equates individual freedom with security. In Booth's view therefore, "security and emancipation are two sides of the same coin. Emancipation, not power or order produces true security..."[121]

Buzan's conceptualization of security also challenges the state-centric view of security by broadening the concept. To Buzan therefore[122]:

> Security is taken to be about the pursuit of freedom from threat and the ability of states and societies to maintain their independent identity and their functional integrity against forces of change, which they see as hostile. The bottom line of security is survival, but it also reasonably includes a substantial range of concerns about the conditions of existence…

In the contemporary understanding of security, the importance of states and their need to survive in an anarchic international system are recognised. However, the classic view of security which treats security as a "derivative power" of the state is less emphasized. It is further clear that there are different referent objects or levels of security, namely, the state, the individual, society, region and the international system.

Experience from the Third World equally shows that existential threats to security can come from internal as well as external sources[123]. The present understanding of security includes individual freedom, peace and well-being as well as the protection of fundamental human rights; equality of access to state resources and participation in governance; and basic necessities of life, including good health. The emphasis on the individual, as referent object of security than the state has led to the evolvement of a sub-concept of security called human security. Security in its broadened sense also, includes political, economic, social and environmental issues and is no longer restricted to largely military threats. These sources of threat will be discussed in more detail later in the chapter.

6.3 Security in the Context of the Third Word

Security concerns differ among states. In the context of Third World (weak) states, as previously noted, the primary sources of threat are domestic (internal) rather than external in origin. On the one hand, national or state security is threatened by internal forces such as insurgent groups. On the other hand, the state itself is often a source of insecurity to its citizens through, for example, its security policies[124].

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Several other reasons account for the domestic nature of Third World security concerns. One of these is the absence of a single nation in most Third World states[125]. This implies that most Third World states are composed of multiple ethnic groups that fiercely compete for scarce political and economic resources. The absence of a single nation in many Third World states means the presence of strong allegiance to primordial identities, ethnic disharmony, violence and insecurity. Lack of popular legitimacy of regimes in power in most Third World states is another reason why threats to security are mainly domestic[126]. In many cases, the regimes come to power through fraudulent elections, and in some cases, through military *coups*. Reference, has also been made to the fact that the regimes mainly represent the interest of elites or the predominant ethnic groups, rather than the interest of all ethnic groups. Thus, the exclusionary nature of the regimes results in violent opposition.

Weak institutional capacity to maintain peace and order is also one of the reasons why Third World security is primarily domestic in origin[127]. Due to inadequate resources, many Third World states are unable to maintain effective governance throughout their geographical spaces. Insufficient resources also account for poor maintenance of law and order and high crime rates in these states. Insurgent groups fighting to realise certain political objectives often take advantage of these weaknesses to create conditions of insecurity. Similarly, regimes in many Third World states are oppressive. This may be a way of compensating for their weaknesses, or out of fear of losing political power and the need to protect the interest of certain elites. In this regard, the state becomes a source of insecurity to its citizens rather than a source of protection[128]. Hough posits that within the context of the Third World, there is often no distinction between "national security", "state security" and "regime security"[129].

Ayoob also made a substantial contribution in differentiating Third World national security from that of strong advanced industrialised states. He agrees with Buzan that advanced industrialised (strong) states are more external than internal in their security orientation. This is because these states have achieved higher degrees of social cohesion and nationhood; have effective and efficient governance systems; strong state institutions, and an adequate resource capacity to maintain law and order. Thus, internally these states are secured. Major threats to their security are therefore, perceived to emanate from outside their borders. External security orientation of

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advanced industrialised states is also premised on global security alliances which they have created with other states. On the basis of this, the security of allies also becomes the concern of industrialised states. If allies are militarily attacked, for example, strong industrialised states will be obliged to defend these allies in honour of alliance commitments. Similarly, the maintenance of global security is of primary concern to advanced industrialised states as a result of global economic interconnectedness. Additionally, advanced industrialised states are also more concerned about the security of the global system because they have the capability to externally project power[130].

6.4 The Concept of Human Security

Rothschild has observed that from Roman Times until the French Revolution, security was a condition commonly assumed to relate to individuals[131]. He argued further that it was only after 1815 that security came to be understood as relating to the state. Against this background, Glasius, sees the current emphasis of security on human life and dignity as a re-orientation back to the original meaning of the concept[132]. Human security as a concept is closely related to societal security discussed by Buzan. However, it differs from societal security because it does not lay emphasis on identity (fundamental values) and national interest but on "human life and dignity"[133]. In distinguishing between societal security and human security, Watson, argues that: "While state and societal security discourses also concern human life, they serve to prioritise the state or society as the means of protecting human life and dignity, whereas the discourse of humanitarian security attempts to prioritise human life over the interests of states and or societies"[134]. Definitions of the human security concept by its proponents and critiques are based on the referent object of security that requires protection from danger. The nature of human security, its approaches and dimensions are examined in subsequent sections.

6.4.1 The Nature of Human Security

Human security was given serious consideration in the 1994 *Human Development Report* (HDR) of the United Nations Development Programme (UNDP) and as such can be regarded as part of the debate about security studies and its focus on the state and national interest[135]. The HDR report noted that[136]:

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The concept of security, has for too long been interpreted narrowly: as security of territory from external aggression, or as protection of national interests in foreign policy or as global security from the threat of nuclear holocaust...Forgotten were the legitimate concerns of ordinary people who sought security in their daily lives

With this background, the meaning and scope of security expanded to include human and community protection. Thus, two complementary approaches to the conceptualisation of human security have also emerged. In the first approach, human security means safety from such chronic threats as hunger, disease and repression. In the second approach, human security means "protection from sudden and hurtful disruptions in the patterns of daily life- whether in homes, in jobs or in communities"[137].

6.4.2   Approaches to Human Security

The two main aspects to human security are conceptualised as "freedom from fear" and "freedom from want"[138]. Freedom from fear is a narrow view of the concept and mainly seeks the protection of individuals from vulnerabilities to threats of violence both within and outside of the state. This approach recognises that violent threats are interrelated to poverty, weak state capacity, and social inequalities. Thus, its policy implications manifest in the form of humanitarian interventions, conflict prevention and peace-building efforts[139]. The Canadian state represents this narrow interpretation of human security. Accordingly, it interprets human security as "freedom from pervasive threats to people's rights, safety or lives"[140]. Furthermore, the Canadian Consortium on Human Security (CCHS) maintains that Canada's interpretation of human security is about protecting individuals from repression and violence by despotic governments as well as from terrorism by state and non-state actors; civil wars; genocides and gross human rights violations[141].

Freedom from want is a much broader concept of human security. This approach claims to be holistic in its search for the realisation of human security. It seeks to protect individuals from hunger, disease, and natural disasters such as floods, earthquakes, typhoons, drought, and famine. The logic behind the argument of this human security approach is that issues that threaten human existence are interlinked and mutually reinforcing. Thus, widespread poverty, hunger, and disease can lead to political violence, domestic insurgency, and even terrorism.

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Natural disasters such as floods and earthquakes have the capacity to cause more havoc on people than fratricidal wars, terrorism, and genocide. Japan represents a broader approach to human security. Thus, to the Japanese state, human security is a term that: "comprehensively covers all the measures that threaten human survival, daily life, and dignity, for example, environmental degradation, violations of human rights, transnational organised crime, illicit drugs, refugees, poverty, anti-personnel landmines and... infectious diseases such as AIDS and strengthens efforts to confront these threats"[142].

Different approaches to human security imply variations in its definition. Thomas, for example, sees human security as a service aimed at providing "basic material needs" and the realisation of "human dignity", including "emancipation from oppressive power structure- be they global, national or local in origin and scope"[143]. Bedeski posits that human security is concerned with "the totality of knowledge, technology, institutions and activities that protect, defend and preserve the biological existence of human life; and the processes which protect and perfect collective peace and prosperity to enhance human freedom"[144].

The most widely quoted definition of human security is the one provided by the UNDP's 1994 HDR: "Human security can be said to have two main aspects. It means, first, safety from such chronic threats as hunger, disease and repression. And second, it means protection from sudden and hurtful disruptions in the patterns of daily life- whether in homes, in jobs or in communities"[145]. This definition was further developed by the Commission on Human Security (CHS) in 2003. According to the CHS, human security can be regarded as an attempt[146]:

> to protect the vital core of all human lives in ways that enhance human freedoms and human fulfilment. Human security means protecting fundamental freedoms – freedoms that are the essence of life. It means protecting people from critical (severe) and pervasive (widespread) threats and situations. It means using processes that build on people's strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity.

The definitions of human security by the UNDP's HDR and the CHS, are regarded as broad. They have also been criticised by several scholars, such as Krause[147], and Paris, who argue that human security lacks precision. Paris in particular argues that, "the scope of this definition is

vast: virtually any kind of unexpected or irregular discomfort could conceivably constitute a threat to one's human security"[148]. Reed and Tehranian equally noted that as currently defined, human security "is too broad and vague a concept to be meaningful for policymakers, as it has come to entail such a wide range of different threats on one hand, while prescribing a diverse and sometimes incompatible set of policy solutions to resolve them on the other"[149]. All levels of security can be threatened from a variety of sources as previously stated. In this regard, it is important to examine the main sources of threat.

6.5   Sources of Threats to Security

Threats to the state, individuals, society, regions and the international system can originate from various sources and can be direct (objective) or indirect (perceived). Direct or objective threats are threats that identify specific targets and are explicit. Such threats have clear a focus and identifiable sources. Indirect threats are usually vague, unclear and ambiguous. The target objects, and motivations, are hidden and uncertain[150]. Threats to security can emanate from political, military, economic, societal, and environmental sources. These different sources of threats are interlinked and mutually reinforcing and are briefly examined.

6.5.1   Military Threats

Buzan's security analysis regards military threats as the most dangerous to the state, people, region and the international system. With respect to states, military threats leading to full scale war and resulting in defeat, renders a state susceptible to numerous changes in its political organisation and alteration of territorial boundaries. It can also result in pillage, rape, and genocide. It is therefore against this background that states are motivated to accord protection against military threats the highest priority in their national security planning[151].

Direct military threats manifest in the form of harassment of fishing boats; incessant military raids; territorial occupation; invasion; military blockade; assault and bombardment of cities; military installations; and citizens[152]. Indirect military threats come in the form of attacks on a state's external interests such as foreign allies; investments; shipping lanes and other strategic

trading routes or geographic territories. It is also important to note that arms trafficking can equally pose military threats to states. In this regard, Burgess argues that small arms are the weapon of choice in most internal conflicts as well as for terrorist organisations[153].

6.5.2 Political Threats

Political threats are ambiguous. Threats of this nature are often aimed at the organisational stability of the state. For a state actor, the main objective could be to forcefully remove unfriendly governments or to force a state to abandon a particular policy position. The purpose could also be to take advantage of an internal political crisis in the target state by supporting secessionist groups, and thereby "disrupting the political fabric of the state so as to weaken it prior to military attack". Thus, attempts to cause ethno-cultural divisions within a target state by another state constitute a good example of a political threat and are intentional and well-focused. The structure of the international system can also be a source of political threats.[154]

A more bellicose and powerful state may seek to remove the government of the other or cause internal political disorder. Such threats however, can emanate from ideological differences within the state, which tend to divide rather than unite its citizens as well as domestic law-making and enforcement processes of the state. Discriminatory legislation targeting a particular group or region can threaten the internal cohesion of the state. The style of leadership in a state equally determines its stability and progress[155]. A dictatorial leadership style may result in opposition and armed struggle to redress perceived injustice. Political threats can also emanate from the region as a result of external security policies of other states. There is however, a distinction between intentional political threats and "those that arise structurally from the impact of foreign alternatives on the legitimacy of states"[156]. Political violence which involves the use of terror strategies such as bombing, shootings, and hijackings to force concessions from the state or its agents by non-state actors, are other examples of political threats. They impact on individual freedom and security and the capacity of the state to protect its citizens[157].

6.5.3 Economic Threats

Economic threats are hard to identify because "the normal condition of actors in a market economy is one of risk, aggressive competition and uncertainty"[158]. Economic threats can

manifest in the form of vulnerability to global financial crises, which can lead to collapse of the financial institutions of a state. This can also result in major social problems such as unemployment, crime, and destitution. Vulnerability to activities or events which negatively impact on trade such as price manipulations constitute an economic threat. Such activities also include illegal mining. The sources of threats interact and are interlinked. The analysis of economic threats and the military strength of a state is for instance largely dependent on its economic strength[159].

6.5.4   Societal Threats

Societal threats are activities that adversely affect a state's harmony, identity or "fundamental make-up" and stability. These are features such as values, traditions, customs, language, religion and ethnicity[160]. Societal threats are difficult to distinguish from political threats because issues that might be considered as political also constitute societal threats. The most noticeable societal threat is an attack on common national identity. This threat is most potent in weak multi-ethnic states with differing ideologies, cultural identities and political organisations. Violent ethnic hostilities and endemic suspicion often arise among these groups and there seem to exist as a matter of fact dual or multiple identities within the same state. It is argued that allegiance in such societies is first pledged to the primordial groups before the state. Patriotism in such states is therefore weakened and mobilisation for national assignments such as military assignments is difficult to carry out[161].

Other sources of societal threats come in the form of interplay of ideas and communication through which foreign languages, and cultures penetrate and attempt to erode, existing culture and corrupt the local language. It is suggested that high unemployment rates and the attendant consequences of crime, poor social infrastructure and endemic poverty can also be exploited by external political actors to cause social disruptions in a target state. Thus, states attempt to foster, preserve and promote common national identity, and language as part of their national security agenda in line with their military, economic, and political strengths[162].

6.5.5 Environmental Threats

The environment has long been recognised as a source of threat to state and human security. Mathews, for example, posits that national security policies have to integrate concerns about environmental risks among other things[163]. Environmental threats can emanate from activities such as chemical and nuclear pollution, and state's inabilities to regulate industrial activities and innovation[164]. Environmental threats impact on individual, national and regional levels of security. Burgess, for example, indicates that environmental resources such as water can be a simple and finite object of political action leading to war between states, especially when its flow is shared by different countries[165].

In addition to the five sectors of security discussed, issues such as migration, energy, transnational organised crime and health have also been considered as forming non-military threats to security[166].

7 CRITERIA FOR IDENTIFYING SECURITY THREATS

With the expansion of the meaning of security and the recognition of non-military sources of threats, it has become difficult to identify and separate actual existential threats to the state, individuals, societies, regions and the international system. This is mainly because certain social issues that have security implications, are in fact normal challenges of governance such as the maintenance of law and order. In order to avoid making every social phenomenon a security issue and to prevent the abuse of power by political leaders, certain criteria for security threats have been developed. These criteria or thresholds vary from state to state. In some states, the thresholds are set low and in others the thresholds are set high. Buzan warns against setting the thresholds too low or too high, because when it is set too low the state risks labeling every social problem a security issue, and when the threshold is set too high, the state risks overlooking social problems that merit to be identified as existential security threats[167]. Thus the setting of security thresholds for determining existential security threats requires careful threat assessment or analysis.

As a guide to objective or accurate threat assessment several suggestions have been made. Some have suggested that the nature of the threats in question and their intensity are of primary importance in threat assessment. For an issue to become an existential or national security threat, its intensity must be determined by the specificity of its identity; its proximity in space and time; the likelihood of its occurrence; the depth of its consequences; and its relative importance based on historical evidence. If either one of the aforementioned factors, is lacking, or very distant in space and time, there is no existential threat[168]. Thus a prevalent social issue may be regarded as a normal challenge to the governance or maintenance of law and order in a society. Hough agrees with Buzan in stating that, if a given social condition or situation leads to extreme violence, unacceptable conflict, or state instability, or has a clear potential to do so, it could possibly be viewed as a national security threat[169]. Thus, the criteria for identifying and separating existential threats from normal law and order threats are intensity, extent, and consequences of a given condition or situation. Despite this, it must be stated that, it is ultimately governments that decide what should be viewed as national security threat and what should not. Hence, such declarations are not always objective[170].

The UN also has set certain criteria for identifying security threats to the state, individual, society, region, and the international system. In its 2004 report, the UN Panel on Threats, Challenges and Change, stated that: "any event or process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system is a threat to international security"[171]. The report further identifies six clusters of threats which the "world must be concerned now and in the decades ahead". The identified threats are: economic and social threats, including poverty, infectious disease and environmental degradation; inter-state conflict; internal conflict, including civil war, genocide and other large-scale atrocities; nuclear, radiological, chemical and biological weapons; terrorism; and transnational organised crime. It is evident that the identified threats are a combination of military and non-military threats to security.

For any social phenomenon to become a security issue, it must have identifiable characteristics. First, the social issue must have a referent object[172]. A referent object refers to a specific thing or object, whose existence or survival is being threatened by a prevailing problem. Thus, for external military threats, for example, the specific referent object is the state and its territorial

integrity. But for non-military or non-traditional threats, the referent objects may be human life; traditional value systems or identities[173]. It is important however, to point out that a social problem that threatens human life and dignity as well as the identity of a society, by extension, also threatens the state, especially if it is linked to organised crime.

Second, based on securitisation theory, a social issue becomes a security issue, if it is declared as such by state authorities or securitising actors[174]. Thus, the term security has political connotations. By declaring that the existence of a specific referent object is threatened, a securitising actor asserts a right to use extraordinary measures to ensure the survival of the referent object. Among these measures is the moving of the issue out of the domain of normal politics into the realm of emergency politics, where it can be dealt with quickly and without the usual procedure of policy making. Based on this theory, security is a subjective term or a social construct because its meaning is dependent on what securitising actor wants to do with it[175]. Hough supports this assertion by noting that, if people, be they government ministers, or private individuals, perceive an issue to threaten their lives in some way and respond politically to this, then that issue should be deemed to be a security issue[176].

The criteria suggested by the UN, as well as others discussed above will be used as a basis for the assessment of human trafficking as a security issue.

8   CONCLUSION

Conceptual issues concerning human trafficking have been discussed and analysed in this chapter. Generally, human trafficking is described as a socio-economic, political and security phenomenon associated with the movement of people within and across national borders, either legally or illegally. Its main causes are many but include poverty; ineffective laws; corruption, political and economic changes; internal conflict, and attractive conditions in destination countries. The phenomenon is linked to organised crime and has labour; sexual exploitation; human rights violations; and insecurity as some of its major consequences. Human trafficking shares certain characteristics with human smuggling and both are also linked to organised crime. However, the two concepts are different based on the exercise of control over victims, as well as consent and unlimited exploitation. Similarly, human trafficking and slavery may be difficult to distinguish in practice, but conceptually the two terms are different on the basis of how

ownership rights are exercised over victims; legal personality of victims; immutable social status of victims, and intentions and methods of operation.

Furthermore, human trafficking linked to organised crime has security implications. Therefore, the concept of security was examined in its classic or traditional sense, as well as in its contemporary and Third World perspectives. In the classic perspective of security, survival of the state in the face of external aggression is a central theme while in the contemporary view, the security of the individual and society is also of primary importance. The reference to society and individual security entailed an examination of the concept of human security, its nature, and dimensions as well as the various sources of threats to security in its holistic sense. The analysis of the various sources of threats equally entailed an examination of the criteria for identifying existential threats to security, since every social problem cannot be considered a national security issue. Based on the UN criteria as well as those identified by different scholars; factors such as the nature; intensity; nearness in time and space; probability of occurrence; and consequences of threats amplified by historical evidence and political pronouncement, are considered as determinants of existential threats.

In conclusion therefore, it is important to posit that human trafficking is a security issue because of the concept of human security and to some extent by the application of securitisation theory. Human trafficking undermines state capabilities when linked to organised crime and pressure on states to act against it. Whatever undermines state capabilities has the potential to also affect the region and the international system. Thus, existential threats to states, at all levels of security, can come from internal as well as external sources.

Against this background, the next chapter of this study will examine the extent, patterns, and trends of human trafficking globally. The situation in Africa and Southern Africa will specifically also be addressed to provide a background for the subsequent country case studies.

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CHAPTER 4

HUMAN TRAFFICKING IN SOUTH AFRICA

1   INTRODUCTION

This chapter examines human trafficking in the South African context. It is acknowledged that South Africa is a source, transit as well as human trafficking destination in Africa[1]. This confirms assumptions previously made, that no country can be uniquely identified as a 'source', 'transit' or 'destination' only country in the human trafficking industry. Therefore, 'source' and 'transit' dimensions of the phenomenon in the South African context are highlighted and discussed in this chapter for a holistic understanding of the problem. The different patterns of human trafficking found in South Africa are also examined. These patterns manifest through domestic and international trafficking. With regard to international human trafficking, different dimensions of the phenomenon are identified. Intra-regional trafficking, for example, involves victims trafficked from Southern Africa as well as the African continent into South Africa. Trafficking of victims from outside the African continent into South Africa also frequently occurs. Human traffickers also use South Africa as a transit route to other countries, especially in Europe. To some extent, South African nationals are also trafficked from the country to other countries in the world. All this constitutes the international dimension of human trafficking within the South African context.

While trafficking for sexual exploitation is common, trafficking for labour exploitation and human body parts are other noticeable trends in South Africa. Factors which are global, geographic, political, socio-cultural and economic in nature are cited as facilitating human trafficking in the country. While some conditions specifically facilitate domestic trafficking, others facilitate international trafficking. However, there are also overlapping instances. Specific attention in this chapter is focused on conditions that make South Africa a human trafficking destination. In this regard, section two of this chapter will examine patterns of human trafficking in South Africa while section three will discuss the trends in the phenomenon. The various

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conditions that facilitate domestic and international human trafficking in South Africa, will be discussed in the fourth section.

2   PATTERNS OF HUMAN TRAFFICKING IN SOUTH AFRICA

Human trafficking is endemic in South Africa[2]. Although the exact number of persons trafficked within, into, or from the country is not known, a number of estimates pointing to the seriousness of the problem have been made. In this regard, the IOM in 2003, estimated that at least one thousand Mozambican women are trafficked to South Africa every year and most of the victims work in the sex industry or as sex "slaves" to workers in mining areas of the Gauteng Provence[3]. In 2012 the IOM rescued and assisted 13 human trafficking victims in South Africa[4]. A lack of knowledge concerning the exact number of trafficking victims in South Africa may be attributed to the clandestine nature of human trafficking which makes it difficult to gather certain information. Not much is known about the trafficking of men for sexual, labour and other forms of exploitation since attention appears to be focused on women and children as the most vulnerable group[5].

Human trafficking in South Africa manifests in various forms. Internal or domestic trafficking of South African women and children for sexual exploitation are frequently reported as well as cases of international trafficking[6]. Both refer to inter-regional trafficking involving nationals of Southern African countries trafficked into South Africa, mainly for sexual exploitation, as well as nationals of countries from other sub-regions of Africa, Asia, Europe, and South America. This trend has been apparent since the 1990s[7]. While sex trafficking is the most common form of human trafficking in South Africa, trafficking for labour exploitation, domestic servitude, begging, forced marriage, and human organ sales, have also been reported.

2.1   Domestic Human Trafficking in South Africa

As previously stated, domestic or internal human trafficking refers to trafficking which takes place within a country. It is arguably the most prevalent type of human trafficking in South Africa[8]. The most vulnerable groups in domestic trafficking in the South African context are women and children from impoverished rural areas and farms in the Eastern Cape, KwaZulu-Natal and Limpopo provinces. They have been found to be trafficked to wealthy areas in the Western Cape and Gauteng[9]. Usually they are promised work and better living conditions in these cities, but as Koen and Van Vuuren note, the conditions of their employment are often similar to slavery, sexual violence and debt bondage[10]. The problem of domestic trafficking of children in South Africa has also been focused upon by UNICEF and the UNODC in their 2003 and 2007 reports respectively. It was noted that young South African girls were trafficked not only from impoverished rural areas to wealthy urban areas, but also between major cities in South Africa to work as prostitutes[11].

These findings accentuate the seriousness of domestic trafficking in South Africa and are also corroborated by research by the Human Sciences Research Council (HSRC) carried out in 2010[12]. In the report (henceforth referred to as *Tsireledzani*), provincial 'hotspots' or major domestic human trafficking flows and destinations in South Africa were identified. These destinations are Pretoria and Johannesburg (Gauteng); Rustenburg (North West); and Bloemfontein (Free State). Other trafficking routes and destinations include Durban and harbour (KwaZulu-Natal); Cape Town and harbour (Western Cape); Port Elizabeth and surroundings (Eastern Cape); Musina (Limpopo), and Barberton (Mpumalanga)[13].

It has also been observed that similar methods or strategies are used by human traffickers engaged in internal or domestic trafficking and those involved in transnational or international trafficking in recruiting their victims[14]. The methods employed include deception, kidnapping, and transportation of victims to unfamiliar locations, where their vulnerabilities are amplified. The methods of kidnapping and deception are complemented by the drugging of victims with the intention of making them drug dependent and vulnerable to prostitution[15]. While private individuals may be involved in domestic trafficking in South Africa, the involvement of organised criminal groups has also been documented. In this regard, Van der Watt claims that

Nigerian criminal syndicates are involved in trafficking children from city centres to other city centres throughout the county[16]. Apart from the involvement of criminal syndicates in domestic human trafficking in South Africa, it has also been noted that employment agencies use agents who operate in rural areas to recruit both adults and children through false promises of work as shop assistants, office workers or domestic workers. However, the real situation becomes clear to the victims on arrival in the cities when they discover that they have been deceived and are effectively in debt bondage to their employers. They would have to work for at least two years to repay the debt[17].

2.2   Inter-regional and International Trafficking in South Africa

South Africa is regarded as a human trafficking hub in Southern Africa as a result of reported cases of women and children as well as men being trafficked into the country from different parts of the world[18]. International trafficking in South Africa has three identifiable dimensions. The first is inter-regional trafficking into South Africa, which involves victims from countries in the Southern African region as well as those from other countries within the African continent. Second, there is international trafficking into South Africa, involving nationals of countries from outside of Africa, especially from Asia, Europe, and South America. The third dimension of international trafficking in the South African context, relates to the trafficking of South African nationals from the country as well as the use of South Africa as a transit point for trafficking non-South African nationals to other parts of the world[19].

2.2.1   Inter-Regional Trafficking into South Africa

As previously mentioned, the exact number of persons trafficked into South Africa is not known due to several reasons, including overestimation, reliance and reproduction of old estimates, as well as the clandestine nature of the phenomenon. In this regard, Martens, *et al*, estimated that between 850 and 1,100 women and children are trafficked into South Africa every year[20]. Similarly, about 1000 Mozambican victims are trafficked into South Africa annually[21]. Hosken also claims that upwards of 600,000 persons are trafficked into South Africa annually from countries such as Mozambique, Zimbabwe, Malawi, Swaziland and Lesotho[22]. Human

trafficking victims from Angola, Cameroon, the Republic of Congo (DRC), Kenya, Nigeria, Rwanda and Somalia have also been documented[23]. Interestingly too, although women appear to be the most victimised by human trafficking in the South African context, there are also reports indicating the trafficking of men into South Africa. In 2012 the rescue of 47 Ethiopian "slaves" by the South Africa Police Service (SAPS) "who were to be sold into slavery by a human trafficking syndicate in Limpopo" was reported[24]. Similarly, more than 50 Malagasy victims (men) of forced labour aboard a Chinese fishing boat in South Africa's territorial waters were also rescued in 2012[25]. Refugees from various African countries who reside in South Africa are reported to be engaged in the trafficking of close female relatives to South Africa[26].

Human trafficking victims brought into South Africa enter through different entry points. The most prominent entry points however, are South African land borders with neighbouring countries. In the *Tsireledzani* report, it is noted that trafficking victims are brought in through the Lebombo/Komatipoort border with Mozambique, and the Swaziland border areas[27]. It is specifically noted that taxi drivers regularly transport persons through the Komati Valley and Lebombo Mountains to circumvent border controls, while Zimbabwean and Malawian victims are trafficked through the Messina border[28]. The South Africa-Lesotho border at Maseru is also identified as a major trafficking route into South Africa, while the Barberton area in Mpumalanga is used by illegal miners to traffick women and children from Swaziland into South Africa. The destination points for these victims vary but include cities such as Johannesburg, Cape Town and farms within the Mpumalanga Province[29].

2.2.2   International Trafficking into South Africa

Apart from being a destination point for inter-regional trafficking, South Africa is also identified as an international human trafficking destination in Africa. This means that human trafficking victims are brought into South Africa from countries outside of the African continent. Cases of victims from countries such as Thailand, Philippines, India, China, Bulgaria, Romania, Russia and the Ukraine have been documented in South Africa. In 1998, for example, the dead bodies of women believed to be of Thai origin were found on a railway track by the SAPS. Investigations into the incident revealed that the women were trafficked into South Africa by an organised

crime group with false promises of jobs in exclusive restaurants, and possible marriage to wealthy South African patrons. However, upon arrival in South Africa they were secluded, their travelling documents confiscated and heavy debts imposed on them by their traffickers[30]. An attempt to escape and expose their traffickers, could possibly have led to their murder and dumping on the railway track.

Martens *et al* have estimated that 1000 Thai women are trafficked into South Africa every year[31]. They further note that these women are usually deceived into believing that they are going to earn high wages working in restaurants in South Africa. However, on arrival the women are secluded and later auctioned off at restaurants for between R15,000 and R25,000, and forced to work as prostitutes to repay outrageous debts, which are expenses incurred by their traffickers in bringing them to South Africa[32]. The findings of Martens, *et al*, are corroborated by a report in the *Nation,* an online Thai newspaper. It reported the arrest of a 21-year-old transvestite at Chatuchak shopping mall in Bangkok for allegedly conspiring with at least four others to lure a woman into prostitution with the promise of a well-paid Thai massage job in South Africa. However, on arrival in South Africa, the woman was detained in a Johannesburg hotel basement and forced into prostitution until she escaped and was later rescued by the South African police and assisted to return to Thailand. The rescued woman confirmed that ten other women were also being held by the criminal gang in South Africa, and an investigation revealed that the alleged trafficker had contacts in South Africa and Thailand[33].

The Thai report cited above, also confirms the *Tsireledzani* report that Thai victims are often trafficked to South Africa by Thai nationals who were themselves previously trafficked to South Africa but now have their own brothels in the country[34]. It also indicates the involvement of large organised crime networks, such as the Russian Mafia and Bulgarian syndicates, as well as the Chinese triad and individual South Africans in the human trafficking industry. The methods employed in recruiting Thai victims as well as victims from other countries outside of the African continent include, but are not limited to, placement of adverts in newspapers and other media outlets[35].

2.2.3 International Human Trafficking From South Africa

While there is no evidence of large-scale trafficking of South African nationals to other parts of the world, the IOM has documented eight cases of international human trafficking of South African nationals from the country between January 2004 and January 2008[36]. Accordingly, four South African victims returned from the Republic of Ireland (trafficked for labour exploitation); one person returned from Zimbabwe (trafficked for forced marriage); two persons returned from Israel (trafficked for labour exploitation); and one person returned from Switzerland (trafficked for labour exploitation)[37]. There are also cases of South African women trafficked to Macau by South African and Chinese nationals with links to organised crime networks specifically for sexual exploitation[38]. Possible cases of South African girls trafficked from South Africa for sexual exploitation or as mail-order brides, as well as children trafficked for purposes of illegal adoption, have been raised though not substantiated by evidence[39]. In 2012, authorities in Brazil identified South African human trafficking victims in addition to four South African women forced to serve as drug mules to Bangladesh or Thailand through Brazil[40].

2.2.4 South Africa as a Transit Country

As previously mentioned, South Africa is not only a source and destination country in the human trafficking business, but also a transit country. In this regard, Barnes-September, *et al*, point out that South Africa is used as a transit point between developing countries and developed countries because it has direct flights and shipping routes to many countries[41]. The authors also state that South Africa is used as a transit point because syndicates exploit the fact that it is not a major immigrant producing country. Therefore, travelers from South Africa are not subjected to rigorous screenings at points of entry in other countries. The SALRC also confirms that South Africa is used as a transit point to destinations mainly in Europe[42]. Findings by the HRSC, also show that although there is insufficient data to "provide a comprehensive portrait" of the use of South Africa as a transit point, the problem nevertheless exists and victims are trafficked mainly to Thailand[43]. Documented cases show that Malawian women and children are trafficked through South Africa to European countries such as the Netherlands, Germany, Belgium, and Italy[44]. This is also supported by reports by Molo Songololo, a South African children's rights

organisation, which claims that children from the Southern African region as well as East African countries are trafficked through South Africa to destinations in Asia, especially Bangkok in Thailand[45]. Furthermore, reports indicated in 2013 that human trafficking victims from Asian, South American, Eastern European and African countries are either exploited in South Africa, or are "taken onward to Europe for forced prostitution"[46].

Human trafficking trends in the context of South Africa differ. While many victims, especially women, are trafficked for commercial sexual exploitation, several others are trafficked for labour as well as for human organ exploitation. In the sections that follow, the various motives or purposes for which human trafficking occurs in South Africa are examined.

3   HUMAN TRAFFICKING TRENDS IN SOUTH AFRICA

Several activities fall under human trafficking according to the definition of the concept in the *Palermo Protocol*. Some of these are recruitment, transportation, transfer, harbouring and receiving of persons. These activities do not necessarily constitute human trafficking, except when they involve the use of threat, coercion, abduction, fraud, abuse and deception of persons for the sole purpose of sexual and economic exploitation of victims. Therefore, domestic and international human trafficking in South Africa are carried out for several exploitative purposes which include, but are not necessarily limited to, sexual exploitation, labour exploitation, begging, domestic servitude, forced marriage, and removal of human organs for transplants and ritual purposes. Three of the most visible and documented trends in South Africa are examined in the sections that follow.

3.1   Sex Trafficking

Human trafficking for the purpose of sexual exploitation is the most common trend of trafficking in the world according to the 2009 report of the UNODC[47]. Although there is no specific definition of sex trafficking in the *Palermo Protocol,* it nevertheless connotes involuntary sexual acts or rape and issues such as pornography. In this regard, Jordan reasons that it is "the

participation by a person in prostitution, sexual servitude, or production of pornographic materials as a result of being subjected to a threat, coercion, and abduction, abuse of authority, debt bondage or fraud"[48]. Similarly, Hughes goes further to claim that sex trafficking involves, "all practices by which a person achieves sexual gratification or financial gain through the abuse or exploitation of a woman or child by abrogating her human right to dignity, equality, autonomy, and physical and mental well-being"[49].

While the trafficking of men for sexual exploitation occurs, but is rarely focused upon, the majority of cases of sex trafficking generally and in South Africa specifically, involve women and children. Molo Songololo confirms this by asserting that girl children are the primary targets of human traffickers even though boy children have also been identified as potential victims[50]. Koen, *et al*, adds that the preferred age of girls targeted by human traffickers range from four to seventeen years[51]. In 2004 the SAPS conducted a series of raids which led to the exposure of human trafficking syndicates and the rescuing of a number of victims. Police sources claimed that some of the rescued victims were as young as 10 years and had been missing for nearly two years. While some of the victims were reportedly sold by their parents to traffickers, others were allegedly kidnapped by the traffickers. The victims were said to be rotated between South African major cities, especially Johannesburg, Cape Town, Bloemfontein, and Durban by Nigerian syndicates holding them[52]. Drugs were also reportedly used to control the victims and make them dependent on their traffickers[53].

The problem of sex trafficking in South Africa has also been reported by the US Department of Labour. In its 2009 report, the agency found that trafficked girls in South Africa were targeted specifically for commercial sexual exploitation[54]. Martens, *et al*, equally, reported in 2003 that Lesotho girls were been trafficked into South Africa for prostitution or commercial sexual exploitation. The authors reported that many of the border towns of Lesotho were sources of child prostitution as well as of organised child trafficking to Bloemfontein in South Africa[55]. As pointed out previously, women from refugee producing countries such as the DRC trafficked to South Africa, often end up as commercial sex workers. Similarly, women and children who are trafficked from Mozambique to Gauteng and KwaZulu-Natal also end up as commercial sex workers in South Africa. The same applies to girls who are trafficked from Swaziland to South Africa[56]. Cases of Chinese and Thai women trafficked to South Africa for the purpose of sexual

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exploitation have also been reported, as well as cases of women and girls from Eastern Europe to South Africa by people with links to organised crime syndicates[57].

3.2 Labour Trafficking

Labour trafficking is generally regarded as the second most common trend of human trafficking in the world. As with sex trafficking, labour trafficking is not specifically defined in the *Palermo Protocol*. However, based on the *Forced Labour Convention* of 1930, it is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily"[58]. In this regard, different kinds of labour trafficking exist, namely, agriculture/farm labour; factory work; domestic servitude; construction; restaurant service; entertainment/modeling; and peddling. The central concern in the ILO's definition is not necessarily the type of work being performed by the trafficked person, but the nature of the relationship that exists between the worker and his or her employer. Illegal migrant workers are considered specifically vulnerable to coercive recruitment and employment practices in all countries of the world[59]. Human trafficking victims are sometimes classified as illegal migrants in many countries.

In the South African case, it has been reported that a considerable number of men from countries such as Pakistan, India and China are trafficked to South Africa for purposes of labour exploitation. There are also cases of trafficking for the purposes of domestic servitude, drug trafficking and hard labour in the agricultural, mining and construction sectors of the South African economy[60]. Delport, *et al*, have also estimated that about 30,000 South African children work as prostitutes and as many as 247,000 may be in other exploitative situations[61]. While it is acknowledged that some prostitution cases may be voluntary, many relate to human trafficking. The majority of the children who are exploited are reported to live in poor areas of the Eastern Cape, Mpumalanga, KwaZulu-Natal and the Limpopo Provinces which are often targeted by human traffickers[62].

The US Department of Labour also found that in addition to the trafficking of girls for commercial sexual exploitation, young boys are also trafficked within South Africa for the

purposes of labour exploitation in street hawking and farm work[63]. This is supported by reports that organised crime syndicates operated by foreign nationals, use local South Africans to recruit boys from rural regions of the Western and Northern Cape Provinces for exploitative labour as street vendors in Cape Town[64]. Bermudez has also noted the recruitment of men and boys to work on farms under false promises of good pay and suitable accommodation[65]. Boy children who are not in school or on school holiday, are reportedly the more frequently targeted group[66]. In 2012, the IOM identified potential victims of forced labour from Cambodia aboard fishing vessels in South Africa's territorial waters[67].

3.3   Human Organ Trafficking

Human trafficking for the purpose of human organ exploitation is insufficiently researched in South Africa. The reason may be that human organ trafficking is perhaps, the most secretive and most lucrative of all the forms of human trafficking. In view of this, there is no information to ascertain the exact number of victims, and it also involves an organised syndicate[68]. Human organ trafficking in the South African context in particular and Africa in general, occurs for two identifiable purposes. Firstly, it occurs for medical purposes, especially for organ transplants. Secondly, organ trafficking also occurs for ritual purposes in voodoo religious practices common in many parts of Africa[69].

The South African Law Reform Commission (SALRC) notes that the reason for an increase in human organ trafficking may be connected to unsuccessful attempts at reproducing human body parts despite advances in medical sciences. This is compounded by the increased demand for organ transplants across the world in the presence of a limited supply and ethical questions regarding trade in human organs, as well as strict government regulations relating to organ transplants. Thus, criminal syndicates have taken advantage of the situation to lure poor vulnerable people into illegally donating their organs such as livers and kidneys to recipients they do not know[70]. With respect to South African citizens, the SALRC further notes that there is no documented evidence indicating the trafficking of South Africans or other residents for the purpose of human organ exploitation. However, in 2004, the SAPS in KwaZulu-Natal Province

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arrested an Israeli man with links to an international syndicate that traded in human organs and operated between Israel, Brazil and South Africa[71].

Rituals play a vital role in many traditional African practices. Human trafficking for organ removal for ritual purposes, has been reported in South Africa and its neighbouring states. The Human Rights League (HRL) in Mozambique revealed that human organs trafficking takes place between South Africa and Mozambique in its 2008 report. It is contended that there are frequent cases of human mutilation happening both in South Africa and Mozambique, aimed at forcefully removing body parts from children and adults[72]. These mutilations often result in death or physical incapacitation of victims. Human body parts trafficked in South Africa and Mozambique are mainly sold to spiritual leaders or *Sangomas* in local language. This trend of human trafficking is occurring because of erroneous belief in both countries that traditional medicines prepared with human body parts are more effective[73].

Questions have been asked regarding the causes of domestic and international human trafficking in South Africa. In the next section therefore, factors contributing to human trafficking in the country are discussed.

4 CONDITIONS FACILITATING HUMAN TRAFFICKING IN SOUTH AFRICA

Domestic or internal human trafficking may be more prevalent in South Africa than international trafficking[74]. Against this background, conditions that facilitate domestic and international human trafficking in the South African context are separately examined. The importance of this is obvious although a link may exist between the two. Certain conditions that may facilitate domestic trafficking may not necessarily facilitate international trafficking. For instance, relative poverty exists in South Africa, at least in the rural areas, and this is commonly cited as a major cause of domestic trafficking in the country[75]. However, poverty cannot always be argued convincingly as being the main cause of international trafficking of South African citizens to other parts of the world. This is because the number of documented cases of South Africans trafficked from the country, is insignificant when compared to documented cases of other

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nationals trafficked into South Africa. A possible explanation is that despite the presence of poverty in the country, the lower socio-economic groups in South Africa still consider their country to be better than others.

4.1 Conditions Facilitating Domestic Human Trafficking

Domestic human trafficking as previously noted is the most prevalent form of human trafficking in the South African context. Women and girl children as well as boys are trafficked from impoverished rural areas in South Africa to wealthy urban areas in the country for different purposes, but predominantly for sexual exploitation and forced labour. The main factors that facilitate domestic human trafficking in South Africa are complex yet mutually interlinked. Different reasons for the prevalence of domestic or internal human trafficking in South Africa have been suggested. Among the reasons often cited are historical conditions; the socio-economic situation; personal behavioural patterns; weak legislation; and cultural practices. Some of these are discussed below.

4.1.1 Historical Reasons

As noted elsewhere in this study, historical precedents are often important determinants of current social problems. Therefore, domestic or in-country human trafficking is not a new phenomenon in South Africa, given the instances of rape, kidnapping, abduction, seclusion, and forced prostitution that can be found in the country's history. Based on this, Van Onselen in his account of the early years of Johannesburg from the perspective of the biography of a notorious criminal, Nongoloza Mathebula (1867-1948), consciously or unconsciously traced the origin of domestic human trafficking in South Africa to the 19th Century[76]. Van Onselen reported that Mathebula and his gang kidnapped women, girls and boys from neighbouring towns to mining areas, and had them secluded and forced into prostitution. This practice, was largely responsible for the outbreak of sexually transmitted diseases among prostitutes and mine workers around this period[77]. The legacy of this, it is argued, still thrives in South African societies.

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Similarly, Mokwena in his study of the rise of youth gangs in Soweto also demonstrated that domestic human trafficking has an extensive history in South Africa. In his narrative, criminal gangs such as, 'jack-rollers' kidnapped and abducted women whom they considered "superior" to them on accounts of their physical beauty, and ambitious pursuit of educational goals. The kidnapped victims were restricted and secluded in private homes and repeatedly raped and assaulted[78]. Presently, the observed historical pattern of sexual victimisation can be noticed in many South African cities. The observation is made to the effect that male gang members in South Africa still kidnap young girls, feed them with '*Tik*' (methamphetamine) with the aim of turning them into drug addicts and eventually forcing them into prostitution[79].

Relating these historical criminal activities to the present day problem of domestic human trafficking in South Africa, Lutya, argued that although "these practices were not considered human trafficking at the time…such practices are now classified as trafficking for sexual exploitation under the Criminal Law (*Sexual Offences and Related Matters Act*, (Act 32 of 2007), as amended"[80]. The redefinition of trafficking for sexual exploitation became possible following South Africa assenting to various UN legal instruments such as the *Palermo Protocol*. Consequently, under South Africa's new human trafficking legislation, such activities are also prosecutable as human trafficking offences.

4.1.2 Socio-Economic Conditions

The South African economy is the most diversified and developed in Africa. Yet benefits of this large economy are not enjoyed by all South Africans. This is obvious from available labour statistics relating to the unemployment rate, as well as analyses provided by development economists. For example, unemployment appears to have increased particularly rapidly since the democratic transition from 13 percent in 1993 to 25.6 in 2013[81]. During the first and second quarters of 2013, the South African unemployment rate increased to 25.6 percent, the highest rate in two years. Within the same period (first and second quarters) of 2013, the South African labour force increased by 222,000 persons. This indicates an increase in the number of both unemployed persons (122,000) and employed persons (100,000). Furthermore, it is also reported that between the first and second quarters of the year, the number of discouraged job seekers

increased by 35,000[82]. The high level of unemployment clearly indicates that the South African economy is not growing at the rate required to create more employment. Unemployment is mainly prevalent among the young and unskilled social groups of which women and children are in the majority and the most vulnerable to human trafficking. Thus, the Children's Institute in its 2009 report noted that about 75 percent of Black children; 43 percent of Coloured children; and 4.9 percent of White children, live in households generating an income of below R350.00 a month. About 67 percent of these children are female and 69 percent are between the ages of 12 and 17 years. Additionally, 38 percent of South African children are said to live in households with an unemployed adult[83].

Some have argued that the employment or unemployment of parents may not necessarily translate to the avoidance or non-avoidance of victimisation by human traffickers[84]. Yet it is also true that unemployment increases vulnerability and provides a stronger motivation to migrate at all cost to big cities in search of works. Human traffickers exploit these situations of vulnerability. The inability to provide the basic needs of children especially adolescent girls, as a result of the unemployment situation, as well as time spent by unemployed parents searching for jobs, renders their children vulnerable to human trafficking as reported cases in South Africa tend to suggest. Similarly, unsupervised children may develop certain behavioural patterns that expose them to the risk of trafficking[85].

4.1.3 Personal Lifestyles of South African Youths

It has been observed that the growing culture of materialism and immediate gratification among South African adolescent children may also be contributing to the prevalence of domestic human trafficking in the country[86]. Immediate gratification among South African youths in the form of ownership of expensive mobile phones; brand-labelled clothes; and socialising in night clubs, exposes them to the dangers of trafficking. It is observed that in the course of socialising at night clubs adolescents South African girls consume large quantities of alcohol, take hard drugs and engage in risky sexual behaviours[87]. Many South African girls, especially from poor families have also been reported to engage in sex with older men as a means of survival[88]. Lutya advances this argument by suggesting that the possibility exists for older male companions of

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girls engaged in survival sex, to persuade them under the influence of alcohol and drugs to perform sex work in order to generate more money[89]. The men may also eventually move the girls to unfamiliar locations, seclude, restrict and force them into permanent commercial sex work.

An equally causal factor underlying domestic human trafficking relating to the personal lifestyle of many South African adolescent children, is their involvement in criminal gang activities. Thus, Govender observes that it is a social reality in South Africa that girls between 13 and 18 years old are involved in gang activities voluntarily. Consequently, some of them are also drug traffickers[90]. Besides drug trafficking, Parker reiterates an earlier observation that young South African women are also used in recruiting other girls into human trafficking syndicates for commercial sex work[91]. Recourse to gansterism among girls can, among other factors, be connected to family disintegration or collapse.

4.1.4 Family Disintegration

The family is an important social institution in every society and performs functions that are vital to the survival of societies. For example, it is within the family context that societies are reproduced; children nurtured into adulthood, and socialised into different roles within societies. When families therefore disintegrate at alarming rates, it causes great concern to governments and results in negative consequences for societies, especially with regard to proper socialisation of children. In South Africa, the rate of family disintegration is high despite government efforts to strengthen and support the institution[92]. Several explanations have been offered for this occurrence. One is the recourse to violence in resolving social issues, which appears deeply entrenched in the traditional norms and values of most South African communities[93]. Consequently, domestic violence and eventual disintegration in the forms of separation and divorce are widespread in the country. Documented cases show that as many as 197,284 cases of domestic violence occurred in South Africa between 2009 and 2010, especially in the Gauteng, Western Cape, Eastern Cape and KwaZulu-Natal provinces[94].

Family disintegration as a result of domestic violence has serious implications for the social order and stability, and has been implicated in the high prevalence of rape and other crimes against women and children in South Africa[95]. Reports show that in 2008, about 1,200 children were raped in Gauteng[96]. Similarly, Matthews, *et al*, found that an average of four women, are killed daily in South Africa by their close partners. While 50 percent of the women are killed by co-habiting partners, about 30 percent are killed by their boyfriends, and around 18.4 percent are killed by their husbands[97].

As a result of domestic violence and consequent family disintegration, children are left without proper care in the hands of single parents, and many of them are abandoned or left to fend for themselves. A current estimate of the number of street or homeless children in South Africa does not exist. However, an over recycled 1998 estimate put the number at 10,000 homeless children, with Cape Town having about 2000[98]. As Van der Watt has also noted, unsupervised street children are the most vulnerable to human trafficking for sexual and labour exploitation[99]. This becomes obvious against the background that sex with children is a growing phenomenon in South Africa, and the visibility of street children and their need for love, care and protection make them vulnerable to human traffickers[100]. Certain pervasive cultural practices such as child brides may also facilitate domestic human trafficking in South Africa.

4.1.5   Socio-Cultural Practices

Among the socio-cultural practices are child bride and child placement as well as the patriarchal nature of the South African society. The patriarchal nature of South African society as in many other African countries, manifests in the form of gender discrimination against women[101]. Thus, in patriarchal societies, male children are often favoured above female children for socio-cultural and economic reasons. Male children have more access to social facilities such as education, training, and family inheritance than female children. This situation does not only disempower women in general, but also deprives and renders them vulnerable to human trafficking. The situation is compounded by harsh economic realities in different parts of the country[102].

A traditional practice highlighted by the HSRC as contributing to the spread of HIV/AIDS infection in South Africa, as well as having a direct impact on the problem of human trafficking, is the kidnapping and abduction of girl children as part of traditional marriage negotiations[103]. These practices known as *ukuthwala intombi* in local language are common among communities in the Eastern Cape Province. The HSRC report indicates that the practice is often carried out with or without the consent of the girls' parents. However, parents who consent accept traditional bride payment for their daughters from the suitors in the form of money (about R500.00), or a sheep, goat or calf[104]. The methods of kidnapping, abduction, seclusion, and forced marriage fall directly under the definition of human trafficking for sexual exploitation as contained in the *Palermo Protocol*. The danger in this practice, is that human traffickers may exploit it to obtain women from impoverished rural areas and traffick them to cities where they are forced to become prostitutes.

Another related cultural practice that may be rendering women and children vulnerable to domestic human trafficking in South Africa, is the traditional way of educating children to become independent. In some cases children are placed at the homes of relatives who are wealthy in order to learn life skills; to pay off debts of their parents (debt bondage); or to prepare for marriage. While this practice has merits, it often exposes children to abuse at the hands of their custodians. Many of the children end up being exploited in domestic servitude as well as in the commercial sex industry, agricultural and mining sectors[105]. Although not all children placed under the care of their relatives are exploited, possibilities of the children taking advantage of living in the city with little parental control and guidance, to engage in practices such as dating older men for material benefits, exist[106]. This common feature of city life tends to have become acceptable in South Africa as a means by which unemployed women and girls earn income[107]. The danger in it is that these girls become exposed and vulnerable to domestic human trafficking.

4.1.7   Absence of Parental Supervision and Monitoring

It is also becoming increasingly difficult for working South African parents to balance the time they spend at work and at home with their children. Thus commitments, especially official outside engagements exert much pressure on parents that leave them with little or no time for

their children. This problem impacts negatively on children in two ways. On the one hand, the possibility exists for uncontrolled and unguided children of working class parents to develop anti-social or deviant behaviour conducive to exploitation by human traffickers in the absence of their parents[108]. On the other hand, attempts by working parents to exercise excessive control over their children in the little time they spend with them, often result in children running away from home and becoming vulnerable to human trafficking[109]. Furthermore, it has also been observed that in South Africa financial challenges result in stress and frustration that parents often take out on their ill-disciplined children[110]. As already stated, this tends to worsen the problem of disobedience, escape from home and consequent exposure to the dangers of human trafficking.

4.1.8 Child-Headed Households

The problem of HIV/AIDS and its impact on family stability has also been mentioned a possible contributory factor to domestic human trafficking in South Africa[111]. It is a fact that a number of households in South Africa are headed by teenage children due to the death of their parents from HIV/Aids-related diseases and absent of support from close relatives[112]. Lack of parental support is therefore forcing many of these children to early marriages and depriving them of the chances for educational and economic advancement. The vulnerable position of these children, exposes them to the danger of being raped, coerced, kidnapped, abducted or deceptively recruited by human traffickers[113].

Factors highlighted and discussed so far are by no means exhaustive. There could still be others not yet discovered which are equally contributing to domestic human trafficking in South Africa. Again, South Africa is specifically identified as a destination country in this study. Thus, in the next section, factors that make South Africa a human trafficking destination are highlighted and discussed.

4.2 Conditions Facilitating International Trafficking into South Africa

Within the Southern African sub-region, South Africa is a human trafficking destination. Human trafficking victims from different parts of Africa, as well as from Eastern Europe, Asia and South America, have been found in South Africa. To a certain extent, South Africa is also a transit country, as cases of victims trafficked through the country to other countries have been recorded. However, more international trafficking into the country is recorded than trafficking from the country. Considering the assumption that international trafficking flows from developing countries to developed countries, questions have been raised as to why South Africa has been chosen as a destination by human traffickers. A number of reasons have been proffered to address this question based on the 'push' and 'pull' factors identified by scholars such as Delport, *et al*[114]. These mainly fall within the pull factors, and they include but are not necessarily limited to, historical conditions; geographical proximity; corruption; absence of effective laws; a well-developed sex industry; and the forces of demand and supply as well as the involvement of organised crime.

4.2.1   Historical Reasons

International human trafficking has an extensive history in South Africa according to recorded evidence of slavery, prostitution and indentured servitude in the country. Slavery which several scholars, especially of the American tradition, equate with present day human trafficking, was introduced in South Africa in 1652 after the first Dutch colonisers settled in the Cape Colony[115]. Records show that the first slaves brought into South Africa arrived at the Cape Colony on 28 March 1658[116]. Many of the slaves were imported from West Africa (Ghana), the East Indies, Madagascar, East Africa, and Southern Africa, for example, Mozambique[117]. As in all the countries where slavery was practiced, a demand for cheap labour was the driving force behind the introduction of slavery into South Africa[118]. Thus, between 1726 and 1834, about 36,169 slaves were brought into South Africa from the Asian countries of Indonesia, Java, Ceylon, India, the East Indies, Mauritius, and Malaysia, to work as domestic servants as well as in the mines[119]. While the majority of the men worked in the mines and agricultural sectors, most of the

women were domestic workers and some were also involved in prostitution, especially the freed women[120].

Historical evidence also suggests that the Zulu nation and others may have also actively pursued kidnapping and enslavement of captives during the period of general upheavals often referred to as the *difaqane or Mfecane* (crushing and hammering) under Shaka's rule between 1815 and 1835. In this regard, Cobbing has argued that the widespread disturbances of the period were not necessarily caused by Shaka's military campaigns as commonly found in the literature but by European settlers and traders who contracted local leaders to capture slaves who were later sold in Delagoa Bay (now Maputo in Mozambique)[121].

The most cited case of human trafficking in South African history, occurred in 1810, following the recruitment, with promises of economic prosperity and educational advancement, of Saartje Baartman from the Cape Colony to England and France where she was exploited by her traffickers[122]. Martens, *et al*, note that the promises made to her by her traffickers were never fulfilled, and similar to present day cases of human trafficking, she was extensively exploited as an object of exhibition until she died in France. While this case represents international trafficking from South Africa, another historical example represents international trafficking into South Africa of young women for the purpose of sexual exploitation. In this case, a Russian girl (Fanny Kohler of Odessa) was trafficked to South Africa by her sister and her husband and forced into prostitution[123]. Owing perhaps to the circumstances of the time, not many cases were recorded. However, the cited examples indicate that human trafficking occurred during the colonial period in South Africa.

Slavery is therefore the precursor of human trafficking, not only in Africa but also elsewhere in the world. While the extensive demand for cheap labour resulted in the introduction of slavery, the increased demand for sex necessitated the trafficking of European women into involuntary prostitution in the Cape Colony[124]. A similar situation still exists today in South Africa. An increasing demand for sex with children and young women as well as demand for cheap labour in different sectors of the South African economy, are contributory factors to human trafficking into the country.

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History also played a part with regard to the trafficking of Mozambican men and women into South Africa. Historically, Mozambique was considered a source of labour for South Africa[125]. In this regard, Boaventura, *et al*, observe that South African mines and farms officially recruited labour from Mozambique. By law the employed mine workers were required to allow 60 percent of their remuneration to be deposited directly into the Bank of Mozambique in Maputo. Miners and their families received these remittances in the Mozambican currency, with no interest[126]. It is therefore not surprising that in Mozambique the belief that employment exists in South Africa is widespread, and human traffickers capitalise on it to recruit trafficking victims. Children from rural areas are deceived into believing that educational opportunities exist for them in South Africa. Women are deceived into believing that employment opportunities exist for them in the domestic and farm sectors of the South African economy, while men are deceived into believing that employment exists for them in the mining sector[127].

Mozambican traffickers operate between South African cities and Maputo and actively recruit women working in the informal sector, in local markets and trading. Women are specifically recruited for sale to brothels in the Gauteng and KwaZulu-Natal provinces in South Africa[128]. Men are recruited to work as miners, but many end up working as illegal miners[129]. Thus, cases of illegal mining known as, *zama-zama,* are common in South Africa. In 2012 it was reported that, "unemployed young men from neighbouring countries are lured into South Africa by well organised criminal syndicates to illegally dig gold under dangerous conditions"[130]. The syndicates specifically, target young men from Lesotho, Swaziland, Zimbabwe and Mozambique[131].

4.2.2 Economic and Political Stability of South Africa

The South African economy as previously mentioned, is the most developed and diversified on the African continent. Although presently the economy seems to be growing at a slower rate than the economies of some African countries, it nevertheless remains competitive[132]. The strength of the South African economy lies in its natural resources and the existence of a well-developed financial and legal system. Furthermore, South Africa also has a well-developed telecommunications system; extensive energy and transport sectors; and a vibrant stock exchange that is classified amongst the top twenty in the world. The country's health system and

infrastructure support an efficient distribution of goods and services to major urban centres throughout the entire Southern African region[133]. South Africa has remained a relatively peaceful and stable multi-party democracy since the end of apartheid. Elections are regularly conducted, and orderly and peaceful transitions of power have been witnessed in the country. The existence of the rule of law; and respect for fundamental human rights are, to some extent, also positive attributes. These attributes make South Africa relatively stable in a region that is plagued by political conflicts, wars and counter wars, hunger and starvation, economic stagnation, and diseases[134]. These and other factors render South Africa attractive as a human trafficking destination.

4.2.3   Presence of Immigrant Communities

Partially due to its relative political and economic stability, South Africa continues to attract migrants from different parts of Africa, despite reports indicating that its economy is not growing at the needed rate to absorb a growing workforce. A brief overview of the increasing trend of migration into South Africa is necessary in order to understand the challenge it poses to the country, as the authorities attempt to combat human trafficking. Reports indicate that about 1.2 million undocumented migrants were in South Africa in 1990[135]. The estimated number doubled in 1991 to 2 million[136]. By 1992, about 2.5 million undocumented migrants were living in the country according to some estimates and in 1993, the estimated number went up to 3 million, and 5 million in 2011[137]. In the South African context, illegal immigrants include holders of visitor's visas who have overstayed in the country, and those who crossed into the country illegally. Based on reports by Statistics South Africa, about 5.7 percent of the South African population in 2012 was foreign born, comprising of legal and illegal migrants[138]. While some of these migrants are refugees from conflict-stricken countries, the majority are irregular migrants[139]. Reports have also indicated that many of the migrants are victims of human trafficking who may have been deceived about the actual socio-economic situation in South Africa and the nature of employment promised to them by their traffickers[140].

The findings of studies by the Centre for Economic Policy Research (CEPR) and the Centre for the Study of African Economies (CSAE) reveal that migrants have a positive impact on South Africa's economy because a large number join the small, medium and micro enterprises

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(SMME) sector, which includes clothing and retail shops, salons, night clubs, restaurants, and music shops[141]. However, these sectors are also the ones in which human trafficking victims are largely exploited. In Johannesburg trafficked victims, especially women and children hawk wares in the streets or work in hair dressing salons, restaurants and night clubs based on an agreement with the owners of these establishments[142]. While some of the traffickers fulfill their part of the agreement, many do not. The traffickers often invent excuses to perpetually keep their victims in bondage as well as withholding their travel documents and temporary resident permits. This confirms assumptions that human trafficking victims are deceived about the type of work they are supposed to do in destination countries[143].

For the men among them, especially Ethiopians who are largely involved in the clothing business, the agreement is for the trafficker, in addition to providing travel documents (for those who travel legally) or paying human smugglers, to also rent a shop, and supply goods to the victims up to a certain amount. The victims will only own the business after paying back the expenses incurred in bringing them into South Africa as well as those spent in housing them. This usually amounts to hundreds of thousands of Rand and is often difficult to pay back, and thus, keeps these victims in perpetual servitude[144].

The large presence of migrants facilitates human trafficking in South Africa in different ways. For example, over the years migrants in South Africa have built up a good knowledge about the country and also established migrant communities. Their knowledge of South African society coupled with the co-operation of their communities, facilitates human trafficking through harbouring of victims, and assistance in the procurement of legal documents. The possession of legal documents makes it difficult for law enforcement agents to identify trafficking victims[145].

4.2.4   Geographical Causes

It was once argued that economic considerations caused people to migrate from one location to another, but as distance increases, migration tends to decrease[146]. Regarding international human trafficking into South Africa, economic considerations are undoubtedly the main reasons. However, geographical proximity and long porous borders provide additional reasons to cross into the country. This is better understood in view of the fact that South Africa shares borders

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with six countries, namely, Botswana (1,840 km); (Lesotho 909 km); (Mozambique 491 km); (Namibia 967 km); (Swaziland 430 km); and (Zimbabwe 225 km)[147]. Each neighbouring country has a number of points of entry. Botswana has 16 entry points of which four are commercial points of entry. Lesotho has 18 entry points of which five are commercial points of entry. Mozambique has three entry points and all are commercial points of entry. Namibia has six entry points of which two are commercial points of entry. Swaziland has 11 entry points of which five are commercial points of entry; and Zimbabwe has two entry points, one of which is a commercial point of entry[148]. Besides, there are also illegal or unofficial routes used for smuggling. Most South African land borders are largely unpatrolled for different reasons which include insufficient personnel and equipment. Human traffickers and their victims can therefore cross the borders relatively undetected. However, when they are detected, it is not uncommon for corrupt border officials to accept bribes and allow illegal migrants and human traffickers as well as their victims to cross into the country[149]. Due to geographical proximity most of the migrants residing in South Africa legally and illegally, are from Southern African countries of Zambia, Zimbabwe, Swaziland, Mozambique, Malawi, Lesotho, and Angola[150].

Globalisation appears to have rendered obsolete the theory which claims that migration decreases when distance increases, given that distance no longer constitutes a barrier to long distance mobility. In this regard, the OR Tambo Airport in Johannesburg is reported as the main entry point for human trafficking victims from outside the African continent. Some victims enter legally into South Africa through the assistance of corrupt airport officials as a reported case in 2010 indicates[151]. In this regard, a Thai woman was arrested in Rustenburg for trafficking mainly Thai women into South Africa. Investigations revealed that she allegedly trafficked girls from Bangkok to South Africa by promising them work in a Thai massage parlour, but then forced them to involuntary prostitution in her brothel in Rustenburg[152]. Further investigations showed that the alleged trafficker entered South Africa with fake travelling documents but continued to travel regularly between Thailand and South Africa because of her connections in the Department of Home Affairs (DHA), the police and the aviation industry. Her victims for example used specific lanes at airports in Thailand and at OR Tambo Airport[153].

Reports have also indicated that the South African seashore is vulnerable to criminal activities. Following the arrest of drug smugglers in Knysna in June 2013, it has been revealed that

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criminals anchor large ships offshore, out of reach of the South African Maritime Safety Authority (SAMSA), the Fisheries Department and the SAPS and then send small boats or rubber dinghies ashore at night, smuggling human beings or arms[154].

4.2.5 Regional Commitments

Since the end of apartheid and subsequent readmission into the comity of nations, South Africa has signed and ratified more international and regional agreements, conventions, declarations and protocols, relating to trade, human rights and free movement of people. While these protocols and declarations are vital in harmonising national policies and providing the legal framework for regional co-operation and integration, they also have unintended consequences. In 2005, for example, South Africa signed the *Protocol on the Facilitation of Movement of Persons in SADC*. Specifically, the objective of this protocol is the progressive elimination of obstacles to the movement of people in the SADC region. This includes the facilitation of visa-free entry for 90 days as well as the possible granting of permanent or temporary residence permission to SADC citizens intending to practice their professions in member states other than theirs[155]. Subsequently, a number of bilateral agreements relating to visa-free entry were concluded among Southern African states[156].

However, the visa free period is often abused by those who enter other countries such as South Africa, and fail to leave. Human traffickers exploit this provision of the protocol to traffick victims into South Africa and sexually exploit them. Thus, reported cases show that taxi and truck drivers are extensively used to transport victims into South Africa. Organised criminal groups also exploit this to traffick both humans and drugs into South Africa[157].

4.2.6 Poor Implementation of Laws on Prostitution

Although South Africa has legal instruments in place to address social problems that facilitate human trafficking for purposes such as prostitution, the implementation of laws to counter these problems has not been effective in recent years. Whereas, the *Sexual Offences Act* (Act 23 of

1957), for example, criminalises prostitution, and the running of a brothel, as well as earning of income from prostitution, the law is not effectively implemented in South Africa[158].

Increasing demands for young women and girls in the sex industry is also caused by several economic development projects within South Africa which led to an increase in the number of unaccompanied male workers seeking sexual experiences in areas where few recreation and entertainment facilities exist[159]. This confirms the basic law of economics that when demand increases, supply is also likely to increase. This is often used in explaining the global phenomenon of human trafficking. Advertisements for exotic dancers and sex workers regularly found in South African newspapers indicate there is also an increased demand for sex workers and the related sex industry[160]. Although not all exotic dancers are prostitutes, evidence from other countries indicates that trafficking victims work as exotic dancers too. When the SAPS raid brothels in South Africa and arrest suspected sex workers, the suspects are seldom prosecuted[161]. Although in 2013 the South African government finally adopted specific human trafficking legislation, it remains to be seen how the new legislation will be effectively implemented.

4.2.7   The Rise of Sex Tourism

Tourism is reported to be South Africa's third largest foreign exchange earner and job creator[162]. In 2012, about 9,188,368 tourists visited South Africa, an increase of 10 percent from the 8,339,354 tourists in 2011. Furthermore, the direct contribution of tourism to the South African GDP went up by five percent to R84.3 billion in 2011, and direct employment in the sector as a percentage of overall employment in the country, went up from 4.3 percent to 4.5 percent between 2010 and 2011[163].

However, sex tourism is also a growing phenomenon that has a direct bearing on human trafficking in South Africa. Sex tourism is defined as "trips organised from within the tourism sector, or from outside this sector but using its structures and networks, with the primary purpose of effecting a commercial sexual relationship by the tourist with residents at the destination"[164]. The UN condemns sex tourism in all its ramifications because it has serious implications for the health, and social and cultural norms and values of both home countries and destination countries of tourists[165]. Again, this form of tourism exploits gender, age, and social and economic

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inequalities in sex tourism destinations as reported cases show. For example, in September 2005 a German businessman Werner Braun was arrested in the Helderberg district in Cape Town after an investigative television programme 'Special Assignment' exposed him for sexually abusing girls as young as 11 years old[166].

In order to sustain the South African tourism industry, the country has made provision for tourism and entertainment visas. Unlike other categories of visas for South Africa, tourist visas are the easiest to access. Much as this is intended to boost the country's economy and create employment in the country, the existence of tourist visas may also be producing the unintended consequences of facilitating international human trafficking into South Africa. Louise carefully observed in her global assessment of human trafficking that many traffickers take advantage of the existence of such visas to traffick women and children into other countries. It is further pointed out that women often enter on entertainment visas not available to ordinary categories of foreign workers. With these visas they are able to work in a variety of establishments ranging from bars, snack bars, escort services, as well as health clubs and restaurants that serve as covers for brothels[167].

The rise of sex tourism and male prostitution increases the demand side of human trafficking in the South African context. Human traffickers exploit these opportunities, hence in combination with other factors South Africa is regarded as a human trafficking destination in the African region.

4.2.8 The Involvement of Organised Crime

The involvement of organised criminal groups in human trafficking is also responsible for the increase in the phenomenon, especially in the South African context. Based on several reports, large organised criminal organisations with links to many countries operate within the borders of South Africa and are directly involved in the human trafficking flow[168]. The involvement of organised criminal syndicates in the human trafficking stream in South Africa was confirmed in 2004, when the SAPS in KwaZulu-Natal Province arrested an Israeli man with links to an international syndicate that traded in human organs and operated between Israel, Brazil and South Africa[169]. Police investigation revealed that the syndicate carried out over 200 illegal

kidney transplants between 2001 and 2002 in different South African hospitals in Durban, Cape Town and Johannesburg. While recipients were mainly Israelis, the donors were from Eastern Europe and Brazil[170] .

The cases of Chinese, and Thai women trafficked into South Africa have all been documented. While some of the criminal syndicates involved are large, well-structured and connected, others are loosely connected, less structured and existing for a short time only. Human traffickers among diaspora communities who traffick their family members into prostitution in South Africa resort in the latter group[171]. As pointed out earlier, organised criminal groups engage in all forms of human trafficking into South Africa. Among these are: trafficking for prostitution, pornography, domestic servitude, forced labour, begging, other criminal activities such as drug trafficking, and trafficking for the removal of human body parts. Their victims also include young girls as well as boys who are forced to traffick or smuggle drugs and to carry out criminal activities[172].

4.2.9   Continued Existence of Historical Conditions

The continued existence of historical conditions such as a shortage of labour in the agricultural/farming, mining and domestic service sectors in South Africa in which many unskilled migrants work, is also a facilitating factor because it reinforces the desire to migrate to South Africa at all cost[173]. The desire to migrate to South Africa at all cost appears also to be reinforced by narratives of irregular migrants who return home from South Africa with tales of success. In their narratives, the actual situation in South Africa is misrepresented, distorted or one-sided. The difficulties encountered in finding work, accommodation and a residential/work permit in South Africa, are often not revealed. A one-sided picture of good fortunes in South Africa is therefore believed and tends to motivate vulnerable individuals to migrate to the country at all cost. Human traffickers capitalise on the personal circumstances of their victims to recruit and exploit them[174] .

4.2.10 Insufficient Political Will

An important factor leading to an increase in human trafficking globally is insufficient political will on the part of governments to combat the phenomenon[175]. Political will in this regard, connotes not only the recognition of the seriousness of a problem and the introduction of comprehensive legislation to address the problem, but also the allocation of adequate material, human and financial resources. With regard to South Africa, it has been observed that although the country has steadily increased its efforts to prevent human trafficking, it has not provided specific funding for this purpose[176]. Rather than allocating specific funding to combat human trafficking, the South African government continues to rely on existing budgets for stakeholder departments and foreign donors[177]. For example, the role of protecting human trafficking victims is largely left to NGOs operating in South Africa. Yet the government does not provide sufficient funding to these organisations[178].

While the causes of international human trafficking discussed above are by no means exhaustive, they nevertheless represent the major driving forces behind human trafficking into South Africa. These conditions render women and children including girls and boys, exposed and vulnerable to traffickers.

5 CONCLUSION

Human trafficking in the South African context was examined in this chapter as one of the country case studies. South Africa is predominantly identified as a destination country in the global and regional human trafficking industry. This notwithstanding, South Africa is also a source country as well as a transit route. This confirmed previous assumptions that no country can be identified as "source", "transit" or "destination" only, in the human trafficking industry.

Against this background, the trafficking of women, men, girls and boys for sexual exploitation, labour exploitation, and human body parts, were specifically identified as major human trafficking trends in South Africa. This is also within the context of both domestic and international trafficking. Reference was also made to trafficking for, among others, the purposes of begging, and illegal adoption. Reasons for, and causes of domestic and international human trafficking were highlighted and examined. Accordingly, historical conditions relating to the

internal trafficking of women and children; personal lifestyles; child-headed households; cultural practices; poverty; lack of parental supervision; and family disintegration were identified as factors facilitating domestic human trafficking. Among factors identified as facilitating international trafficking into South Africa, were historical conditions relating to the introduction of slavery and indentured servitude into the country, as well as South Africa's geographical proximity and relative political and economic stability. Other factors include the previous lack of specific legislation; the rise in tourism, especially sex tourism; the involvement of organised criminal syndicates; and regional commitments.

It can be concluded that the South African case study reflects the complexity of human trafficking as a global phenomenon. As a destination country, South Africa shares similar characteristics with other destination countries in the human trafficking industry. Similarly, although the factors that facilitate domestic trafficking may not necessarily facilitate international trafficking, in some cases overlaps exist. Patterns and trends in domestic and international human trafficking in South Africa also have security implications for the country. Thus, the violation of national borders; the involvement of organised crime; corruption of border officials; the denial of freedom of movement, and the use of physical violence against victims by traffickers, are all issues that have implications for individual security as well as South African national security.

The next chapter of this study will specifically focus on human trafficking in Mozambique. Mozambique is predominantly regarded as a human trafficking source. Therefore, conditions which facilitate the trafficking of Mozambican citizens to other countries such as South Africa, will also be discussed and analysed.

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CHAPTER 5

HUMAN TRAFFICKING IN MOZAMBIQUE

1   INTRODUCTION

Several sources indicate that Mozambique is predominantly a source country in the human trafficking industry. This notwithstanding, Mozambique is also used as a transit route as well as a destination point to a certain extent[1]. The choice of a country as a source, transit or destination of human trafficking, is largely dependent on the strategic intentions of human traffickers and the availability of exploitable opportunities. For a holistic understanding of the trafficking phenomenon in the Mozambican context, it is imperative to examine its 'source' and 'transit' dimensions as well as its various patterns.

Specific attention in this chapter is focused on conditions that make Mozambique a human trafficking source. In the sections that follow, the various patterns of human trafficking in Mozambique as well as the trends of the phenomenon are examined. While various patterns of human trafficking in the country are discussed in the second section of the chapter, the third section focuses on the trends of the phenomenon in the country. Furthermore, the various conditions that facilitate domestic and international human trafficking in Mozambique are discussed in the fourth section while the fifth section concludes the discussions. This order of discussion and analysis is necessary in order to present a comprehensive analysis and broaden the understanding of the human trafficking phenomenon in Mozambique.

2   PATTERNS OF HUMAN TRAFFICKING IN MOZAMBIQUE

As a predominantly source country, human trafficking pattern in Mozambique is mainly international. International trafficking in the Mozambican context refers to intra-regional trafficking involving nationals of other African countries trafficked into or through Mozambique as a destination point or as a transit route to South Africa and other parts of the world. It also

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refs to the trafficking of victims from outside the African continent into or through Mozambique. Internal or domestic trafficking of Mozambican women and children for sexual exploitation is also reported[2]. While sex trafficking is the most common form of human trafficking in Mozambique, trafficking for labour exploitation, domestic servitude, begging, forced marriage, and human organ sales, are also noticeable trends in the country.

2.1   Domestic Trafficking in Mozambique

Although it is noted that human trafficking in the Mozambican context is predominantly international in nature, domestic or internal trafficking also occurs to a significant degree but is rarely focused on. Several reasons can be offered as to why there is less focus on domestic trafficking than international trafficking in Mozambique. Generally, it is assumed that human trafficking, flows from poorer areas to richer or more prosperous areas[3]. Therefore, as a relatively poor country in close proximity to a relatively rich country, human trafficking mainly flows from Mozambique to South Africa. Similarly, less profitability due to poverty and a less developed sex industry in the country, are other possible reasons why human trafficking is more international than domestic in Mozambique. Internal or domestic trafficking in Mozambique is therefore more of a means than an end in itself. It is used as a temporary strategy for eventual trafficking into South Africa and other countries.

Two types of domestic trafficking in Mozambique are identifiable from the literature. The first relates to trafficking from rural areas to urban areas (rural-urban trafficking). In this type of domestic trafficking, children, especially girls are trafficked from rural areas of the country to urban areas where they are exploited in the sex and commercial industries as well as sold to international human traffickers[4]. Two cases reported in 2008 indicate that rural-urban trafficking may be the most prevalent form of domestic trafficking in the country. In the two cases, Mozambican police intercepted four trucks transporting alleged trafficking victims. One of the trucks was transporting about 40 children believed to be trafficking victims from northern Mozambique to Maputo. The second truck was intercepted at Beira and was transporting about 53 alleged victims of human trafficking of mixed nationality[5]. In the second type of domestic

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trafficking, children, especially boys are trafficked from one rural area to another rural area (rural-rural trafficking) where they are exploited in the agricultural sector. In this regard, the US State Department reported that in rural areas of Mozambique forced child labour is common in agriculture and commercial activities[6].

As in other countries, different methods are used in recruiting domestic trafficking victims in Mozambique. In some cases family members consent to victims, particularly children being trafficked to places outside of their homes[7]. In many cases, victims are recruited with false promises of work or education in major Mozambican cities such as Maputo. Kidnapping as well as seclusion are other methods equally employed[8]. The most common trends in the country's domestic trafficking are sexual exploitation, labour exploitation, domestic servitude and human body organ sales. Sexual exploitation is common in border towns with other countries such as Swaziland and South Africa. Therefore, it is common to find young Mozambican girls working as prostitutes in bars, brothels, nightclubs, and restaurants in Maputo, Nampula, Beira, Chimoio and Nacala[9]. While some of the sex workers may be working voluntarily, many of them are considered human trafficking victims.

2.2   International Trafficking in Mozambique

Mozambique is mainly a human trafficking source in Southern Africa. This is mainly as a result of reported cases showing a preponderance of Mozambican nationals being trafficked to other countries such as South Africa[10]. As in other countries, international human trafficking in Mozambique also has three identifiable dimensions. The first dimension is intra-regional trafficking into Mozambique, which involves victims from countries in the Southern African region as well as those from other countries on the African continent. Second, reported cases show international trafficking into Mozambique, involving nationals of countries from outside the African continent, especially from Asia. The third dimension of international trafficking in the Mozambican context, relates to the trafficking of Mozambican nationals from the country as well as the use of Mozambique as a transit route for trafficking into South Africa and other parts

of the world[11]. Although cases of alleged trafficked foreign nationals working as sex workers in Mozambique exist, human traffickers mainly use Mozambique as a gateway to South Africa.

2.2.1   Inter-Regional Trafficking into Mozambique

While certain estimates show a certain number of persons trafficked from Mozambique into South Africa, there is no clear record of the number of persons trafficked into Mozambique from Southern Africa as well as from other parts of the African continent. Lack of research into this aspect of the human trafficking phenomenon as well as poor data gathering, may be the reason for this. Reports however, indicate that the number of persons trafficked into and through the country may be huge. This can be ascertained from the increase in the number of Zimbabwean women working as prostitutes in Mozambican cities such as Chimoio[12]. While acknowledging that some of the sex workers may be working voluntarily, the possibility of many being human trafficking victims exist. Human traffickers take advantage of vulnerable conditions and the existence of opportunities such as a large presence of tourists and the demand for sex, as can be found in Mozambique. Apart from Zimbabwean nationals, reports have also shown that Somalian trafficking syndicates operating in Mozambique, traffick both humans, drugs and arms into Mozambique. Children trafficked into Mozambique by Somali syndicates are eventually moved into South Africa where they are exploited in the more lucrative South African commercial sex industry[13].

Evidence also shows that Zambian, Malawian, and other African nationals are also trafficked into or through Mozambique[14]. Thus, in 2003, Zambian immigration authorities issued a warrant of arrest for a group of Ethiopian and Congolese nationals suspected of trafficking young Zambians and other African nationalities abroad[15]. Additional reports from the Zambian authorities also indicate that Zambian trafficking victims between the ages of 18 and 25 were allegedly trafficked through the Mpulungu harbour in the country's Northern Province to Mozambique[16]. From Mozambique the victims were sent to different countries. Deception and false promises of works abroad were reported to have been used in recruiting the victims. Reports by the US State Department also show that "women and girls from Zimbabwe and Malawi who voluntarily migrate to Mozambique are subsequently subjected to sex trafficking or

domestic servitude"[17]. In 2006, it was reported that Mozambican children, as young as eight years are trafficked daily through the Kruger National Park or the Swaziland border and sold to South African nationals for between 30 US Dollars and 50 US Dollar per child[18].

2.2.2 International Human Trafficking From Mozambique

International Human trafficking from Mozambique has a long history. Its contemporary form, however, became noticeable in the 1990s when the country was widely reported as being the hub of the trade in human beings in Southern Africa[19]. Nationals of the then warn-torn Mozambique were predominantly traded, reminiscent of the transatlantic slave trade[20]. In 2003, women and children trafficked from Mozambique into South Africa were reportedly subjected to labour exploitation, domestic servitude, forced marriage, and commercial sexual exploitation[21]. The human traffickers were also reported to come from Johannesburg, Soweto, Daveyton, Thembisa, Thokoza and other townships near Vereeniging to "buy" victims in Mozambican border towns[22]. The exact number of victims of international human trafficking from Mozambique is not known. A number of estimates pointing to the seriousness of the problem do however exist. In this regard, the IOM estimated in 2003 that at least 1000 Mozambican women were trafficked into South Africa every year and most of the victims worked in the sex industry or as sex "slaves" to workers in the mining areas of the Gauteng Province[23]. Other reports claim that about 40 Mozambican women and girls are trafficked monthly across Mozambican borders and sold for 1,000 US Dollars in South Africa. Internally too, women and girls are also purchased for as little as two US Dollars[24]. Although not all Mozambican women found in South Africa are victims of human trafficking, the fact that most of the women work in the sex industry or as sex slaves to workers in mining areas across South Africa, accentuates the claim that majority of them may be victims of human trafficking[25].

The South African Broadcasting Corporation (SABC) also reported the arrest of six men in Maputo in 2006 who were attempting to traffic about 43 people from Maputo into Witbank in South Africa[26]. Police investigation with the assistance of some of the victims showed the involvement of an organised criminal syndicate in the business. It equally confirmed reports that victims are lured mainly from rural areas in Mozambique with the promise of employment in

South Africa[27]. In 2007, the arrest of a bus driver attempting to traffic 24 undocumented Mozambicans into South Africa was reported. This was also followed by the arrest of a Mozambican woman in Pretoria for keeping and forcing three Mozambican girls aged 16 years in a brothel in Pretoria. Investigations revealed that the girls were deceived with the promise of education and good jobs in South Africa[28].

Mozambican cities such as Nampula in the northern part of the country and Maputo are reported as the main centers of recruitment and transportation of trafficking victims into South Africa. The routes used include the border at Ressano Garcia or Ponta de Ouro. From Ressano Garcia women are taken to Gauteng Province. From Ponta de Ouro they are taken either to Gauteng Province or to Durban or Pietermaritzburg in the KwaZulu-Natal Province in South Africa[29]. Cases of trafficking from Mozambique into South Africa continue. For example, in February 2013, a 60-year-old South African businessman and a 22-year-old Mozambican woman appeared before the Graskop Regional Court in Mpumalanga, for alleged human trafficking of five young girls from Mozambique to South Africa between 2009 and 2011[30]. Similarly, in April 2013, a Mozambican woman was also indicted in a Nelspruit Regional Court in Mpumalanga, for the abduction and trafficking of children from Mozambique to South Africa[31]. These two cases confirm reports by the IOM that Mozambican women working with Mozambican or South African men often recruit the Mozambican trafficking victims.

2.2.3 Mozambique as a Transit Route

Mozambique is described not only as a human trafficking source, but also as a transit route. Besides the trafficking of Mozambican nationals, cases of trafficking of Cameroonian, Ugandan, Kenyan, Congolese and Ethiopian nationals through Mozambique to South Africa, have also been reported[32]. Several agents and methods are used to traffic victims through Mozambique into South Africa and agents involved in it include national and international organised crime groups. For example, reports show that refugees from African countries such as the DRC are involved in trafficking Congolese and other nationals from the DRC using Mozambique as a transit country[33]. Documented cases also show that Mozambique is used as a transit country for Somalian victims, trafficked by boat to Nacala in northern Mozambique. From this port city, the

victims are trafficked into South Africa through other routes[34]. In 2009, Mozambican police intercepted two trucks in the Tete Province near Malawi carrying 317 suspected trafficking victims and irregular migrants, with many of them believed to be heading for South Africa[35].

There is also international trafficking through Mozambique involving nationals from countries outside of the African continent. As previously pointed out, women from Russia, Eastern Europe, Thailand, China and Taiwan are trafficked through Mozambique to South Africa[36]. Reports show that Thai women, trafficked through Mozambique are subjected to various forms of exploitation such as forced sex work, long working hours and debt bondage. The methods of control employed by their traffickers include seclusion, physical and verbal abuse, as well as intimidation of both victims and their family members in Thailand. The working conditions of the victims are also described as poor and unhygienic[37]. The victims are also usually of low socio-economic status, poorly educated and seldom speak English. These conditions, amplify the victim's vulnerability in source, transit and destination countries[38].

Evidence also shows that Pakistani trafficking syndicates, in collaboration with corrupt Mozambican immigration officials at the country's international airport, traffick victims through Mozambique into South Africa[39]. Thus, in 2010, the Mozambican police reported the discovery of a human trafficking syndicate that traffick between 30 to 40 African, Asian, and Eastern European women and girls each month through Mozambique to South Africa. Specifically, the Chinese women trafficked by this group arrived in Mozambique on container ships and were later sold for 1,000 US Dollars each[40].

As in other countries, different trends relating to human trafficking can be found in Mozambique. These include, sex trafficking, labour trafficking, begging, domestic servitude, and human body organ trafficking. These trends are subsequently discussed.

3   HUMAN TRAFFICKING TRENDS IN MOZAMBIQUE

Human trafficking in the Mozambican context is complex for several reasons. Differentiating between domestic trafficking and international trafficking in the country in practical terms is difficult. This is because domestic trafficking often becomes international when victims are sold and cross international borders. Human trafficking in the country is also specialised. While some trafficking agents target mainly children between the ages of three and twelve from rural areas in the provinces of Gaza, Inhambane, Maputo, and Nampula, other specialise in trafficking young women[41].

As in other countries, domestic and international human trafficking in Mozambique are carried out for several exploitative reasons which include, but are not necessarily limited to, sexual exploitation, labour exploitation, begging, domestic servitude, forced marriage, and removal of human organs for transplants and ritual purposes. Three of the most visible and documented trends in Mozambique are examined in the sections that follow.

3.1   Sex Trafficking

The primary purpose of human trafficking in Mozambique as in other countries, is sexual exploitation of women and girls children. This does not however, suggest that men and boys are not sexually exploited in Mozambique but indicates that women and children are the most vulnerable to sex trafficking. Cases of sexual exploitation of boys in Mozambique are often reported indicating the vulnerability of men to sex trafficking as well. For example, in 2010, the Mozambican police arrested two Turkish nationals for sexually assaulting about 17 Mozambican boys in Maputo[42]. Documented cases show that sexual assaults of trafficking victims, especially women and children, occur in transit homes along Mozambique's borders with South Africa and Swaziland[43]. Nationals of other African countries such as Zimbabwe and Malawi, as well as those from Asia and Eastern Europe, who are trafficked into Mozambique as their final destination or as a transit route to South Africa, are also forced into temporary commercial sex work in Mozambique[44].

As previously stated, the majority of Mozambican victims of human trafficking are sexually exploited in South Africa. Nevertheless, documented cases also show that trafficking victims from the country are equally exploited in different European countries such as Portugal[45]. In this regard, Boaventura *et al*, reported the trafficking of Mozambican women and young girls to Portugal and South Africa where they are forced to work in the sex industries of both countries[46]. Furthermore, in 2012, Mozambican police reported the interception of a Mozambican woman and two alleged young girls by Zambian authorities. This was possible through regional co-operation between countries and further investigation into the case revealed that the young Mozambican girls were on their way to Europe to work as prostitutes[47].

Women who are trafficked from Mozambique for sexual exploitation in countries such as South Africa fall into two categories[48]. In the first group are women who are already sex workers in different Mozambican cities such as Maputo, and who want to move to other countries where they can earn more money. In the second group of trafficked women from Mozambique are those whose labour is exploited in bars, escorts services, and restaurants[49]. Although women in this group work in these places, many of them may be subjected to sexual exploitation. As Louise succinctly observed; evidence from other countries, show that bars, escort services, restaurants, and massage parlours are often covers for sex workers[50].

3.2   Labour Trafficking

Labour trafficking is as common as sex trafficking in Mozambique. Several reports show that internally trafficked persons in Mozambique are exploited in the agricultural and mining sectors in three Northern provinces of the country, namely Niassa, Nampula, and Cabo Delgado[51]. Illegal mining operations in these regions of Mozambique are equally attracting migrants from other parts of Africa and possibly contributing to international human trafficking into and through the country. Mozambican children are often trafficked from rural areas to urban areas where they are exploited in domestic servitude, prostitution and as vendors of petty articles. Reports indicate that the children are often trafficked with the connivance of family members[52]. While some of the victims are internally exploited, most of them, especially boys, are crossed

over to South Africa where they are exploited in the South African agricultural and mining sectors.

Against this background, it was estimated in the year 2000, that about 20,000 trafficked children worked as labourers in South Africa and many of them were Mozambican children[53]. Besides the trafficking of children, Mozambican men are also recruited and trafficked to work as miners in South Africa. In effect, however, many of them end up working as illegal miners[54]. Thus, as stated, cases of illegal mining known as *zama-zama,* are frequently reported in South Africa. In 2012, for example, it was reported that, organised criminal syndicates lured young Mozambican nationals and others from Lesotho, Swaziland, and Zimbabwe to work in illegal mines in South Africa[55].

Martens, *et al*, have also shown that Mozambican victims of labour trafficking in countries such as South Africa often "go for many months without pay before their 'employers' have them arrested and deported as illegal immigrants"[56]. This fact is also supported by the US State Department, which claims that the failure of trafficking victims to comply with the working conditions created by traffickers, often results in police arrest and deportation[57]. Thus, labour trafficking is determined not by the nature of work done by victims, but by the nature (usually unequal) of the relationship that exists between the victim and his or her employer. Illegal Mozambican workers in South Africa are considered especially vulnerable to coercive recruitment and employment practices in the country[58].

Apart from trafficking to South Africa, Mozambican nationals are also trafficked to and exploited in other neighbouring countries. For example, it is reported that Mozambican boys in Swaziland are forced to wash cars, herd livestock, and hawk goods in the streets[59]. Many of the boys are considered human trafficking victims for the purposes of labour exploitation. This conclusion is reached based on the nature of the relationship between them and their employers. While Mozambicans are trafficked into South Africa for the purposes of labour exploitation, there are also reports indicating that Zimbabwean, Malawian and other nationals who voluntarily migrate to Mozambique are consequently lured into sex trafficking or domestic servitude[60].

3.3   Human Organ Trafficking in Mozambique

Human organ trafficking is not a completely new phenomenon in Mozambique. What may be considered new is its current high prevalence. Ritual killing which is associated with human organ trafficking occurs in many parts of Mozambique and possibly predates Portuguese colonialism. Schepper-Hughes has shown that incidences of ritual killings have been documented in Mozambique and other Southern African countries since the 19th Century[61]. Consequently, the Human Rights League (HRL) in Mozambique contends that there are frequent cases of human mutilation happening in Mozambique and South Africa, aimed at forcefully removing body parts from children and adults[62]. Several documented cases show that these mutilations often result in death or physical incapacitation of victims.

In 2006, for example, 52 children who went missing in Nampula made national headlines in Mozambique. The children were later found to have been killed. When some of their corpses were discovered, certain body organs were reportedly missing. Suspects arrested by Mozambican authorities in connection with the incidence included "a Danish woman, a South African citizen and other un-identified Europeans"[63]. Cases such as this, involving foreign nationals, indicate that international criminal syndicates may be involved in the illegal business in Mozambique. In another incident three Mozambican nationals were also arrested in the city of Chimoio for kidnapping, killing and removing the genitals of a nine year old boy and offering this for sale at the price of 7,833 US Dollars[64]. In the same period, Mozambican police also arrested two street hawkers for attempting to sell two children between 13 and 16 years for 2,333 US Dollars to a traditional healer who intended to use them in traditional healing activities, which possibly could include using specific organs of their bodies[65].

Further reports indicate that human body parts trafficked from Mozambique to South Africa, are mainly sold to spiritual leaders or *Sangomas* in local language[66]. The unhygienic methods of storing the human organs trafficked from Mozambique to South Africa also clearly indicate that trafficked organs are not used for medical purposes but for ritual purposes[67]. Thus, it is contended that traditional beliefs contribute to human organ trafficking from Mozambique to South Africa. Based on cultural and religious beliefs in Southern Africa, certain human body organs such as the genitalia, heart, eyes and skull are used in traditional medicine or "*muti*"[68].

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Traditional medicines prepared with human body parts are believed to be potent enough to cure various diseases such as HIV/AIDS, as well as male and female infertility. Furthermore, such medicines are also believed to have the power to increase one's influence and wealth. The lucrative nature of the business and endemic poverty in Mozambique appear also to be the driving forces behind the increase in the illegal business. This is supported by findings that ritual killings occur more during times of political and economic crises[69].

Human organ trafficking in Mozambique is unique because vulnerable people are not persuaded or deceived into selling their body parts as cases in other countries show, but are purposely killed and mutilated[70]. Globally too, the rise in human organ trafficking is linked to unsuccessful attempts at reproducing human body parts, as well as increase in the number of people requiring organ transplants in the presence of limited supply, ethical considerations and strict government regulations. Furthermore, human organ harvesting or transplantation is seen as a lucrative business and there are means of storing, preserving and moving organs, especially kidneys from one region of the world to another. The availability of high quality private medical facilities where, for example, dialysis and transplantation can be done is, also seen as one of the reasons for the global increase in the illegal business[71]. In Mozambique, there is high degree of dependency on traditional healers for solutions to medical problems due to limited access to medical facilities, high rates of illiteracy and poverty[72].

In addition to sex, labour and human organ trafficking in Mozambique, cases of domestic servitude, forced marriage, and begging are also prevalent in the country. In the next section therefore, the contributory factors to the prevalence of human trafficking in Mozambique are discussed.

4   CONDITIONS FACILITATING HUMAN TRAFFICKING IN MOZAMBIQUE

Unlike South Africa, evidence shows that human trafficking in Mozambique is more externally oriented than internal or domestic. In practice however, it is difficult to differentiate between domestic human trafficking and international human trafficking in the Mozambican context. The

reason, as previously noted, is that domestic trafficking in the country subsequently ends up as international trafficking, when victims are eventually moved to South Africa. Again, factors, that facilitate domestic trafficking, can also facilitate international trafficking in the Mozambican context. Conditions that facilitate domestic trafficking in the Mozambican context are subsequently examined.

4.1   Internal Human Trafficking in Mozambique

Domestic human trafficking in Mozambique is rarely focused on because, predominantly, trafficking activities are externally oriented. As previously stated, women and girl children as well as boys are trafficked from impoverished rural areas in Mozambique to wealthy urban areas in the country for different purposes, but predominantly for sexual exploitation and forced labour. The main factors that facilitate domestic human trafficking in Mozambique are complex yet mutually interlinked and can hardly be distinguished from those that cause international trafficking. Different reasons for the prevalence of domestic or internal human trafficking in Mozambique have been suggested. Among the reasons often cited are historical conditions relating to its history of violent political conflict; the socio-economic situation; personal behavioural patterns; weak legislation; and cultural practices.

4.1.1   Historical Circumstances

Among the historical events that have impacted strongly on Mozambican politics, economy and society was its 16 year civil war[73]. Evidence from different parts of the world where human trafficking is endemic, shows that political instability, civil unrest, ethnic marginalisation and internal armed conflict, significantly facilitate human trafficking. Internal armed conflict, for example, causes internal displacement of people and a refugee crisis both internally and in neighbouring states. Situations such as these, increase the chances of people becoming vulnerable to exploitation by human traffickers. Thus, the high prevalence of human trafficking in Mozambique has been linked to the country's civil war which lasted for 16 years[74]. The civil war contributed in many ways in rendering the country and its people poor and vulnerable. For example, the war did not only result in death on a large scale, but also led to the destruction of

the country's socio-economic infrastructure, education, agricultural, industrial, and commercial sectors as well as the displacement of its population[75]. According to a UNDP report, between one and five million Mozambicans fled the country to neighbouring countries during the civil war. They mainly fled to Zimbabwe, Swaziland, Malawi, Tanzania, Zambia, and South Africa[76]. Furthermore, between four and five million Mozambicans were also internally displaced because of the war and natural disasters[77].

The civil war created conditions that have continued to impact on the Mozambican society. For example, human trafficking was widely reported during the civil war. Several illegal routes across borders with other countries were also created at this time. These routes continue to facilitate cross border crimes such as drug trafficking, arms trafficking and human trafficking[78].

4.1.2   Poverty

Mozambique is regarded as one of the poorest countries in the world[79]. The widespread poverty that exists in the country has been described as the most important factor underlying migration patterns away from home by its nationals. Major indicators of poverty in the country include the lack of government capacity to provide necessary or basic amenities to the vast majority of its population[80]. About two-thirds of the Mozambican population, are believed to live in abject poverty, and the educational level is also very low. A significant percentage of the population can neither read nor write and life expectancy in the country is below 45 years. Poverty in Mozambique is also seen as the result of several years of struggle for independence, civil war, and recurring natural disasters, as well as structural adjustment programmes (SAPs)[81]. Although since the end of the civil war, the country has experienced impressive economic growth and development, the majority of its people still live in abject poverty. According to a national household survey conducted in 2008-2009, about 54 percent of the population lives in poverty, down from 70 percent in 1997[82]. While this figure is positive, it must be stated that data used in this survey was mainly obtained from urban areas and as such may not be an accurate reflection of the country's socio-economic condition, as over 70 percent of poor households live in rural areas[83]. Therefore the inaccessibility of many rural communities means that many households were probably not taken into account during the survey. Again it is also claimed that the majority

of Mozambican rural dwellers still live on less than two US Dollars a day and still cannot access basic social facilities such as good roads, safe drinkable water, good schools and hospitals. This points to the fact that poverty is concentrated mainly in the rural areas of Mozambique[84].

The main occupations of rural dwellers in this country are farming and fishing, practiced on a subsistence scale with little or no surplus for sale in order to buy other commodities not produced[85]. Poor agricultural produce, as noted elsewhere in this chapter, is mainly due to a lack of adequate technologies and government support to rural farmers[86]. Other factors contributing to rural poverty in the country are a lack of access to distant produce markets, as well as the use of traditional farming systems, and low yield seed varieties, famine and drought[87]. Besides farming, rural dwellers also depend on traditional fishing to make a living. In the event of natural disaster, such as flooding, these fishermen are also severely affected[88].

Land is the main factor of production in Mozambique. This is especially the case in the rural areas where the main occupation of the vast majority of the population is farming. However, land is not equally accessed by all in Mozambique. Traditionally, women are disadvantaged with respect to access to land ownership and property rights in the country[89]. It is more difficult for women whose husbands are dead to access land for agricultural and other uses. A woman's access to land is dependent upon her relationship with her husband's family or her maternal uncles. Despite Mozambique's *Land Law* of 1997 as amended by the *Land Reform Law of 2000*, which grants women equal rights with men to land ownership and use, it has been observed that women are still disadvantaged in rural land ownership since only about 5 to 10 percent of the land is in their control[90].

Limited access to land ownership also means limited access to funds necessary to engage in other economic activities[91]. It does therefore appear that the *Land Reform Law* of 1997 as amended applies mainly in the urban areas where informed and educated women with access to legal services can be found in relatively large numbers. In the rural areas, a woman's access to land as already stated is still determined by her maternal uncles, especially in the northern parts of the country or by her husband's family as is the case in the southern parts of the country[92]. Thus, impoverishment of women, especially in the rural areas, is largely related to poor access to

land for farming and other economic purposes. Impoverishment causes women and their children to become susceptible to different kinds of dangers. This may explain why victims of domestic and international human trafficking in Mozambique are mostly women and children from rural areas.

From the foregoing, it can be seen that rural dwellers in Mozambique have limited means of survival and the most affected groups among them are women and children. Poverty as previously noted, causes serious depravation and therefore renders the affected population vulnerable to amongst others, human trafficking. Poverty and the desire to get out of poverty, force many Mozambican families to easily give out their children to people who promise to find employment for them and improve their living conditions.

4.1.3   Child Labour and Migration

Adepoju has observed that within the African context, child labour is considered essential to family survival[93]. This is also true in the Mozambican context where child labour is not prohibited but regarded as normal. In the context of widespread poverty, disability, disease and death of adult members of families, this practice is becoming more pronounced. Children who find themselves in conditions such as these are forced by circumstances to work in order to contribute to the survival of their families[94]. In many cases, families that are involved in petty trading require their children to work especially in the informal sectors in order to supplement family income. In some reports, it is claimed that parents sell their children to job agents in exchange for money[95]. This practice may be attributed to inabilities of parents to provide for the basic needs of their families due to deteriorating economic conditions experienced in the country. Human traffickers take advantage of the hardship and anxiety of families in need. In 2002, the ILO reported that the increase in human trafficking was most probably due to the desire of teenagers to escape from poverty and unemployment caused by worsening socio-economic conditions[96].

The civil war experienced in Mozambique contributed to perpetuating the practice of child labour in different ways. For instance, the war resulted in the death of adult members of many

families, thus leaving child survivors to take care of themselves. An increase in this practice may also be related to the Mozambican government not doing enough to prevent it in accordance with international conventions relating to child labour[97]. Human traffickers take advantage of the existence of child labour in Mozambique to recruit children, especially from rural areas to urban areas as well as outside the country where they exploit them sexually and in domestic labour and other forms of servitude.

A related phenomenon also seen as an effect of the civil war and a facilitating condition for domestic and international human trafficking in Mozambique is child migration. Statistics South Africa, has reported that it is not uncommon for Mozambican children to migrate to other places within and outside their country in search of work[98]. The preparedness and willingness of children to accept job offers from relatively unknown people coupled with the desire to relocate at any time, renders them vulnerable to human trafficking.

The need to contribute to family earnings also determines how families in Mozambique allocate resources to their children. Based on traditional beliefs and practices, boys are considered more important and beneficial to the family than girls[99]. Thus, the education of male children is considered more important than the education of female children. The consequence of this is a low literacy rate among women in Mozambique. Lack of education also means absence of skills needed for independent survival in a fast changing society and susceptibility to all forms of criminal manipulations. Specifically, uninformed people are more likely to fall prey to human traffickers than informed persons[100].

Thus, it is not surprising that the majority of human trafficking victims in Mozambique are women and female children. Lack of information or low levels of education among women in Mozambique are linked to this. The UNDP has also noted that despite increased attention to the problem of human trafficking by international organisations and governments, including the Mozambique government, the level of awareness in the population remains low[101]. Where awareness exists however, there is a poor understanding of the *modus operandi* of human trafficking agents. In this regard, the UNDP further reports that although some Mozambicans are aware of human trafficking and other cross-border crimes, the naïve belief that this cannot

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happen to them appears to be prevalent among the population[102]. This belief therefore accounts for why young women accept job offers from neigbours and relatively unknown persons and relocate with them[103].

Veil further notes that children, especially those who are unable to attend school, are engaged in domestic work in order to acquire skills for survival as well as to contribute to family earnings[104]. Thus, the practice of placing children in the care of relatively wealthy families is widespread in Mozambique. It has been observed that although children, especially girls are intentionally placed in the care of foster families to learn or acquire skills that would enable them live independently, this is rarely the case due to the exploitative nature of the work they do in their foster homes[105].

4.1.4 Female and Child Headed Households

Human trafficking in Mozambique may also be on the increase due to many families being headed by women and children. This has become a common feature of post-war Mozambique. It was therefore estimated in 2006 that 27 percent of Mozambican households were headed by women[106]. While the death of husbands and male members of many families during the war may explain the presence of female headed households, the death of adult family members due to HIV/AIDS explains the presence of child headed households in the Mozambican society. The main problem of female headed households in the context of Mozambique is also gender discrimination as previously noted[107].

A woman may be unable to provide for the basic needs of her family not because she is physically or intellectually incapable of doing so, but as a result of traditional practices that place her in a disadvantaged position[108]. For example, a woman's inability to access state resources such as land and financial support is mainly due to cultural and traditional practices in many parts of the country. The problem becomes compounded when the woman lacks skills necessary for work outside traditional occupations due to a lack of basic education. Low skill levels among women and female children accounts for why they mainly work in the informal sectors. Lack of employment opportunities as well as poor income from petty trading and hawking also accounts

for why some women and young girls engage in part-time sex work for survival[109]. Engagement in part-time sex work further exposes the women and young girls to exploitation by human traffickers. Hence, it has been reported that human traffickers in Mozambique, recruit two set of groups of women. The first are those who are already exposed to sex work, whom they sell to brothels in South Africa. The second are those who have no experience in sex work[110].

The problem of child headed households in Mozambique is caused by several factors. In 1997, it was estimated that about 250,000 children were displaced during the Mozambican civil war[111]. Another 15,000 children were separated from their families, and about 7 percent of children below 15 years were without either parent[112]. The historical legacy of the civil war is further compounded by the high prevalence of incurable diseases such as HIV/AIDS. In this regard, it was estimated in 2006 that about 470,000 children were AIDS orphans in Mozambique[113]. The number of children orphaned as a result of this disease continues to increase. In 2013, UNICEF reported that there were 1.8 million orphaned and vulnerable children in Mozambique, of which 600,000 are orphaned by HIV/AIDS[114].

 Presently an estimated 11 percent of the Mozambican population aged 15-59, is infected with HIV/AIDS[115]. The high prevalence of HIV/AIDS and other diseases renders many households in the country vulnerable, especially those who live in poor rural areas. Most importantly too, the disease is affecting the most productive groups of the population and has continued to drain state and family resources in the form of medical bills and care[116]. When adult members of a family are affected by the disease and can no longer work, the children are either separated and taken to live with relatives or abandoned to their fate. The death of either or both parents of a child has serious implications for children. For instance, children may be prevented from getting education and acquiring relevant skills[117]. The problems of children whose parents are dead are further compounded by the collapse of traditional support structures or social capital[118]. As has been noted, situations such as this compel children into crime, begging, prostitution and consequent vulnerability to human trafficking.

Unemployment is high in Mozambique among young and uneducated people. Women who are uneducated and lack the requisite skills needed in the labour market are therefore doubly

disadvantaged when looking for work. As in many developing countries, women are mainly prepared to function as home makers[119]. In this respect, the most important lessons they need appear to be those that concern child bearing and care, and being good and responsible house wives[120]. The realisation of the fact that there are limited chances of getting good employment, places Mozambican women in a vulnerable situation. Women, particularly teenage girls who live in rural areas are subjected to domestic servitude, early marriage to older men, or hard labour on the farms[121]. Women who live in the cities are often exploited in the informal sectors or lured into prostitution by human traffickers.

4.1.5 Cultural Practices and Beliefs

Certain cultural practices and beliefs subject women to a vicious cycle of poverty and vulnerability to human trafficking in Mozambique. Although constitutionally gender equality exists in the country, and certain cultural practices that subjugate women to positions of inferiority have been outlawed, in practice women are still not equal with men. Among these cultural practices is early marriage and sexualisation of girls which deprive them of educational and other opportunities. This practice is common in the rural areas of the country. Girls are given out in marriage as soon as they are considered adults, usually after going through the initiation rites of *Unyago*. Girls are usually initiated into it at their 11th birthday and it is part of early sexualisation that involves the insertion of eggs into their reproductive organs. Thus early child bearing is a common feature of the Mozambican society. According to reports, about 42.9 percent of teenage girls between the ages of 15 and 19 have already had at least one child at that age[122].

Levirate or *Kupita Kufa* in native language, is a cultural practice in which a widow is required by tradition to marry her late husband's brother or relative in order to gain acceptance in the family and inheritance for her children. This practice is common in most parts of Mozambique. Refusal of a woman to marry her late husband's brother or relative may result in disinheritance for her children and her expulsion from the family. A related cultural practice that subjugates women to the control of men as well as facilitating human trafficking in Mozambique, is *lobola*. This cultural practice allows a man to choose a younger sister of his wife to replace his wife when he

no longer wants her or is no longer pleased with her conduct. There may be some benefits accruable from these cultural practices. However, they also have detrimental effects on women and the Mozambican society. For example, an increase in the prevalence of certain diseases such as HIV/AIDS, has been attributed to certain cultural practices[123]. Women who refuse to abide by certain cultural codes may be forced to leave the country in search of better living conditions. In the process of attempting to leave, they may fall prey to human traffickers.

Established patterns of seasonal labour migration, in which families, friends, relations or village members move to other communities, especially during planting seasons to find employment and education for their children, have also been documented as a contributory factor to human trafficking in Mozambique[124]. Human traffickers exploit this practice to lure young girls as well as boys to the cities where they are physically and sexually abused. Although parents, whose children are trafficked in this way, may be aware of their children's location, they often are not aware of the inhuman conditions in which they have been subjected to work by their traffickers.

As in many African countries, parents of low socio-economic status often place their children in the care of wealthier relatives or others. This is a traditional way of educating children to become independent, prepare for marriage as well as a way to help their poor parents pay off their debts (debt bondage). While this practice may have its merits, reports indicate that it often exposes children to abuse at the hands of their custodians[125]. Many of the children end up being exploited in domestic servitude as well as in the commercial sex industry, agricultural and mining sectors. Although not all children placed under the care of their relatives are exploited, possibilities of the children taking advantage of living in the city with little parental control and guidance, to engage in practices such as dating older men for material benefits, exist[126]. Life styles such as these expose the children to the risk of human trafficking.

4.1.6 Increased Migration among Women

An increase in migration among Mozambican women is also contributing to their vulnerability to human trafficking. Previously, Mozambican men, especially from the southern part of the country migrated in large numbers while the women were required by tradition to remain at

home and carry out reproductive roles as well as agricultural and domestic works[127]. In recent times, however, this pattern appears to be considerably changing due to increased family responsibilities, dwindling employment opportunities at home, peer pressure and the search for profitable means of livelihood outside the country[128]. The desire to migrate among women may also be related to family disintegration as a result of domestic violence against women in the country. Although no accurate data exists with regard to rates of divorce and violence against women, it is however, reported that physical violence occurs frequently and may be caused by several factors. Among these are, a woman leaving the house without her husband's permission; refusal to have sex with her husband; questioning her husband's authority; and burning food when cooking[129]. Social problems such as these are increasingly forcing women to migrate to other counties and equally exposing them to the risk of human trafficking. This is particularly the case when the desire to migrate is supported by financial means and agents willing to assist. As a result of domestic violence and consequent family disintegration, children are also left without proper care in the hands of single parents, and many of them are abandoned or left to fend for themselves.

Although domestic and international human trafficking in Mozambique, as already noted, are closely linked, some specific causes of international trafficking can be identified.

4.2   Conditions Facilitating International Trafficking from Mozambique

Human trafficking in the Mozambican context is mainly international. This implies that more Mozambican nationals are being trafficked from the country to other countries than other nationals are trafficked into Mozambique. Although there are cases of Mozambican nationals trafficked to different countries outside of the African continent such as Portugal, international human trafficking in Mozambique is more intra-regional. Based on the assumption that international trafficking flows, from relatively poor countries to relatively wealthy countries, South Africa has been identified as the main destination of trafficking victims from Mozambique. Several reasons have been offered as to why human trafficking in Mozambique is more international than domestic. Some of these reasons are subsequently examined.

4.2.1   Historical Conditions

The increase in human trafficking from Mozambique to South Africa has a long history. Mountain, for example, has reported about the importation of slaves from Mozambique and other countries into South Africa to work on the mines and farms[130]. Mollema also observed that while the majority of the men (slaves) worked in the mines and agricultural sectors, most of the women (slaves) were domestic workers and some were also involved in prostitution, especially the freed women[131]. Slavery may have occurred in the distant past; however, it established a pattern of movement or trafficking that has endured. Similarly and as noted in the previous chapter, the end of slavery did not bring about an end to the movement of Mozambicans to South Africa in search of employment opportunities.

Mozambique was once considered as a source of labour for South Africa even during the apartheid era[132]. In this regard, Boaventura *et al*, observe that South African mines and farms officially recruited labour from Mozambique. By law the employed mine workers were required to allow 60 percent of their remuneration to be deposited directly into the Bank of Mozambique in Maputo. Miners and their families received these remittances in the Mozambican currency, with no interest[133]. This explains why the belief that employment exists in South Africa is widespread in Mozambique. Human traffickers capitalise on the existence of this belief to recruit trafficking victims. Children from rural areas are deceived into believing that educational opportunities exist for them in South Africa. Women are deceived into believing that employment opportunities exist for them in the domestic and farm sectors of the South African economy, while men are deceived into believing that employment exists for them in the mining sector[134].

4.2.2   The Economy

According to the UNDP, Mozambique is among the poorest countries in the world. With a value of 0.327, Mozambique ranked 185 on the 2013 Human Development Index (HDI)[135]. Overall, its economy is characterised by poor levels of education; high dependency rates in households; low productivity in the industrial and agricultural sectors; poor development of basic infrastructure in

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rural areas, resulting in the isolation of many communities due to a lack of roads; and poor integration of the rural economy to allow for the sale of agricultural surpluses[136]. These characteristics are related to the damaging effects of the country's civil war and frequent natural disasters such as drought, floods and famine. The consequences of these have been a shortage of skilled manpower, death, displacement of people, and destruction of arable lands. Other features of the country's economy are a trade deficit, with export earnings covering less than one-third of import costs as well as heavy dependence on foreign credits[137]. Presently, Mozambique's economy is growing at a moderate rate of 7.2%, due mainly to the discovery of coal and other minerals in exportable quantities and increased foreign investment in the mining sector[138]. The poor state of the economy places people in a vulnerable situation and therefore facilitates human trafficking.

Mozambique is also heavily reliant on its transport sector which comprises rail, road and energy infrastructure, and which connects the country's interior with neighbouring countries as well as Mozambican sea ports. There are four main transport corridors in the country. The first is the Beira corridor, which links Zimbabwe and the Beira port. The second is the Limpopo and the third is the Maputo corridor. The second and third corridors link Mozambique and South Africa. The fourth is the Nacala corridor which links the country with Malawi. Although these transport corridors support Mozambique's economic growth, they have also been linked to an increase in crimes such as human trafficking[139]. Ines, for example, has reasoned that Mozambique's geographic situation facilitates the crossing of borders as well as human trafficking. He confirms reports that South Africa is the targeted destination for migrants and trafficking victims because South Africa provides "links to the rest of the world through its well-established infrastructure"[140].

4.2.3 Perceived Existence of Opportunities in Destination Countries

The existence of certain opportunities conducive to trafficking or the availability of a market for human trafficking facilitates human trafficking from Mozambique to South Africa. Documented evidence shows that Mozambican traffickers that manage transit houses in Tonga and Johannesburg sell their victims in areas surrounding the mines in the West Rand and Carltonville[141]. South African men as well as Mozambican men living in these areas patronise

the traffickers. Without their patronage, the business of human trafficking from Mozambique to South Africa cannot continue for long. Similarly, the presence and willingness of farm owners in South Africa to employ trafficked Mozambican nationals and pay them little or no wages, continues to fuel human trafficking between the two countries. The resort to cheap and illegal labour from Mozambique may also be related to the high cost of labour and strict labour laws in South Africa[142]. Other attractive conditions include, but are not necessarily limited to, the availability of a vibrant sex industry in South Africa.

4.2.4   Corruption among Public Officials

Gastrow and Mosse claim that the death of former Mozambican leader Samora Machel in 1986 saw the disappearance of principled leadership in Mozambique. In their view, major institutions in the country such as the army became corrupt, crime increased, and leading figures in the governing Frelimo party became linked to corruption and drug traffickers[143]. The level of corruption in Mozambique is high by international standards. According to Transparency International (TI) in its 2013 Corruption Perceptions Index (CPI), Mozambique is ranked 119 out of 177 countries and territories surveyed with a score of 31[144]. In the Transparency International scoring system countries are ranked based on where they fall on a scale of zero to hundred (0-100), where zero means "highly corrupt" and 100 means "very clean"[145]. Mozambique's ranking has remained relatively unchanged for many years and tends to strongly suggest that corruption is not abating in the country despite promises by the ruling party to counter it. Lloyd has observed in this regard that "effective legislative and administrative safeguards to prevent, detect, and punish corruption of public officials are weak"[146].

Furthermore, the Mozambican judiciary has also opposed aspects of anti-corruption legislation in the country[147]. For example, several presidential decrees aimed at countering corruption have been declared unconstitutional by the courts. Corruption among public officers has been described as a major facilitator of different forms of trafficking and other cross-border crimes in Mozambique[148]. There are several noticeable causes of corruption in the country. These include, but are not necessarily limited to, poor salaries for public officials, and institutional weakness. Public officers in various government establishments such as the police, who are determined to

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fight criminals, are often discouraged because they lack the political power to counter existing links between criminals and top government officials and politicians[149]. Thus, it has been reported that Mozambican women are trafficked by taxis across the border into South Africa because of corruption among law enforcement and judicial officials in Mozambique[150].

4.2.5   Low Risk and High Profits

Compared to other cross-border crimes such as drug trafficking, it has been observed that it is easier to move human beings than drugs or weapons across national borders[151]. While drugs and weapons may be discovered and confiscated by law enforcement agents, it is difficult to identify victims of human trafficking at points of entry to other countries. Similarly, while other articles of trade such as drugs are perishable with no reusable value, human beings can be re-trafficked and re-used. Human trafficking is also dynamic, and adaptive to changing circumstances[152]. These features make it a low risk venture with high profit margins.

As previously mentioned, human trafficking is by nature clandestine and risky, especially on the part of victims[153]. As a result, it is a difficult socio-economic and security phenomenon to investigate. Several scholars have observed that human traffickers appear to be succeeding because their victims are often afraid of exposing them to law enforcement authorities both in source, transit and destination countries. The brutality to which victims are subjected, and the threats of retaliation against their families should they escape, fail to follow orders, or report traffickers to the police, help keep victims in check. Threats against victims are amplified if traffickers are from the same communities as victims[154]. Apart from the fear of retaliation, victims are also prevented from exposing traffickers because of the mistrust they have for law enforcement authorities. Similarly, human trafficking for sexual exploitation brings about social stigmatisation for victims. Exposing human traffickers also means revealing a life of prostitution which many traditional societies such as in Mozambique disapprove of. In order not to be stigmatised or socially ostracised, many Mozambican victims refuse to co-operate with the police in prosecuting human traffickers. It has also been pointed out that most victims of human trafficking in Mozambique are poor, uneducated, and as such are ignorant of their rights. Thus,

convinced that victims are often not empowered and predisposed to exposing them, traffickers carry out their activities with impunity[155].

The low risk nature of human trafficking favourably affects its profitability as a crime venture. As previously mentioned, human trafficking has been globally described as a multi-billion dollar crime. Based on various estimates, the phenomenon is seen as among the most profitable ventures in the world just like drug trafficking. This is also true in the Mozambican context. Trafficked Mozambican girls are sold for about 1000 US Dollars in South Africa[156].

4.2.6 Geographical Proximity

The geographical location of Mozambique relative to different countries, is also a contributory factor to human trafficking in the country. The country has a coastline of about 2,470 kilometers, and land boundaries of about 4,571 kilometers[157]. Mozambique shares borders with countries such as South Africa, Swaziland, Malawi, Zambia, Zimbabwe and Tanzania. Human trafficking from Mozambique to South Africa is the most commonly reported case in Southern Africa. This may be due to two main reasons. First, it is the most visible in terms of number of victims trafficked annually. Second, multiple entry points are used to move victims from Mozambique into South Africa. For example, Mozambique has three commercial entry points into South Africa[158]. Certain individuals, who operate around these border areas, are often known to immigration officials and are allowed to move freely across borders[159].

Due to Mozambique's close proximity to South Africa and Swaziland, it has been reported that small-scale trafficking networks that operate with minivan taxis smuggle illegal migrants and trafficking victims across borders with South Africa and Swaziland. Transit houses are also established in border towns with South Africa to facilitate human trafficking[160]. Furthermore, due to geographical proximity, nationals of other countries such as Zambia, Malawi, Tanzania and Ethiopia are trafficked through Mozambique to South Africa[161]. A significant part of Mozambican borders with other countries such as South Africa, is largely porous and unpatrolled for different reasons which include insufficient personnel and equipment. Human traffickers and their victims therefore cross these borders relatively undetected. However, when they are

detected, corrupt border officials often accept bribes and allow human traffickers as well as their victims to cross into South Africa with the participation of South African border officials[162].

Geographical proximity is also complemented by regional agreements between countries in the Southern African region. For example, Mozambique and South Africa have a visa free agreement for visitors staying for a limited period, which encourages easy movement of people across their borders[163]. Although agreements relating to freedom of movement across international borders have huge socio-political and economic benefits, they nevertheless, also produce unintended consequences. Human traffickers exploit the shortcomings of these agreements to move Mozambican victims across borders into South Africa where they are subjected to labour and sexual exploitation as well as domestic servitude.

4.2.7   Organised Crime Involvement

The operation of organised criminal syndicates in Mozambique has been closely studied by researchers[164]. The impact of organised crime on the country's economic, social and political development, form a significant part of the security discourse in Southern Africa. It is noted that while there are organised criminal groups with a national focus, organised criminal groups with an international focus are seen as the more threatening groups to the socio-economic and political system in Mozambique. This is partially because the criminal activities of these groups are diverse and their membership has a multi-national character. The activities of these groups extend to countries such as Portugal, Pakistan, and South Africa[165]. Reports have also shown that organised international criminal groups operating in Mozambique, are associated with drug trafficking; money laundering; human trafficking; motor vehicle theft; illegal weapons trafficking; and the obstruction of justice[166].

The involvement of organised criminal groups in human trafficking in the Mozambican context has also been confirmed by the US State Department. In its annual reports, the agency claims that Mozambican syndicates are typically informal[167]. However, they qualify to be called organised criminal groups due to their membership which cuts across the national boundaries of Mozambique and South Africa as well as regarding their methods of operation. The US report

also confirms the involvement of larger and better organised Chinese and Nigerian trafficking criminal groups in Mozambique[168]. Furthermore, it is alleged that criminal syndicates of South Asian origin that move undocumented South Asian migrants throughout Africa, also transport trafficking victims through Mozambique[169]. Human trafficking syndicates operating in Mozambique also appear to involve not only South Asian nationals, but companies as well. Reports indicate that these companies in Mozambique "pay the initial travel costs of illegal Bangladeshi and Pakistani migrants who they later maintain in bonded labour"[170]

4.2.8 Poor Enforcement of Human Trafficking Law

As previously noted, the phenomenon of human trafficking became noticeable in Mozambique in the 1990s and was regarded as a consequence of the civil war. By the early 2000s, the problem had become widespread and consequently attracted international attention. Studies at the beginning of the new millennium claimed that about 1000 Mozambican nationals were been trafficked annually across the borders with South Africa[171]. Despite this, the government of Mozambique did not ratify the *Palermo Protocol* until 2006. Late ratification of the international legal instrument, to a large extent, constituted an impediment to the early development of comprehensive legislation and policy interventions to combat the phenomenon. Late ratification of international legal instruments may also be regarded as initial denial of the existence of the problem in the country by its leadership. Evidence based reports on the prevalence of the problem, finally forced the government of Mozambique to adopt comprehensive human trafficking legislation in 2008[172] .

However, the implementation of the law has so far remained ineffective[173]. Poor implementation may be attributed to limited human and material resources. Consequently, in 2010, the country was classified as a Tier 2 country in the US State Department annual report on the trafficking of persons globally[174]. While the prosecutorial or preventive dimensions of its anti-trafficking legislation are fairly implemented, it was noted that the government had shown little progress in implementing the protective aspects of the legislation[175]. It was therefore reported that certain aspects of the comprehensive legislation relating to the preventive, protective and rehabilitative dimensions of the legislation, had not yet become effective[176]. Mozambique's classification as a

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Tier 2 country has remained relatively unchanged in the US State Department's trafficking report in 2013[177]. This indicates that little progress has been made to combat human trafficking in the country.

4.2.9 Lack of Sufficient Political Will

Ineffective implementation of the human trafficking legislation may be related to lack of sufficient political will on the part of the Mozambican leadership[178]. Although a willingness to combat human trafficking has been demonstrated by the adoption of specific and comprehensive human trafficking legislation, this is not matched by adequate practical measures. Practical measures such as allocation of adequate human, financial and material resources, are necessary to combat the phenomenon. These measures give effect to political will. Insufficient political will on the part of the Mozambican government to combat human trafficking has been noted by several reports[179].

Thus, despite the adoption of a comprehensive human trafficking legislation in 2008, the Mozambican government only finalised its national action plan to guide anti-trafficking attempts in 2012[180]. As a result of the absence of a national action plan from 2008 to 2012, as well as the unavailability of sufficient resources, the government, relied heavily on the assistance of international organisations such as the IOM and several NGOs, in its campaign against human trafficking[181]. The assistance of international organisations and NGOs to the Mozambican government is most visible in the areas of shelter provision for victims, counseling, food provision, and rehabilitation[182]. Further indications of insufficient political will include the long absence of "formalised procedures for identifying potential victims of trafficking and referring them to organisations providing protective services"[183]. With the adoption of a national plan of action in 2012, there may be changes in the future.

5 CONCLUSION

Human trafficking in the Mozambican context has been examined in this chapter as one of the country case studies. The country is predominantly considered as a human trafficking source in

the global and regional human trafficking industry. To a certain extent, Mozambique is also a destination country as well as a transit route. This further confirms previous assumptions that no country can be considered as "source", "transit" or "destination" only country, in the human trafficking industry.

The trafficking of women, men, girls and boys for sexual exploitation, labour exploitation, and human body parts, were specifically identified as major human trafficking trends in Mozambique. These trends have both domestic and international dimensions. Certain conditions identified as facilitators of domestic and international human trafficking were also examined. Accordingly, historical conditions relating to the civil war; female and child-headed households; cultural practices; poverty; and family disintegration, were identified as factors facilitating domestic human trafficking. Among factors identified as facilitating international trafficking from Mozambique to South Africa, were historical conditions relating to the introduction of slavery and the use of Mozambique as a source of migrant labour for South Africa. Mozambique's geographical proximity to South Africa; corruption among public officials; insufficient political will; and poor implementation of anti-trafficking legislation are other contributory factors as well. The identified factors are also compounded by late ratification of international protocols relating to human trafficking and the late development of national anti-trafficking legislation; the involvement of organised criminal syndicates, and regional commitments.

The Mozambican case study reflects the complexity of human trafficking as a global phenomenon. As a predominantly source country Mozambique shares similar characteristics with other source countries in the human trafficking industry. In such countries, evidence shows that factors which facilitate domestic trafficking also facilitate international trafficking. Therefore, poverty facilitates both domestic and international human trafficking in the Mozambican context. Patterns and trends in domestic and international human trafficking in Mozambique also have serious security implications for the country. In this regard, the violation of national borders; the involvement of organised crime; corruption of public officials; the denial of freedom of movement and the use of physical violence against victims by traffickers, are all issues that have implications for individual security as well as national security.

In the next chapter of this study, the main global and African measures to counter human trafficking are examined. In this context international protocols such as the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, is examined. In the African context, instruments such as the 2003 *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, and the 2006 *Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children*, are discussed. Similarly, the SADC *Protocol on Gender and Development*, and *The 10 Year Southern African Development Community Strategic Plan of Action on Combating Trafficking in Persons, Especially Women and Children (2009-2019)* are also analysed. This is followed by a discussion and analysis of policies and measures in South Africa and Mozambique to address the problem of human trafficking.

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CHAPTER 6

POLICY RESPONSES TO HUMAN TRAFFICKING IN A GLOBAL, REGIONAL AND NATIONAL CONTEXT

When we…prosecute traffickers, we are strengthening the rule of law. When we bring victims out of exploitation, we are helping to create more stable and productive communities. When we stop this crime from happening in the first place, we are preventing the abuse of those who are victimized as well as the ripple effect that caused damage throughout communities...

(John Kerry, US Secretary of State)

1   **INTRODUCTION**

The high prevalence of human trafficking in recent times has necessitated efforts at global, regional and national levels to combat the phenomenon. The adoption of several legal instruments and other counter measures in this regard, indicates an acknowledgement of its negative impact on the political, economic, and social structures of countries as well as their national security. At the global level, a number of legal instruments have been adopted under the auspices of the UN to harmonise, co-ordinate and make more effective the efforts to combat the phenomenon. This chapter specifically examines existing conventions, legislation and policies to counter human trafficking at global level and at selected regional and national levels. In this context, international protocols such as the UN *Convention against Transnational Organised Crime* (the Palermo Convention) of 2000, and its supplementary protocols, especially, the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, are discussed. In the African context, instruments such as the 2003 *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, and the 2006 *Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children*, are also discussed. Similarly, the SADC *Protocol on Gender and Development*, and

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The 10 Year Southern African Development Community Strategic Plan of Action on Combating Trafficking in Persons, Especially Women and Children (2009-2019) are analysed. This is followed by a discussion and analysis of policies and measures in South Africa and Mozambique to address human trafficking. A comprehensive evaluation of the effectiveness of these measures in combating trafficking is outside the purview of this study. The specific aim of this chapter is to show the extent to which these measures address the security implications of the phenomenon.

2   GLOBAL INITIATIVES TO PREVENT HUMAN TRAFFICKING

Efforts to combat human trafficking in all its ramifications started more than a century ago. In this regard, Rijken has traced the origin of global attempts to combat human trafficking to 1904 with the adoption of the *International Agreement for the Suppression of White Slave Traffic*[1]. Although this international instrument did not address all forms of trafficking as presently understood, Rijken's assertion is valid to the extent that the international legal instrument addressed several issues which are related to human trafficking as currently defined. Besides, the 1904 *Agreement*, there were also the *Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications* of 1923 as amended by the *Protocol* of 12 November 1947 and the *Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others of 1949*[2].

The *Supplementary Convention on the Abolition of Slavery*; the *Slave Trade and Institutions and Practices Similar to Slavery* of 1956[3]; and the *Convention on the Elimination of All Forms of Discrimination against Women* of 1979[4], as well as the *Convention against Torture and Other Cruel, Inhuman and Degrading Treatment* of 1984[5], are other equally important previous international legal instruments designed to combat human trafficking and related crimes. These previous attempts provide strong historical support to the current *Palermo Protocol* of 2000. In support of this assertion, the UNODC has argued that international legal framework concerning human trafficking is not contained in a single document such as the *Palermo Protocol*. Rather, the protocol forms "part of a continuum of instruments that deal with trafficking and related activities, in particular slavery"[6]. Consequently, countries are advised to carefully examine

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existing customary international law and other related instruments when developing comprehensive national anti-human trafficking legislation[7]. Despite the acknowledgement of the importance of previous international legal instruments to this study, only the *Palermo Protocol* and related regional and national measures dealing specifically or indirectly with human trafficking, are considered relevant to this study. However, it is not possible to examine the *Palermo Protocol* without reference to the *Palermo Convention*. The *Palermo Convention* is also directly related to the global, regional, human and national security dimensions of human trafficking, which is the focus of this study.

Table 2   Overview of Main Global Instruments to Counter Human Trafficking

TITLE	MAIN OBJECTIVES	ENTRY INTO FORCE
International Agreement for the Suppression of White Slave Traffic 1904	To protect against the criminal trafficking known as the "White Slave Trade"	18 July 1905
Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications of 1923	To criminalise production, possession, importation, exportation, trade, advertisement, or display of "obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films or any other obscene objects".	7 August 1924
Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others of 1949	To prohibit human trafficking for sexual exploitation or prostitution	25 July 1951
The Supplementary Convention on the Abolition of Slavery; the Slave Trade and Institutions and Practices Similar to Slavery of 1956	The abolition of slavery, the slave trade and institutions and practices similar to slavery	30 April 1957
Convention on the Elimination of All Forms of Discrimination Against Women of 1979	To prevent all forms of discrimination against women, to achieve human rights for women and equality with men	3 September 1981
Convention against Torture and Other Cruel, Inhuman and Degrading Treatment of 1984	To make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world	26 June 1987
The UN Convention against Transnational Organized Crime of 2000	To counter transnational organised crime	29 September 2003
The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of 2000	To prevent human trafficking especially of women and children. To protect and assist the victims of trafficking in persons with full respect for their human rights.	25 December 2003

Source: Author's Compilation

2.1 The UN Convention against Transnational Organised Crime of 2000 (Palermo Convention)

The *Palermo Convention* was adopted in 2000 in acknowledgement of the real and potential danger posed by transnational organised crime and criminals to the global, regional and national security of countries. Specifically, the legal instrument is designed to encourage co-operation among states with the aim of successfully combating transnational organised crime[8]. Therefore, the convention considers the eradication of places where organised criminal activities are carried out as a prerequisite for the effective combating of transnational organised crime[9].

2.1.1 Scope and Purpose

Transnational crime and organised criminal group are broadly defined in the *Palermo Convention*[10]. These definitions have been addressed in chapter two of this study. The convention covers five broad criminal activities, namely, the participation in an organised criminal group; corruption; money laundering; obstruction of justice; and serious crime. Serious crime in the context of the convention refers to an offence covered in the convention, and punishable by at least four years imprisonment[11]. However, for these offences to constitute transnational organised crimes, they must fulfil two important requirements. Firstly, the criminal activities must be transnational in nature, and secondly, they must also be carried out by an organised criminal group[12].

Based on the definitions of transnational crime and an organised criminal group, most human trafficking cases qualify as transnational crimes[13]. Therefore, where international human trafficking and other cross-border crimes such as human smuggling are carried out by an organised criminal group, the provisions of the convention relating to this applies despite the existence of other specific legislation[14]. On the basis of this, Gallagher observes that parties to the convention can also use it to address a wide range of modern criminal activities besides human trafficking and smuggling. Similarly, "states may also become parties to the convention without having to ratify any or all of the protocols"[15].

2.1.2　State Obligations under the Convention

One of the fundamental reasons for the adoption of the *Palermo Convention* is to achieve uniformity in national legislation relating to transnational organised crime. The absence of uniformity in criminal legislation makes communication and co-operation among countries difficult, especially with respect to combating transnational crimes[16]. Therefore, in furtherance of the objective of facilitating co-operation among states as a prerequisite for effective combating of transnational organised crime, the *Palermo Convention* provides certain obligations that "States Parties" shall fulfil.

2.1.2.1　Criminalisation

States parties are legally required to criminalise, "participation in an organised criminal group"[17], as well as the "laundering of the proceeds of crime"[18], and "public sector corruption"[19], in their national legislation. Similarly, states parties to the convention are also required to criminalise the "obstruction of justice"[20]. Furthermore, the convention recognises the fact that individuals, and groups as well as "legal persons" such as companies can commit transnational organised crime such as human trafficking. Therefore, states parties are obliged under the convention to establish the liability of "natural" and "legal persons" in their national criminal legislation relating to cross-border crimes[21]. In addition to the criminalisation of certain conducts, the imposition of appropriate, strict, and dissuasive measures on transnational criminals is also recommended. States parties are also required to enforce "effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions"[22], specifically against legal persons (companies) engaging in transnational organised crime. Apart from the imposition of sanctions on offending legal persons, the convention further requires states parties to establish measures in their national legislation that would facilitate the identification, tracing, freezing or seizure of the proceeds of transnational crime and the means used in crime, with the sole aim of confiscating these[23].

2.1.2.2 Communication and Judicial Co-operation

Since communication and co-operation are necessary for combating transnational organised crime, the convention provides for measures to be adopted by states parties in order to improve effective law enforcement in transnational organised crime. Thus, states are encouraged to improve communication among themselves by facilitating the flow and co-ordination of information relating to transnational crime between their relevant authorities[24]. Furthermore, states parties are encouraged under the convention to establish measures to facilitate mutual legal assistance in investigations, prosecutions, and judicial proceedings relating to transnational crimes[25]. It is envisaged that the existence of a mutual legal assistance framework would enable states request legal assistance for a range of purposes. For example, states parties can request assistance in "taking of evidence, effecting service of judicial documents, execution of searches, identification of the proceeds of crime, and production of information and documentation"[26].

Under the convention, states parties are further encouraged to establish a number of measures to enhance effective judicial co-operation in order to effectively fight cross-border crimes. For example, states are encouraged to establish joint investigative bodies[27]. States are also encouraged to reach formal agreements among themselves on the use of special investigative techniques[28]. Agreements are also encouraged to be reached on the transfer of criminal proceedings and sentenced persons[29], as well as to facilitate extradition procedures for transnational crimes[30]. The importance of education and training for law enforcement officials are also recognised in the convention. Thus, states parties are encouraged to strengthen their law enforcement agencies through appropriate training of their officials[31]. Effective combating of transnational organised crime also entails states parties taking adequate legal and financial measures against organised criminal groups. These measures include assets confiscation and seizure[32].

2.1.2.3 Victim Protection

The *Palermo Convention* recognises the need to protect victims of transnational organised crime. Thus, it obliges states to adopt measures in their national legislation to ensure the protection of victims[33]. It is important however to note that, in the context of this study, the obligation to protect crime victims provided for in the convention, applies to victims of international or transnational human trafficking, and not to victims of domestic or internal human trafficking[34]. Protection of victims is considered necessary because in most cases, victims are young and may not be psychologically strong enough to face criminals in court[35]. States parties are obliged to ensure that victims get compensation and restitution for crimes such as trafficking to which they had been subjected[36]. During legal prosecution of criminals, the convention equally obliges states parties to ensure that the views of victims are taken into account[37]. The convention further recognises and obliges states parties to also protect witnesses to transnational crimes during criminal prosecution[38]. This is considered necessary because criminals often threaten victims and witnesses to their crimes, especially in human trafficking cases.

2.1.2.4 Relationship between the Palermo Convention and the Palermo Protocol

The *Palermo Convention*, is considered an important international legal instrument intended to combat all forms of transnational organised crime. In this regard, the relationship between the convention and its supplementary protocols is determined by certain basic principles. Firstly, the signing and ratification of the convention entitles states parties the privilege to sign and ratify its supplementary protocols, which in the context of this study, is the *Palermo Protocol*[39]. States cannot become signatories to any of the supplementing protocols without being signatories to the convention[40]. Secondly, provisions in the protocol must be interpreted together with the provisions of the convention[41]. This implies that the protocol is strongly dependent on the convention. Therefore any interpretation given to any provision in the convention, means exactly the same in the protocol, except where otherwise stated. Thirdly, provisions of the convention apply *mutatis mutandis* to the protocol[42]. What this implies in principle is that, except for minor amendments, or where the protocol provides otherwise, provisions of the convention apply to the protocol. Fourthly, protocol offences are considered as offences established in accordance with

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the convention[43]. With specific reference to international human trafficking, this implies that the criminalisation of trafficking in the protocol falls within the provisions of the *Palermo Convention* regarding forms of international co-operation between states, such as extradition[44], and mutual legal assistance[45]. Fifthly, the requirements in the convention and the protocol are by no means exhaustive but basic standards to guide states. By implication, states parties are required to meet the obligations of the convention and the protocol, but are also allowed the discretion to adopt more strict national legislation[46]. While provisions in the convention as well as in the protocol relating to human trafficking apply specifically to international human trafficking, states parties can broaden the scope and application of their national legislation to include domestic human trafficking[47].

A consideration of the provisions of the *Palermo Convention*, necessitates an examination of the provisions of its supplementary protocols, particularly, the *Palermo Protocol*.

2.2 The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of 2000 (Palermo Protocol)

The *Palermo Protocol* is the principal legal instrument on which global, regional and national initiatives to combat human trafficking are based[48]. It was developed within the UN Crime Commission and adopted by the UN General Assembly in 2000. The protocol entered into force on 25 December 2003. By February 2014, the protocol had been ratified by 159 countries including South Africa and Mozambique (country case studies for this study). For the effective combating of international human trafficking, the protocol accords importance to Prevention, Protection, and Prosecution (3Ps)[49].

2.2.1 Scope and Purpose of the Protocol

The scope and application of the protocol is clearly stated[50]. It deals broadly with human trafficking, regardless of age and gender and applies to all forms of trafficking such as labour, domestic servitude and human organ trafficking[51]. The protocol has two main purposes. First, it is aimed at preventing and combating human trafficking with particular attention to the

protection of women and children[52]. Women and children are specifically referred to in the protocol because they are considered as the most vulnerable to the crime, although men are also trafficked. Second, the protocol aims to promote and facilitate co-operation among states parties in order to realise the objective of combating and eradicating human trafficking[53]. As previously noted, the protocol is intended to combat international human trafficking. In this regard, states parties are obliged to adopt national legislation as well as other counter measures necessary to combat the phenomenon[54].

2.2.2 Key States Parties Obligations in the Protocol

States parties to the *Palermo Protocol*, are required to comply with certain obligations necessary for preventing, suppressing, punishing and combating of human trafficking. Among the wide range of measures required of states parties to the protocol is the criminalisation of all forms of human trafficking and criminal prosecution of human traffickers.

2.2.2.1 Criminalisation

The *Palermo Protocol* has been described as, "comprising of a strong law enforcement tool, although with comparatively weak language on human rights protections and victim assistance"[55]. Jordan also agrees with this position in stating that the protocol is principally a law enforcement instrument rather than a human rights instrument. Kruger also states that one of the main features of the protocol is its focus on law enforcement[56]. Consequently, it has been suggested that the protocol's strong focus on law enforcement is because it was developed by the UN Crime Commission[57]. Since criminalisation appears to be considered by the protocol as the most effective means of combating human trafficking and related crimes, states parties are mandated to adopt national legislation criminalising human trafficking. In this regard, Marks and Clapham point out that the requirement to criminalise human trafficking basically entails states parties adopting legislation criminalising activities such as intentional trafficking in persons[58]; attempting to commit trafficking in persons[59]; participating as an accomplice in trafficking in persons[60]; and organising or directing persons to commit trafficking in persons[61].

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The strategy of effective border control to prevent and combat human trafficking is also emphasised in the protocol. Thus, states parties to the protocol are required to introduce measures sanctioning commercial carriers "including any transportation company or the owner or operator of any means of transport" which failed to ensure that its passengers are in possession of legal or valid travel documents and permission to enter receiving countries[62].

2.2.2.2 Judicial Co-operation

States parties to the protocol are obliged not only to criminalise human trafficking in their national legislation, but to also ensure that various state agencies engage in collaborative activities[63]. Thus, the protocol requires that state agencies such as the police, the immigration department, and other relevant institutions of government co-operate with one another especially in the areas of information sharing[64]. Basically, exchange of information relating to victim identification[65], travel documents[66], and identification of transnational organised criminal group focusing on human trafficking[67], is considered necessary in the campaign against international human trafficking. With reference to international co-operation between states, the provisions of the *Palermo Convention* relating to that also applies to the trafficking protocol *mutatis mutandis*[68].

2.2.2.3 Victim Protection and Assistance

The *Palermo Protocol* makes provisions for the assistance and support of victims of international human trafficking and a recognition of the role of migration in their victimisation[69]. However, the obligation to assist and support victims is in relation to special needs, especially if the victims are children. The assistance and support mainly relate to compensation for damage suffered by victims[70].

It is important to note that most of the provisions on assistance and support of victims are written in non-compulsory language and therefore generally weak when compared with the language in which the compulsory provisions are written[71]. Sullivan supports this claim in stating that provisions of the protocol relating to assistance and support of victims, is "hedged with minimalism and ambiguity"[72]. Thus, based on the language of the provisions, it can be argued

that states parties are not legally obliged to provide, legal, housing, counselling, medical and psychological assistance as well as employment, and educational opportunities to trafficking victims[73]. Instead, state parties are "encouraged" to do so for "appropriate cases" and "to the extent possible under domestic law"[74]. Furthermore, the protocol encourages human trafficking source countries and destination countries to adopt mechanisms that will allow trafficking victims to remain either temporarily or permanently in their countries until the determination of their cases[75].

2.2.3   Criticism of the Protocol

The *Palermo Protocol* has been described as the most significant international attempt aimed at combating human trafficking[76]. One of its greatest achievements is the provision of a broadened, internationally accepted definition of human trafficking. There are three basic parts noticeable from the definition of human trafficking provided in the protocol. The first part of the definition prohibits all forms of human trafficking, the process and the means used in exploiting victims[77]. In the second part of the definition, the protocol proscribes methods involved in human trafficking such as the use of force and deception as well as the abuse of victim's position of vulnerability[78]. The third part of the definition broadened the range of exploitative purposes to which victims may be subjected. Thus, apart from sexual exploitation which is common, other forms of exploitation such as labour, domestic servitude, slavery or practices similar to slavery are also proscribed[79]. The expansion of exploitative purposes in the definition makes it difficult for human traffickers to escape arrest and prosecution.

Although the *Palermo Protocol* remains the most important international legal instrument for combating human trafficking, it has been subjected to criticisms. The protocol has, for example, been criticised for not committing to evaluating the effectiveness of its framework and the impact of policies introduced by member states in the fulfilment of its obligations[80]. This criticism has continued despite the establishment in 2006 of the Conference of the Parties to the UN Convention against Transnational Organised Crime and its Protocols (the Conference), as a body responsible for periodic assessment of the implementation of the convention. Milivojevic and Segrave argue that the Conference is quite limited in its powers and scope[81]. With respect to

human trafficking, the Conference only assesses if member states have implemented "the basic criminalisation and international co-operation standards and requirements"[82]. It is therefore argued that the lack of a formal mechanism for evaluation limits knowledge about human trafficking and efforts to combat it to criminal justice activity[83].

The validity of the criticisms against the protocol on the ground of the lack of evaluation mechanisms appears to have been acknowledged by the UN with the publication in 2009 of the *International Framework for Action to Implement the Trafficking in Persons Protocol*[84]. The framework, jointly prepared by several UN agencies, is a technical assistance measure to help member states implement the protocol. Major challenges in implementing the protocol as highlighted in the framework, include a lack of "knowledge and research", "capacity-building", and "monitoring and evaluation"[85]. Several measures are proposed in the document to address these identified challenges within the prevention, prosecution and protection framework of the protocol[86]. Five pillars, namely, "prosecution", "protection", "prevention", "national co-ordination and co-operation", and "international co-ordination and co-operation" are proposed for addressing the challenges[87]. Despite acknowledging these shortcomings and proposing ways to address them, some still argue that the framework has not put sufficient emphasis on "the importance of evaluation mechanism into ongoing discussion of best practice"[88]. The measures proposed for addressing the shortcoming are the same measures advocated in the protocol. Thus, the framework appears to be re-emphasising those measures proposed in the protocol.

The protocol has also been criticised on the absence of guidance for identifying human trafficking victims[89]. Gallagher describes the absence of guidance for identifying trafficking victims as a fundamental weakness of the protocol. The lack of identification guidelines makes it difficult to identify actual trafficking victims and accord them access to support and assistance provided in terms of the protocol. Similarly, absence of guidance tends to weaken rather than strengthen the trafficking legislation[90]. Connected to the absence of identification guidelines for trafficking victims, is the tendency to classify victims as part of undocumented or illegal immigrants in destination countries[91]. This results in trafficking victims being criminally prosecuted for offences such as illegal migration; working without proper documentation, and prostitution[92].

Furthermore, although the protocol forbids discrimination against victims on grounds of gender, age, race, religion, nationality, and others described in existing international instruments, it has been observed that not all possible bases for discrimination are covered in the protocol[93]. Thus, it is argued that governments could still discriminate against trafficking victims who are gay, lesbian or transgender on the ground of their sexual orientation[94].

The next section considers attempts to combat human trafficking in Africa, as background to the situation regarding Southern Africa, and South Africa and Mozambique especially.

3   INITIATIVES TO PREVENT HUMAN TRAFFICKING IN AFRICA

As previously stated, international legal instruments relating to human trafficking are specifically designed to combat international human trafficking and related transnational crimes. Against the background of the international nature of human trafficking, the *Palermo Protocol* obliges regions, and member states, to establish bilateral and multilateral co-operation in their regional groupings. This is because bilateral and multilateral co-operation is seen as an effective means of combating trafficking.

Regionally, therefore, a number of multilateral agreements have been concluded for this and other purposes. For example, the Council of Europe, in order to give effect to its commitment to the *Palermo Convention*, and its supplementary protocols adopted the *Convention on Action against Trafficking in Human Beings*, which entered into force in February 2008[95]. Regarding the African continent, there is currently no single, comprehensive, legally binding instrument, relating to human trafficking. However, provisions of a number of other regional instruments and plans of action address issues relating to human trafficking. The relevant provisions of these instruments are therefore subsequently analysed and discussed.

Table: 3   Overview of Main Regional Instruments to Counter Human Trafficking in Africa

Title	Main Objective	Date of Signing/ adoption/ Entry into Force
The Charter on Human and Peoples' Rights	To promote and protect human rights and basic freedoms on the African continent.	21 October 1986
The African Charter on the Rights and Welfare of the Child	To protect against abuse, negative social and cultural practices; all forms of exploitation or sexual abuse, including commercial sexual exploitation, and illegal drug use. To prevent the sale and trafficking of children, kidnapping, and begging by children.	1999
The African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	To ensure equality between men and women on the African continent. To eliminate every discrimination against women. To safeguard the rights of the woman and the child.	25 November 2005
The African Union Solemn Declaration on Gender Equality in Africa	To implement the principle of gender equality and gender mainstreaming in Africa.	Adopted in July 2004
The African Youth Charter	To strengthen, reinforce and consolidate efforts to empower young people through meaningful youth participation and equal partnership in driving Africa's development agenda.	8 August 2009
Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children	To reaffirm international instruments on trafficking in persons. To provide specific measures and recommendations to counter trafficking in human beings in general and African women and children in particular.	Adopted in November 2006
The Southern African Development Community Protocol on Gender and Development	To provide for the empowerment of women. To eliminate discrimination and achieve gender equality by encouraging and harmonising the development and implementation of gender responsive legislation, policies and programmes and projects.	Adopted in 2008
The 10 Year Southern African Development Community Strategic Plan of Action on Combating Trafficking in Persons, Especially Women and Children	To consolidate attempts by member countries to eliminate all forms of human trafficking in the region. To monitor and promote co-operation, and the provision of support to member states towards combating human trafficking in the Southern African region.	Adopted in 2009

Source: Author's compilation

3.1   The Charter on Human and Peoples' Rights (The Banjul Charter)

The *Banjul Charter* remains an important regional attempt to protect the fundamental human rights of African people. It was adopted in 1981, and came into effect in 1986. Although the charter is basically a human rights instrument, it does contain provisions that are relevant to human trafficking in Africa[96]. The charter proscribes several human rights violations to which trafficked persons are subjected. These rights include, but are not necessarily limited to, the right to equality, non-discrimination, life, liberty, integrity, privacy, dignity and freedom of movement[97]. For example, the charter provides that all persons have the right to respect and integrity[98], as well as being entitled to human dignity[99].

The entitlement to human dignity also implies the proscription of all forms of exploitation and degradation of persons, especially as it relates to slavery and slave trading; torture; and cruel, inhuman or degrading punishment and treatment[100]. Furthermore, the charter provides for the recognition and respect of the right to individual liberty and the security of the person[101]. Specifically, the charter obliges member states to ensure the elimination of discrimination against women and to guarantee the protection of the rights of women and children as required in accordance with international declarations and conventions[102].

As previously stated, the *Banjul Charter* is a human rights instrument. However, it is relevant to the human trafficking discourse to the extent that it proscribes all forms of human rights violations which trafficking victims are often subjected to. For example, entitlement to the right to work under equitable and satisfactory conditions and on the principle of "equal pay for equal work"[103], relates directly to human trafficking for the purpose of labour exploitation. The security of the individual is also provided for in the charter. Although security is not defined in the charter, there is reference to torture, slavery, slave-like practices, and punishment which cause both physical and psychological injuries. Consequently, it relates to human security as an aspect of the security dimension of human trafficking explored in this study.

3.2 The African Charter on the Rights and Welfare of the Child (African Children Charter)

This charter, specifically intended to protect children, was adopted in 1990 but came into force in 1999 in order to ensure children are afforded special safeguard and care. The charter recognises the unique place children occupy in the African family setting. It also expresses concerns over, among other things, the impact of several social, economic, political, cultural, and environmental factors on children's physical and mental development[104]. The *African Children Charter* obliges member states to prohibit the abduction, sale of, or traffic in children for any purpose or in any form, by any person including parents or legal guardians of the child in their national legislation[105].

Although this charter does not specifically deal with human trafficking, it is nevertheless relevant to the human trafficking discourse. The charter proscribes activities such as abduction, and sale and trafficking of children[106]. It refers to trafficking without a definition of the concept. The reference to trafficking in the charter may be in line with narrow definitions of trafficking as contained in earlier international legal instruments such as the 1949 *Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others*. In this context the document is relevant to human trafficking as presently understood. The charter also prohibits the use of children for all forms of begging[107]. This is a particular form of human trafficking proscribed by the *Palermo Protocol*.

With reference to labour exploitation of children, the charter goes further to oblige member states to criminalise economic exploitation of children through various means. Children are also to be protected from performing hazardous and strenuous work which can affect their physical, mental, spiritual, moral or social development[108]. Furthermore, member states are obliged to also protect children from physical and mental harm, abuse, neglect and maltreatment[109]. Directly related to human trafficking is the obligation to protect children from all forms of sexual exploitation[110]. In this regard, member states are obliged to criminalise the inducement, coercion or encouragement of children to engage in any sexual activity; use of children in prostitution or other sexual practices, and the use of children in pornographic activities, performances and material[111].

3.3 The African Union Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa

This protocol was adopted by the 2nd Ordinary Session of the Assembly of the AU in Maputo, on 13 September 2003, and entered into force on 25 November 2005. It is a supplementary protocol to the *African Charter on Human and People's Rights* previously discussed. The protocol has been described as a fundamental human rights instrument regarding the rights of women[112]. It is based on the principle of equality between men and women in Africa and sets out to broaden the rights contained in the *Banjul Charter*. This specifically refers to the obligation of member states to, "eliminate every discrimination against women" and to safeguard "the rights of the woman and the child as stipulated in international declarations and conventions"[113].

Although this regional legal instrument principally deals with human rights issues with particular reference to women's rights, it nevertheless also relates to the problem of human trafficking and security, since women and children are the most vulnerable to the dangers of trafficking[114]. In the provisions of the protocol relating to human trafficking, states are obliged to adopt measures to protect the right to life and the integrity and security of persons as well as the right to human dignity[115]. Importantly, member states are obliged by the protocol to adopt measures to prevent all forms of violence against women[116]. With specific reference to the combating of human trafficking, the protocol obliges member states to adopt legislation criminalising the trafficking of women. Consequently, member states are obliged to ensure that suspected traffickers are criminally prosecuted and women who are at risk or vulnerable to human trafficking are protected[117]. Furthermore, states are also emphatically required to use relevant resources at their disposal such as financial resources, to ensure the implementation and monitoring of measures to prevent and eliminate violence against women[118]. Reference to security in the protocol may not relate to national security in the state context, but to human security, which also forms part of this study.

3.4 The African Union Solemn Declaration on Gender Equality in Africa

The *Solemn Declaration on Gender Equality in Africa* was adopted by the AU in 2004 in reaffirmation of its commitment to the principle of gender equality as provided in the *Constitutive Act of the AU*; the *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, and existing instruments relating to human and women's rights[119]. Although the declaration is largely seen as a human rights document, it does however deal also with issues relating to human trafficking, especially of women and girls[120].

With respect to the criminalisation of human trafficking, AU member states under this declaration, committed themselves to launching a campaign for the systematic proscription of the recruitment of child soldiers and abuse of girl children as wives and sex slaves in violation of their rights as protected in the *African Charter on Rights of the Child*[121]. African countries also agreed to persistently campaign against gender based violence as well as against the trafficking of women and girls[122]. Thus, African countries further committed to reinforcing national legislation aimed at protecting women at the national level as well as ending the "impunity of crimes committed against women in a manner that will change and positively alter the attitude and behaviour"[123].

This declaration is relevant to the discussion on human trafficking, even though it did not specifically define trafficking. Since however, several AU members have ratified the *Palermo Protocol* and its definition of trafficking is what is most probably implied in the AU declaration. Similarly, most of the activities prohibited in the declaration such as violence against women and abuse of girls as wives and sex slaves, are aspects of human trafficking criminalised in the *Palermo Protocol*. Besides, the recruitment of child soldiers prohibited in the declaration also falls under human trafficking for military purposes.

3.5   **The African Youth Charter**

The *African Youth Charter* was introduced based on the conviction that "Africa's greatest resource is its youthful population and that through their active and full participation; Africans can surmount the difficulties that lie ahead"[124]. The *African Youth Charter* was adopted by the AU in 2006 and came into force on 8 August 2009. Specifically, the charter is both a political as well as a legal instrument that serves as a strategic framework for AU member states towards achieving youth empowerment and development. The youth charter reiterates the AU's commitment to the rights of the youth as enshrined in existing instruments such as the *African Charter on Human and People's Rights*[125]. However, it lays strong emphasis on areas relating to youth education and skills development[126], and empowerment through employment and sustainable livelihood[127]. Other areas of emphasis include youth leadership and participation[128], health and welfare[129], peace and security[130], environmental protection[131], and cultural and moral values[132].

Although the youth charter is generally a human rights document aimed at empowering African youths, it is also relevant to the human trafficking discourse. Concerning trafficking, the charter obliges states parties to, "enact and enforce legislation that protect[s] girls and young women from all forms of violence, genital mutilation, incest, rape, sexual abuse, sexual exploitation, trafficking, prostitution and pornography"[133]. Specific reference is made to the protection of girls and young women against trafficking because they are the most vulnerable to the crime of human trafficking. This does not however, imply that young men are not protected from trafficking under the charter.

3.6   **Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children**

The *Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children* (Ouagadougou Action Plan) *was* adopted by the Ministerial Conference on Migration and Development, in Tripoli, Libya, in November 2006. It is a joint international framework for action between Europe and Africa for the prevention, suppression and punishment of trafficking

in human beings. It gives effect to the *Palermo Convention* and its supplementary protocols, particularly with reference to calls for the establishment of bilateral and multilateral international co-operation and co-ordination in the campaign against human trafficking. Thus, it is a framework, "determined to deal, through effective co-operation, with aspects of the problem of trafficking in human beings, especially women and children"[134].

The *Ouagadougou Action Plan* emphasises on several of the basic standards provided in the *Palermo Protocol*. Thus, the document requires parties to ratify and implement the *Palermo Convention* and the *Palermo Protocol*. This basically entails the adoption of national legislation criminalising human trafficking[135]. Member states are encouraged to adopt measures that are geared toward preventing and raising awareness about human trafficking. Such measures include, education and training; provision of employment and sustainable means of livelihood; birth registration; mobilisation of NGOs, and collection and exchange of information[136].

With respect to victim protection and assistance, the action plans enjoin member states to adopt measures based on "international human rights instruments, including those relating to the rights of the child and of women, forced labour, child labour and trafficking in human beings"[137]. Member states are also to ensure that victims are provided with information on legal proceedings, and to guarantee the "safety and security of victims and witnesses at all stages of legal proceedings", especially in cases involving children[138].

The action plan calls on member states to ensure that suspected traffickers are effectively prosecuted through their national anti-trafficking legislation in order to serve as a warning to would-be traffickers[139]. Anti-trafficking legislation of member states needs to equally establish the liability of "legal persons" as well as the confiscation of instruments and the proceeds of trafficking crimes. It must be noted that the *Ouagadougou Action Plan* is a political document and not a legally binding instrument. However, it represents, in the absence of a single comprehensive legal instrument, the best effort at the African regional level to combat human trafficking.

4 EFFORTS TO PREVENT HUMAN TRAFFICKING IN SOUTHERN AFRICA

Efforts to combat human trafficking in Southern Africa have been led by the SADC. The regional body has adopted a legal instrument as well as a plan of action aimed at countering human trafficking. The provisions of these documents are briefly considered.

4.1 The Southern African Development Community Protocol on Gender and Development

The SADC *Protocol on Gender and Development* was adopted in 2008 and gives effect to the 1997 SADC *Declaration on Gender and Development* as well as other international legal instruments relating to women's rights[140]. Basically, the protocol deals with gender based violence against women and obligate member states to address such violence. It sets a time-frame for member states on achieving this objective. Thus, by 2015, member states are expected to have criminalised all forms of violence against women and to have enshrined gender equality in their constitutions[141].

With specific reference to human trafficking, the *SADC Protocol* provides a clear definition along the lines of the *Palermo Protocol*[142]. Under the *SADC Protocol*, member states are required to adopt specific legislation aimed at preventing human trafficking, and providing holistic assistance to victims of sexual offences and reintegrating them into society[143]. Member states are also obliged to establish measures that will help law enforcement agencies to eliminate national, regional and international human trafficking networks[144]. The protocol envisages that this can be achieved through member states harmonising and consolidating the means of collecting and reporting data and ensuring effective monitoring mechanisms[145]. Member states to the protocol are also obliged to enter into bilateral and multilateral agreements that can facilitate information sharing and co-ordination of joint actions against human trafficking in countries of origin, transit and destination[146]. Furthermore, the *SADC Protocol* requires member states to engage in capacity building through training of law enforcement officials, and a sustained

campaign to create awareness and inform the public about the dangers of human trafficking and the methods used by criminals[147].

The *SADC Protocol* is an ambitious document that set benchmarks and time frames for achieving its objectives. Generally, it is a human rights document. Its description of human trafficking within the context of human rights violations, especially the sexual violation of women, underscores the perception of SADC member states regarding the phenomenon. In this regard, it is argued that human trafficking is not perceived as a broader security issue in the SADC sub-region by leaders of its member states.

4.2   The 10 Year Southern African Development Community Strategic Plan of Action on Combating Trafficking in Persons, Especially Women and Children

The SADC *10 Year Strategic Plan of Action on Combating Trafficking in Persons, Especially Women and Children* (SADC Plan of Action), was adopted in 2009, specifically as a policy framework that sets out to consolidate attempts by member countries to eliminate all forms of human trafficking in the region[148]. Its other aims and objectives include the monitoring and promoting of co-operation, and the provision of support to member states with respect to the combating of human trafficking in Southern Africa[149]. The *SADC Plan of Action* sets out strategic priorities to be achieved by member states over a period of ten years with respect to the combating of human trafficking[150]. Included in the strategic priorities is the ratification, domestication and implementation of the *Palermo Convention* and its supplementary protocols, specifically the *Palermo Protocol*[151]. Similarly, the ratification, domestication and implementation of the SADC *Protocol on Gender and Development* are also stated as a strategic priority[152]. The *SADC Plan of Action* also commits to monitoring, reporting and evaluating of the implementation of the treaties relating to human trafficking at the sub-regional and national levels[153].

The next section will examine the national policies and measures of South Africa and Mozambique to combat human trafficking, as the two country case studies for this study.

5 NATIONAL EFFORTS TO COMBAT TRAFFICKING

As previously stated, the *Palermo Protocol* obligates its states parties to enact and implement legislation to counter human trafficking. To give effect to this obligation, several countries in Southern Africa have adopted national legislation modelled on the *Palermo Protocol* and criminalising all forms of human trafficking. In this regard, Mozambique adopted comprehensive anti-trafficking legislation in 2008. South Africa's human trafficking Bill was tabled in Parliament in March 2010 and was passed into law in 2013.

Table. 4   Overview of Main National Instruments to Counter Human Trafficking in South Africa and Mozambique

Title	Main Objectives	Entry into Force
South Africa		
The Children's Act	To protect the rights of children as provided for in the South African Constitution. To combat trafficking in children.	2005
Criminal Law (Sexual Offences and Related Matters)	To criminalise sexual abuse or exploitation. To criminalise conduct constituting trafficking in persons for sexual exploitation.	16 December 2007
The Prevention and Combating of Trafficking in Persons Act	To give effect to the Palermo Protocol. To combat all forms of human trafficking	Signed 6 August 2013
Mozambique		
Law on Preventing and Combating the Traffic in People	To give effect to the Palermo Protocol. To combat all forms of human Trafficking	April 2008

Source: Author's Compilation.

5.1   Initiatives to Counter Human Trafficking in South Africa

South Africa is listed as a Tier 2 country in the US annual Trafficking in Persons Report (TIP). Tier 2 countries are those countries which do not fully comply with the minimum standards for the elimination of human trafficking[154]. Nevertheless, attempts by the South African government

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aimed at combating human trafficking are varied and based on the principles of prevention, victim support and response[155]. These efforts involve extensive collaboration with governments and international organisations such as UNICEF, as well as local NGOs. They also involve the creation of public awareness as well as the prosecution of offenders under existing laws.

5.1.1 Programmes to Combat Human trafficking in South Africa

In 2009, the South African government launched an extensive anti-human trafficking programme called *Tsireledzani*, which simply means 'protect' in local South African language. The programme was funded by the EU and headed by the South African National Prosecuting Authority (NPA). The programme involved various South African government departments and international organisations as well as civil society partners. Among these are: the Departments of Justice; Home Affairs; Labour; and Social Development; the SAPS; and the independent non-profit organisation Molo Songololo. Others are the UNODC; the IOM; and the Border Control Operational Co-ordinating Committee (BCOCC)[156]. The main objective of *Tsireledzani*, was to ensure South Africa's full compliance with the *Palermo Convention*, and its supplementary protocols, especially the *Palermo Protocol*. In this regard, the programme aimed at developing "comprehensive legislation that is underpinned by a victim-centred empowerment approach, taking full account of the existing *Victims Charter*, as well as relevant South African legislation"[157].

Apart from government efforts, other organisations are also involved in creating awareness regarding human trafficking in South Africa. For example, Not For Sale, a non-governmental organisation based in Cape Town assists victims of human trafficking in Cape Town[158]. Religious organisations such as The Salvation Army in South Africa also have outreach programmes aimed at creating awareness about, and preventing human trafficking in the country[159]. Similarly, in addition to providing support to the South African government, the IOM has extensive public awareness and information campaigns with a primary focus on groups vulnerable to human trafficking. The media outlets chosen for information dissemination include film and television, print (posters, flyers and stickers), as well as theatre groups touring mining areas[160]. More so, Molo Songololo is also actively engaged in public awareness campaigns

concerning child trafficking in South Africa and has called on the South African government to embark on public awareness campaign[161].

5.1.2 Legislation to Combat Human Trafficking in South Africa

At previously stated, South Africa became a signatory to the *Palermo Protocol* in December 2000 and ratified the protocol in February 2004. By ratifying the protocol, South Africa became obliged to adopt legal instruments that specifically deal with human trafficking and to comply with other requirements of the protocol. However, until August 2013, South Africa had no specific human trafficking legislation. This notwithstanding, certain laws did exist which were used to prosecute human traffickers[162]. Among these are the *Children's Act 38* of 2005 and the *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32* of 2007.

5.1.3 The Children's Act

Firstly, the principle guiding the *Children's Act* is based on the *Universal Declaration of Human Rights* (1948) which provided for children's entitlement to special care and assistance. Secondly, the act is also based on the rights of children as contained in the 1996 Constitution of South Africa. The *Children's Act* description of trafficking in relation to children mirrors the definition of human trafficking as provided in the *Palermo Protocol*. Thus, to a limited extent, it gives effect to the *Palermo Protocol*. The only difference between the two definitions is the addition of "sale and supply" of children and "illegal adoption" to the definition in the Act. The *Children's Act* also provides working definitions of relevant concepts such as commercial sexual exploitation" and exploitation of 'custody', 'contact', 'abuse', and 'abandon'. It criminalises the abuse or deliberate neglect of a child by persons with parental responsibilities as well as by others who voluntarily care for the child[163].

Under this Act the consent of a child or his or her parents or guardians to trafficking or exploitation is not an excuse[164]. *The Children's Act* also proscribes the harbouring of trafficked children as well as the advertisement, publication or broadcasting of information relating to trafficking, including using the Internet. Thus, Internet service operators are required to report sites that advertise or broadcast information on trafficking to the police[165]. Furthermore,

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provision is also made for the return to South Africa of children trafficked from South Africa to other countries provided they are citizens or permanent residents. Pursuant to this, expenses incurred in providing travel documents and adult escorts (if needed) for the children to safely return to the country, are fully paid for by the South African government. Immigration officials as well as police officials, social workers, medical practitioners or nurses are also empowered to refer trafficked children to designated social workers[166].

In the same manner, provisions are also made for the safe return of foreign children trafficked into South Africa to their countries of origin. The trafficked foreign children are to be referred to designated social workers, and placed in temporary safe care and then appear before a Children's Court that may order that the children be assisted in applying for asylum[167]. If a competent Children's Court finds that trafficked foreign children are in need of care and protection, the children are to be allowed to stay in South Africa until the expiry of the Court order. Furthermore, the Act also stipulates that children trafficked into South Africa cannot be returned to their countries of origin if necessary measures have not been taken to ensure their safety[168].

In the case of South African children trafficked abroad, the Act states that where a court has sufficient evidence to the effect that parents, guardians or any person with parental responsibilities trafficked or allowed the trafficking of a child, the court can suspend such person's parental responsibilities and rights and place the child in temporary care[169].

5.1.4 Criminal Law (Sexual Offences and Related Matters) Amendment Act

The *Sexual Offences Act* (the Amendment Act), entered into force in 2007 and has provisions relating to human trafficking used to prosecute offenders until the finalisation of a comprehensive law. The Act provided a definition of human trafficking in line with the *Palermo Protocol*. However, it broadened the definition of human trafficking by adding terms such as "supply", "sale", "disposal" or "receiving" of a person and threat of harm[170]. Sexual exploitation according to the Act included grooming or abuse of a sexual nature, whether committed inside South Africa or outside the country.

The Act equally prohibited trafficking in persons for sexual purposes where the trafficked person did not consent to been trafficked[171]. It also specified acts that constituted trafficking and provided that any person who committed those actions was liable to the crime of human trafficking for sexual purposes. Consent was also defined in the Act as well as conditions under which a trafficked person was coerced or forced into trafficking for sexual purposes[172].

Furthermore, the Act provided that a trafficked person cannot stand trial for any criminal offence or migration-related offence which was committed as a direct result of being trafficked[173]. Contrarily, commercial carriers of any means of transporting goods and people were guilty of the offence of trafficking for bringing persons into or removing persons from South Africa, if such persons did not have documents required for lawful entry or departure. They were liable to pay for the trafficked persons' care, safekeeping and return costs which will be ordered by the court upon conviction[174].

Apart from this law, South Africa also had recourse to prosecute instances of human trafficking (or related offences) that fall outside the provisions of the Act under general statutory or common law offences[175]. Thus, under these laws South Africa successfully prosecuted and convicted three persons and several arrests were also made. With the passing of the *Prevention and Combating of Trafficking in Persons Bill* into law in 2013, cases of human trafficking in South Africa would henceforth be prosecuted under this law.

5.1.5   The Prevention and Combating of Trafficking in Persons Act

The adoption of the anti-trafficking legislation was based on the argument of the South African Department of Justice and Constitutional Development which reported that the *Criminal Law (Sexual Offences and Related Matters) Act* and the *Children's Act* were inadequate in combating human trafficking. Debate in the South African Parliament over the Bill centred on a lack of statistics on human trafficking; lack of clear co-ordination with respect to different roles of departments dealing with human trafficking, and concern over foreigners exploiting the law to remain in the country for an extended period[176].

The fears expressed notwithstanding, the *Preventing and Combating of Trafficking in Persons Bill* (Anti-Trafficking Law) was signed into law on 6 August 2013. This was described as significant in the combating of human trafficking because it gave South Africa a single piece of legislation which holistically and comprehensively addresses human trafficking[177]. Accordingly, it gives effect to South Africa's obligations concerning trafficking of persons in terms of international agreements[178]. The Act provides for an offence of trafficking in persons and other offences associated with trafficking in persons as well as providing for penalties that may be imposed in respect of the offences[179]. Furthermore, the Act provides for measures to protect and assist victims of trafficking in persons as well as for co-ordinated implementation, application and administration of the Act[180]. Other provisions include preventing and combating of human trafficking within or across the borders of South Africa, and for matters connected to it[181].

The Act criminalises human trafficking in addition to criminalising offences such as debt bondage; the possession, destruction, concealment of and tampering with travel documents; and using the services of victims of trafficking, among others[182]. Accused persons found guilty of human trafficking can be fined up to R100 million (US$ 10 million) or risk life imprisonment or both[183]. In addition, they can also be required to pay compensation to their victims[184]. Unlike in previous years when existing laws such as the *Sexual Offences Act*, and the *Children's Act* were used to prosecute offenders, the *Anti-Trafficking Act* is regarded as comprehensive and adequate. This is because the Act provides a legal framework for the prevention of trafficking, prosecution of traffickers, and protection of trafficking victims. It also takes into consideration the traumatic effects that victimisation can have on those who experienced it. Thus, protection and assistance to overcome traumatic and life threatening experiences are also provided for[185].

Most of the recommendations of the SALRC were taken into consideration in the passage of the legislation. For example, the SALRC had recommended that victims of trafficking should be not prosecuted[186]. It also recommended that a foreign trafficked child in need of care and protection should be allowed to stay in the country. Other recommendations of the SALRC included the accreditation of organisations to provide services to adult trafficked persons, and the empowerment of the courts to order convicted traffickers to pay appropriate compensation to victims[187].

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As comprehensive and holistic as the *Anti-Trafficking Act* may appear, it does not directly address the broader security dimensions of human trafficking. Therefore, the violation of national borders; involvement of organised crime; corrupting of state officials, and denial of freedom and the use of physical violence against victims, are all issues that have implications for individual security as well as for South African national security. However, the fact that the *Trafficking Bill* was reviewed by a Parliamentary Select Committee on Security and Constitutional Development implied that the security implications of human trafficking were probably taken note of.

5.2 Initiatives to Combat Human Trafficking in Mozambique

Mozambique is classified as a Tier 2 country by the US State Department in its annual Trafficking in Persons Report (TIP). As previously mentioned, Tier 2 countries are those countries which do not fully comply with the minimum standards for the elimination of human trafficking[188]. Nevertheless, Mozambique has been making attempts to combat human trafficking within the context of its limited resources. Based on the obligations in the *Palermo Protocol*, Mozambique's efforts are based on the principles of prevention, protection and support, and prosecution. These efforts involve extensive collaboration with governments and international organisations such as UNICEF, as well as local NGOs. The efforts also include the creation of public awareness, which are non-legal means, as well as the prosecution of offenders under its national anti-human trafficking legislation.

5.2.1 Non-Legal Efforts to Combat Human trafficking in Mozambique

Attempts to combat human trafficking in Mozambique predate the adoption of the *Palermo Convention*, and its supplementary protocols, particularly the *Palermo Protocol*. In 1996, consequent upon recommendations made at the *First World Congress against Commercial Sexual Exploitation of Children* (CSEC) held in Sweden, Mozambique established a national programme (National Campaign against Child Abuse, or NCACA) to combat commercial exploitation of children[189]. In 2000, the campaign formally launched another campaign (the

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National Campaign against the Sexual Abuse of Children) specifically in border areas with South Africa such as Ressano Garcia. These campaigns were aimed at raising awareness about the dangers of trafficking among Mozambican nationals. Since Mozambican nationals are mostly trafficked to South Africa, the campaigns specifically aimed at drawing the attention of the governments of both countries to the necessity of combating sexual abuse and human trafficking[190].

Through national campaigns, the government of Mozambique has continued to sensitise its citizens of the dangers of human trafficking and different methods used by human traffickers to recruit victims. Four key messages of the government have remained the same. Firstly, the government informs its citizens that "child trafficking exists"; secondly, "children's rights include the right of children to be free from being trafficked", thirdly, "trafficking is much more than just sexual exploitation"; and fourthly, "child trafficking is an issue that is interlinked with others"[191].

Currently, non-legal efforts of the Mozambican government include collaboration with NGOs in providing accommodation and rehabilitation services to victims of trafficking[192]. The introduction of agricultural schemes to prevent food insecurity in the most human trafficking prone areas of the country, is among efforts geared toward the combating of human trafficking in the country[193]. Similarly, the country's law enforcement agencies such as the Ministry of Justice has also embarked on collecting data relating to human trafficking from different provinces of the country[194]. Efforts to co-operate with governments in the region through the signing of bilateral and multi-lateral agreements which, among other things include the combating of human trafficking have also been increased[195].

In this regard, the country has signed co-operation agreements with Tanzania and Swaziland. It is also reported that Mozambique co-ordinates meetings with South African officials with the aim of combating human trafficking[196]. In partnership with UN agencies such as UNICEF, the government of Mozambique is also involved in the training of its law enforcement agents[197]. For example, newly recruited law enforcement officials (police) as well as border guards, customs and immigration agents, and anti-riot police, are offered a two-week course on recognition of trafficking cases, protection of victims, children's rights, and child custody law[198]. Mozambican judges also receive training relating to trafficking at the country's Judicial Training Academy in

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order to be well-prepared to prosecute trafficking offenders[199]. Non-legal efforts are also complemented by criminal prosecution of suspected trafficking offenders under Mozambican national anti-trafficking legislation.

5.2.2   Legislation to Combat Human Trafficking in Mozambique

Mozambique became a signatory to the *Palermo Protocol* in December 2000 and ratified and acceded to the protocol in September 2006. In fulfilment therefore of the requirements of the protocol that states parties enact and implement national legislation criminalising human trafficking, Mozambique adopted the *Law on Preventing and Combating the Traffic in People* (Lei no. 6/2008) in April 2008. It became the first country to do so in Southern Africa.

The Mozambican act represents comprehensive anti-trafficking legislation which criminalises all forms of human trafficking, domestic and international, and applies to men, women and children. Importantly, the legislation establishes the culpability of both natural and legal persons. This is in recognition of the fact that human trafficking can be committed by both natural and legal persons. Thus, legal persons, found guilty of human trafficking are to pay indemnity, fines and court costs[200]. The Act provides for increased sanctions on human trafficking cases in aggravated circumstances[201].

The Act provides a clear explanation of cases to be treated as "aggravated circumstances". Firstly, an aggravated circumstance exists where victims of trafficking are the most vulnerable groups in the society such as children and the disabled who cannot fend for or protect themselves. Secondly, an offence falls under aggravated circumstances, if it was committed by a public official, a union, an organised crime syndicate, or where victims contract diseases such as HIV/AIDS and as a result suffer from psychological trauma[202].

In line with the *Palermo Protocol*, the Act provides a broad definition of human trafficking. It criminalises the recruitment, transportation, harbouring or receiving of persons for human trafficking purposes[203]. Furthermore, violence, deception or false promises of employment, training, or study both within and outside the country, are also criminalised, especially, when

prostitution, forced labour, slavery, involuntary servitude, or servitude for debt are underlying motives[204]. Convicted offenders are to serve between sixteen and twenty years imprisonment[205]. Equally criminalised in the Act are trafficking for the purposes of sexual exploitation in the form of pornography, illegal adoption, and commercial sexual exploitation or prostitution[206]. While convicted traffickers who engaged in transporting and kidnapping of victims are to serve between sixteen and twenty years in jail, those who engaged in leasing out or subletting of their property for trafficking purposes are to serve between eight and twelve years in jail[207].

Although the Act provides for the investigation of trafficking cases by law enforcement agencies, it attaches a precondition to this clause. Thus, it provides that criminal investigations can only be initiated if a trafficking victim or a third party condemns and reports human traffickers to law enforcement agencies[208]. In essence, it is unlawful for law enforcement agencies to initiate investigation into a human trafficking case without the consent of the victim or participation of a party or a witness to the crime. The danger in this provision is that suspected traffickers may escape prosecution in cases where victims are also illegally residing in countries where they are being exploited. Their illegal status and fear of prosecution and deportation may prevent them from reporting their traffickers to the authorities[209].

The Act recognises the fact that effective combating of human trafficking cannot take place in the absence of support from every Mozambican. Thus, citizens are urged to act as the eyes and ears of the law enforcement agencies; to report suspected human trafficking cases, and to provide relevant information that can lead to the arrest of traffickers or a disruption of their networks. Immigration, customs, border security agents, the police and civil servants, are all encouraged to report cases of human trafficking in order to enable the police to initiate criminal investigations against suspects[210].

For the effective combating of human trafficking, the Act also criminalises all forms of advertising, publishing, printing or the dissemination of information which facilitate human trafficking. This includes the use of information technology or the Internet to disseminate information[211]. Other offences included in this provision are the destruction, concealment or confiscation of travel documents or personal effects of victims[212]. The Act further provides that

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the consent of victims cannot be taken as an excuse for the crime of trafficking[213]. Furthermore, Mozambican Courts are authorized to order the payment of compensation to victims for damages suffered in the course of trafficking[214].

A significant aspect of the legislation relates to the protection and support of victims. The Act provides for the protection of the identities of witnesses in the course of criminal prosecution of human traffickers. Similarly, special protection is also extended to victims in cases involving a minor, pregnancy and disability, as well as in cases where victims had contracted diseases such as HIV/AIDS or where victims or witnesses are living illegally in the country[215].

Trafficking victims are also exempted from criminal prosecution for offences committed as a result of being trafficked[216]. Under this legislation, trafficking victims have the right to emergency accommodation, medical assistance, counselling, legal assistance or legal aid, and educational and professional training. The state is also obliged to use its resources to ensure the provision of measures that will lead to the recuperation, rehabilitation and reintegration of victims into the society[217]. This is in addition to guaranteeing the right of victims to be informed of their rights under the law, such as the right to protection and legal assistance during criminal prosecution of traffickers[218].

In recognition of the importance of regional co-operation in combating human trafficking, the Mozambican legislation provides for the establishment of bilateral and multilateral agreements with other countries. This is seen as necessary because it will facilitate the repatriation of Mozambican victims from destination countries. Therefore, the Act obliges the state to establish a centre that will provide the necessary assistance to foreign trafficking victims in Mozambique while they await the finalisation of their repatriation processes[219]. No foreign victims in Mozambique are to be repatriated without due process and assurances of their safety and security in their home countries[220].

Foreign nationals in Mozambique, who agree to co-operate with Mozambican authorities in the criminal prosecution of human traffickers, are to be granted a temporary residence permit[221]. No person, under the provisions of the Act, is to be forced or compelled to testify or provide information relating to human trafficking against his or her will. In addition, persons who provide information leading to the arrest of human traffickers, are not to be prejudiced or

persecuted on account of the information they have provided. Whoever prejudices against persons who provide information to authorities regarding human trafficking will be liable to disciplinary measures, imprisonment or fine under the Act[222].

From the foregoing, it can be seen that the Mozambican Act is a comprehensive legal instrument that holistically addresses the problem of human trafficking. It covers all aspects of the *Palermo Protocol* and goes further to cover areas not adequately covered by the international legal instrument, such as the exemption of victims from criminal prosecution for offences committed as a result of having been trafficked. Whereas only victims of international trafficking are protected under the *Palermo Protocol*, the Mozambican legislation provides for both victims of international and domestic trafficking. An evaluation of the effectiveness of this legislation in combating human trafficking in Mozambique is outside the scope of this study. It is however, sufficient to state that within the ambit of the legislation, human trafficking cases have been successfully prosecuted. By 2013, 40 cases had been reported and 33 convictions had been recorded since the coming into effect of the legislation[223]. Mozambican authorities have also started collecting data based on the number of arrests, convictions and reported cases of human trafficking in the country in fulfilment of its obligations in terms of several international agreements[224].

It must however, be stated that even though the Mozambican Act places strong emphasis on criminal prosecution, it appears to address human trafficking largely from the perspective of human rights violations.

5.3 Comparison of South African and Mozambican Anti- Trafficking Legislation

The South African and Mozambican legislation to counter trafficking are similar in many respects. As previously mentioned, both Acts are based on the *Palermo Protocol*. They proscribe human trafficking in all its ramifications and provide punishments for the offences. Both laws place strong emphasis on the protection of the identities of trafficking victims, as well as witnesses to the crime of trafficking. Furthermore, under the laws, rehabilitation and care of victims are guaranteed. These provisions may be regarded as attempts to address the human

rights violations suffered by victims during their victimisation. Most importantly, both South African and Mozambican legislation hold both natural and legal persons accountable for trafficking offences.

The similarity of both laws also rest on criminalisation of all forms of advertising, publishing, printing or broadcasting of information encouraging human trafficking through media outlets such as the Internet. Both also condemn the destruction, concealment or confiscation of travel documents or personal belongings of trafficking victims. Similarly, in both the South African and Mozambican legislation, the victim's consent cannot be used as an excuse for the crime of trafficking. The South African and Mozambican legislation also exempt victims of trafficking from criminal prosecution provided their crimes were committed as a result of their victimisation. The victims are also expected under both laws to co-operate with or assist the police in their investigation into these crimes.

In accordance with the *Palermo Protocol*, both South African and Mozambican legislation encourage international co-operation with other countries to expedite the process of repatriation of their nationals trafficked to other countries, as well as the repatriation of nationals of other countries trafficked to Mozambique and South Africa. The establishment of rehabilitation centres with medical facilities and sufficient food supply are also mandatory in the laws of both countries. The right to information and legal assistance to victims of trafficking are also guaranteed by the legislation of both countries. The granting of temporary visas to victims who agree to co-operate with the police in their investigation is also provided for in both cases. Both laws also provide that victims, whose safety and security cannot be guaranteed in their home countries, would not be repatriated.

Although both the South African and Mozambican legislation give effect to the *Palermo Protocol*, and show similarity in many respects, there are still areas of observable differences. One major area of difference is in the reporting of human trafficking cases. Both the South African and Mozambican legislation provide that cases of human trafficking be reported to the police by victims, witnesses or interested third parties. However, in Mozambique the police are not authorised to investigate suspected cases of trafficking without a prior reporting of such cases

by victims or witnesses[225]. The opposite is however the case in South Africa where the police are authorised to forcefully enter any premises without a warrant, if they reasonably suspect that those premises are used for trafficking purposes. The use of force which may include the breaking of doors and windows of such premises, may be carried out after the police had audibly demanded entry and informed the residents of the purpose of their operation[226].

In terms of compensation, both the South African and Mozambican legislation provide for the payment of compensation to victims of human trafficking. However, the Mozambican legislation leaves the determination of the nature of compensation to be paid by convicted traffickers to victims entirely at the discretion of the courts. Similarly, with respect to terms of imprisonment, the Mozambican legislation also recommends a sentence of 16 to 20 years for trafficking acts such as transporting and kidnapping, and eight to 12 years for aiding trafficking through leasing out of premises to human traffickers[227]. The South African legislation differs from the Mozambican legislation to the extent that it categorically states that convicted traffickers are to pay R100 million (US$ 10 million) or risk life imprisonment or both, for trafficking through force, deception or coercion as well as by abduction and forced marriage[228]. Similarly, trafficking for the purposes of debt bondage; tampering; destruction or concealment of travel documents belonging to trafficking victims; and leasing of premises to be used for trafficking, carries a fine or a sentence of 15 years imprisonment[229]. On this provision, it can be argued that while the Mozambican and South African legislation criminalise trafficking in all its ramifications, the South African legislation appears much stricter than the Mozambican legislation.

Differences between the legislation of both countries also exist in the identification of aggravating trafficking circumstances. The South African legislation identifies certain aggravating factors that must be taken into consideration when imposing a sentence on convicted traffickers. These factors include, but are not necessarily limited to, the role played by traffickers and previous convictions; addiction of the victim; condition of the victim; long captivity, and extent of abuse. Other factors include physical and psychological abuse; involvement of organised crime; involvement of children; mental state of the victim, and physical disability. Although the South African legislation makes provision for the addition of other factors during prosecution, the provisions of the law are only similar to those of the Mozambican legislation to

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the extent that they both identify involvement of organised crime; involvement of the guardian; physical and psychological abuse; children; and the mental state and disability of victims as aggravating circumstances. However, the Mozambican legislation goes further and also stipulates that aggravated circumstances exist when public officials take advantage of the vulnerability of persons to traffick them. This is a significant recognition because in countries such as the US, cases of human trafficking involving diplomats have been reported[230]. In this regard the Mozambican legislation is broader than the South African legislation.

Differences can also be observed in the provisions of both laws relating to the reporting of trafficking cases to the police. The Mozambican legislation does not seem to oblige or compel victims and witnesses to provide information to the authorities regarding human trafficking. To this extent, it differs from the South African legislation. The South African legislation expressly states that, "despite any law, policy or code of conduct prohibiting the disclosure of personal information, any person who knows or ought reasonably to have known or suspected that a child is a victim of trafficking must immediately report that knowledge or suspicion to a police official for investigation"[231]. This provision applies to both individuals and organisations and has a compelling force. The wording of the provision appears to indicate that witnesses who knowingly refuse to report cases of trafficking risk being prosecuted themselves.

Another major difference between the South African and Mozambican legislation is in the provision of extra-territorial jurisdiction. The South African legislation provides that a South African Court has jurisdiction in respect of acts of trafficking committed outside South Africa, which could have constituted an offence if it had been committed in the country[232]. According to the law, the act remains an offence even though the laws of the country where it was committed do not criminalise it as such. For this provision to apply, the law states that the suspect must be a South African citizen or an ordinary resident, and the offence must be committed against a South African citizen or permanent resident. Other conditions of the provision include the presence of the suspect in the country or its territorial waters; on board its ships; vessels; off-shore installations; fixed platforms; and aircraft registered or required to be registered in South Africa. There must also be no application for the suspect to be extradited to another country and the suspect must be a juridical person or a partnership registered in terms of any law in South Africa[233]. The Mozambican legislation does not have a provision relating to extra-territorial

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jurisdiction. However, it does refer to other penal codes which may also be used to prosecute human trafficking.

6 CONCLUSION

In this chapter, existing policies and legislation to address the crime of human trafficking at the global level and in Africa were examined, as well as the measures adopted by the South African and Mozambican governments specifically. At the global level, *the Palermo Convention*, and its supplementary protocols, specifically the *Palermo Protocol*, were examined. The *Palermo Protocol* is the main instrument on which regional and national legislation regarding the combating of human trafficking are based. Its major principles are prevention, protection and support of victims, and prosecution of criminals. Its definition of human trafficking is universally accepted and applied. However, the *Palermo Protocol* has been criticised for not committing to evaluating the effectiveness of its framework and the impact of policies introduced by member states in fulfilment of their obligations. It has also been criticised for lack of modalities for identifying and distinguishing human trafficking victims from illegal migrants. Hence, human trafficking victims are often criminally prosecuted for illegal migration in several destination countries.

In the African context, a single and comprehensive instrument on human trafficking does not exist. However, the AU has persistently encouraged its member states to ratify the *Palermo Convention* and its supplementary protocols. The absence of a single and comprehensive instrument does not imply a lack of interest in combating human trafficking in Africa. Thus, several instruments that in part, deal with issues relating to human trafficking were examined. These include, but are not necessarily limited to, the 2003 *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, and the 2006 *Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children*. Similarly, in Southern Africa, the SADC *Protocol on Gender and Development*, and *The 10 Year Southern African Development Community Strategic Plan of Action on Combating Trafficking in Persons, Especially Women and Children* (2009-2019) were also analysed. The *SADC Protocol*

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deals specifically with human trafficking and has been described as an ambitious instrument which has set benchmarks and time frames for the realisation of its stated objectives. Nationally, the anti-trafficking policies and legislation of South Africa and Mozambique indicate their willingness to combat human trafficking and acceptance of the obligations stipulated in international instruments relating to human trafficking.

Generally, existing initiatives to counter human trafficking place strong emphasis on criminal prosecution and most importantly address human trafficking from the perspective of human rights violations. The security implications of national border violations; organised crime involvement; corruption; and physical violence for individual, and national security are not explicitly spelt out in the national legislation examined. However, these laws do give effect to the *Palermo Protocol* being a supplementary protocol to the *Palermo Convention*, which directly links human trafficking to other transnational organised crimes such as drug trafficking and illegal weapons trafficking[234]. This linkage accentuates the claim that human trafficking has a direct impact on individual, global, regional and national security. Transnational organised crime is among the six clusters of threat that the "world must be concerned with now and in the decades ahead"[235]. Consequently, border control; criminal prosecution; and punishment of traffickers, are strategies proposed to achieve the stated objectives of the *Palermo Protocol*. These strategies also form part of the national security policies of both developed and developing countries. Border control, for example, is a national security issue, because border violations undermine state sovereignty[236]. It is therefore, argued that implicitly, broader national security concerns caused by trafficking and migrant smuggling, underpin the adoption of the trafficking protocol, especially from the perspective of many destination countries[237].

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CHAPTER 7

EVALUATION

"The movement to end trafficking in persons is more than a human rights objective; it is a matter of global security…"

- Condoleezza Rice (Former US Secretary of State)

1   INTRODUCTION

The problem of human trafficking is endemic and its implications are extensive, especially for human and national security. Since the end of the Cold War, the phenomenon has been increasing in scope and form on the African continent, and in Southern Africa in particular. Different manifestations of the phenomenon have been identified from several research reports and publications by international institutions, governments, scholars and NGOs. This chapter provides a brief summary of the text chapters; assesses the assumptions as formulated in the introductory chapter; and draws some broad conclusions.

2   SUMMARY

The study aimed at assessing the extent to which human trafficking constitutes a security issue in the Southern African context, using South Africa and Mozambique as country case studies. For these purposes, the study was structured into seven chapters

Chapter one provided the research theme, objectives, problem statement, methodology, and literature survey, structure of the study, as well as the formulation of a number of assumptions. Identification of the research theme entailed distinguishing concepts such as smuggling and kidnapping from human trafficking. It equally entailed providing a brief historical background to the study. Human trafficking was described as a global problem whose history is traceable back to the 19th Century. Earlier discourses on the phenomenon associated it mainly with women (white women), children and prostitution. Therefore, the term "white slavery" was widely used

to describe human trafficking. It was argued that the emphasis placed on white slavery, did not imply the absence of trafficking of white men for sexual exploitation and forced labour or the absence of trafficking of men and women of other races for same purposes. A review of literature on human trafficking showed that within the Southern African region, human trafficking became visible and increased in scope and form from the 1990s[1]. Different manifestations of human trafficking as identified by organisations such as the IOM, were also highlighted in the chapter.

In the second chapter, conceptual issues concerning human trafficking were discussed and analysed. The definition of human trafficking provided in the *Palermo Protocol* was adopted to guide the study. Generally, human trafficking was described as a socio-economic, political and security phenomenon associated with the movement of people within and across national borders, either legally or illegally. The main causes of human trafficking were highlighted and discussed. These included poverty; ineffective laws; corruption, political and economic changes; internal conflict, and attractive conditions in destination countries. Human trafficking was also linked to organised crime and it was shown that human trafficking has forced labour; sexual exploitation; human rights violations; and insecurity as some of its major consequences. The global phenomenon was also shown to share certain characteristics in common with human smuggling and both were also linked to organised crime. Human trafficking was however considered conceptually different from smuggling, because human traffickers exercise complete control over their victims. Smuggling victims also consent to being smuggled into another country illegally, while trafficking victims, in most cases, are forced, deceived or kidnapped and exploited by human traffickers. While human trafficking is characterised by unlimited exploitation, smuggling is characterised by limited exploitation.

The concept of security was also examined in chapter two in its classic or traditional sense, as well as in its contemporary and Third World perspectives. In the classic perspective of security, survival of the state in the face of external aggression remained a central theme, while in the contemporary context, the security of the individual and society is of equal importance, and internal threats are accorded more attention. The reference to society and individual security in the chapter, entailed an examination of the concept of human security, its nature, and dimensions as well as the various sources of threats to security in its holistic sense. A discussion and analysis

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of the various sources of threats entailed an examination of the criteria for identifying "existential threats" to security, since every social problem cannot be considered a national security issue. Based on the UN criteria as well as those identified by different scholars, factors such as the nature; intensity; nearness in time and space; probability of occurrence; and consequences of threats amplified by historical evidence and political pronouncement, were considered as determinants of existential threats.

Chapter three provided a global overview of human trafficking. This required an examination of the conditions, patterns, extent, and causes of human trafficking as they relate to different regions and sub-regions in the world. It was indicated that while human trafficking is a global issue, some regions in the world appear to be more prone to the phenomenon than others. The analysis and discussion of human trafficking on a regional basis demonstrated the complexity, scope, and dimensions of the phenomenon as well as its link to individual, national, regional and global security. Asia was identified as the region most affected by human trafficking due to significant numbers of internally trafficked Asian victims within the different Asian countries, as well as through intra-regional and international trafficking. The Eurasia region, Africa, the Americas, and Europe were also shown to be significantly affected by human trafficking. Similar patterns of human trafficking were found in all regions of the world. Sexual trafficking of women was identified as the most common in all the regions, while trafficking for labour exploitation purposes was more pronounced in Asia, Eurasia and South America. Labour exploitation was also shown to have become increasingly noticeable in Europe as well. Other forms of trafficking such as domestic servitude, human organ trafficking, begging, and child soldiers, were identified as most common in Asia, South America, and Africa.

It was also argued that human trafficking does not flow in one direction only due to several reasons which include among others, the multi-faceted nature of the problem. Trafficking routes were shown to be multiple, and often change as law enforcement improves and new forms of trafficking are discovered. It was also considered incorrect to identify a country or region as "source only" or "destination only" country or region. The reason given was that regions or countries can be used as source, transit and destination places depending on exploitable opportunities identified by traffickers, as well as the strategies intended to be used. This may explain why educated victims from relatively richer nations are found in relatively poorer nations

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of the world. Conditions which facilitate human trafficking in different regions of the world were also discussed and analysed in the chapter. These ranged from historical conditions, to geographic and socio-economic conditions, as well as political and cultural conditions.

Chapter four centered on human trafficking in the South African context as one of the country case studies. South Africa was predominantly identified as a destination country in the global and regional human trafficking flow. However, discussions and analysis in the chapter showed that South Africa is also a source as well as a transit country. This confirmed previous findings in chapter three that no country can be uniquely identified as "source", "transit" or "destination" only country in the human trafficking industry. The trafficking of women, men, girls and boys for sexual exploitation, labour exploitation, and human body parts, were specifically identified as major human trafficking trends in South Africa. Reference was also made to trafficking for, among others, the purposes of begging, and illegal adoption. Reasons for, and causes of domestic and international human trafficking, were examined. Accordingly, historical conditions relating to the internal trafficking of women and children; personal lifestyles; child-headed households; cultural practices; poverty; lack of parental supervision; and family disintegration, were identified as factors facilitating domestic human trafficking. Factors identified as facilitating international trafficking into South Africa, were historical conditions relating to the introduction of slavery and indentured servitude, as well as South Africa's geographical proximity to other countries and its relative political and economic stability. Other factors included the previous lack of specific legislation; the increase in tourism, especially sex tourism; the involvement of organised crime syndicates; and regional commitments.

The chapter reached the conclusion that the South African case study reflected the complexity of human trafficking as a global phenomenon. Therefore, as primarily a destination country, South Africa shares similar characteristics with other destination countries in the human trafficking industry. It was also concluded that although the factors that facilitate domestic trafficking may not necessarily facilitate international trafficking, overlaps do exist in many cases.

Chapter five discussed and analysed human trafficking in the Mozambican context as the second country case study. The country is predominantly considered a human trafficking source in the global and regional human trafficking flow. To a certain extent, Mozambique was however, also

shown to serve as a destination country as well as a transit route. This further confirmed the previous assumption that no country can be considered as "source", "transit" or "destination" only country, in the human trafficking industry. The chapter specifically identified the trafficking of women, men, girls and boys for sexual exploitation, labour exploitation, and human body parts, as major human trafficking trends in Mozambique. These trends were shown to have both domestic and international dimensions. Certain conditions identified as facilitators of domestic and international human trafficking were also examined in the chapter. Accordingly, historical conditions relating to the civil war; female and child-headed households; cultural practices; poverty; and family disintegration were identified as factors facilitating domestic human trafficking in Mozambique.

Specific reference to trafficking between Mozambique and South Africa was made in this chapter. Among factors identified as facilitating international trafficking from Mozambique to South Africa, were historical conditions relating to the introduction of slavery, and the use of Mozambique as a source of migrant labour for South Africa. Mozambique's geographical proximity to South Africa, corruption among public officials; insufficient political will; and poor implementation of anti-trafficking legislation, were other contributory factors as well. These factors were shown to be compounded by Mozambique's late ratification of international protocols relating to human trafficking, and the late development of national anti-trafficking legislation. The involvement of organised crime syndicates, and regional commitments were also identified as facilitators of human trafficking in the country.

As in the South African case, the Mozambican case study also reflected the complexity of human trafficking as a global phenomenon. Therefore, as a predominantly source country, Mozambique, exhibited similar characteristics with other source countries regarding human trafficking. Findings also showed that, unlike in destination countries, factors which facilitate domestic trafficking may also facilitate international trafficking in a source country context. Therefore, poverty, for instance, facilitates both domestic and international human trafficking in the Mozambican context.

Chapter six examined existing policies and legislation to address the crime of human trafficking on the global level and on selected regional and national levels. This entailed, at the global level, the examination of *the Palermo Convention*, and its supplementary protocols, specifically the

Palermo Protocol. The *Palermo Protocol* remains the main instrument on which regional agreements and national legislation regarding the combating of human trafficking are based. The major principles of this legislation are prevention, protection and support of victims, as well as prosecution of criminals. The definition of human trafficking provided in the *Palermo Protocol* is universally accepted and applied. In this chapter, criticism against the *Palermo Protocol* was however also noted. It is for instance criticised for not committing to evaluating the effectiveness of its frameworks and the impact of policies introduced by member states in fulfilment of their obligations. It is also criticised for lack of modalities for identifying and distinguishing human trafficking victims from illegal migrants. Consequently, human trafficking victims are often criminally prosecuted for illegal migration in several destination countries.

Chapter six further indicated that in the African context, there is presently no single and comprehensive protocol on human trafficking. However, it was noted that the AU has persistently encouraged its member states to ratify the *Palermo Convention* and its supplementary protocols. The absence of a single and comprehensive instrument on human trafficking does not however, imply a lack of interest in combating human trafficking in Africa. Several instruments that in part, deal with issues relating to human trafficking were therefore examined. These included, but were not necessarily limited to, the 2003 *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*, and the 2006 *Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children*.

Efforts at the Southern African level to combat human trafficking were examined too. This entailed an examination and analysis of the SADC *Protocol on Gender and Development*, and *The 10 Year Southern African Development Community Strategic Plan of Action on Combating Trafficking in Persons, Especially Women and Children* (2009-2019). The *SADC Protocol* deals specifically with human trafficking and has set benchmarks and time frames for the realisation of its stated objectives. Similarly, anti-trafficking policies and legislation in South Africa and Mozambique were also examined. The adoption of specific legislation in this regard by the two countries were considered as an indication of willingness to combat human trafficking and an

acceptance of the obligations stipulated in international instruments relating to human trafficking.

3 ASSESSMENT OF ASSUMPTIONS

Based on the research objectives and questions posed in the introductory chapter, three research assumptions were formulated for the study. These assumptions were as follows:

- Human trafficking is a security issue in Southern Africa and in South Africa and Mozambique specifically, both in terms of human and national security.
- Human trafficking is closely linked to organised crime and other forms of cross-border crimes such as illegal migration, as well as to the drug trade and the trade in illegal weapons and contraband goods.
- Human trafficking is not yet adequately conceptualised and prioritised by policy makers in South Africa and Mozambique.

The extent therefore, to which human trafficking constitutes a security threat will be examined through the testing of the main assumptions of this study in the subsequent sections.

3.1 Implications of Human Trafficking for Security

Assumption: "Human trafficking is a security issue in Southern Africa and in South Africa and Mozambique specifically, both in terms of human and national security"

To constitute a security issue, a given socio-economic and political phenomenon must have a "referent object" being threatened[2]. In this context, the state and the individual are the main targets of human trafficking. Thus, human trafficking creates insecurity for these referent objects. Insecurity as a broad concept has two inherent characteristics, namely, "vulnerability and threat"[3]. Threats refer to recognisable, immediate, clearly visible, and commonly acknowledged dangers to a state or society that requires quick response[4].

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Human trafficking constitutes a national security threat to South Africa and Mozambique through its intensity or extent of occurrence; nearness in time and space; high probability of occurrence; and reinforcement by historical facts. Intensity in this context implies the seriousness of human trafficking in South Africa and Mozambique. Measuring the intensity of human trafficking in these countries is difficult as the exact number of persons trafficked into, from or through South Africa and Mozambique is not known. Some estimates, however, attest to the seriousness of human trafficking in these countries. By 2003, it was estimated that between 850 to 1,100 women and children were trafficked into South Africa every year and about 1000 Mozambican victims were trafficked into South Africa annually[5]. Based on Hosken's estimate in 2004, upwards of 600,000 persons were trafficked into South Africa annually from countries such as Mozambique, Zimbabwe, Malawi, Swaziland and Lesotho[6]. Although the accuracy of these figures could not be ascertained in the study, they nevertheless point to the seriousness of human trafficking in these countries.

The intensity of a given social phenomenon as a threat to national and individual security is further determined by the specific nature of the threat. As a national security threat to South Africa and Mozambique, human trafficking specifically targets women and children, especially young girls. Findings however, show that men and boys are also targeted to a limited extent. Female victims are mainly sexually exploited. Forced labour, domestic servitude, human organ sales, and begging are also other forms of exploitation associated with human trafficking. Human trafficking threatens national security both internally and externally. In the case of South Africa, UNICEF and the UNODC in their reports found that young South African girls are trafficked not only from impoverished rural areas to wealthy urban areas, but also between major cities in South Africa to work as prostitutes[7]. The HSRC supported these findings in 2010 and also identified major domestic human trafficking flows and destinations in South Africa. These were Pretoria and Johannesburg (Gauteng); Rustenburg (North West); and Bloemfontein (Free State). Other trafficking routes and destinations identified included: Durban and harbour (KwaZulu-Natal); Cape Town and harbour (Western Cape); Port Elizabeth and surroundings (Eastern Cape); Musina (Limpopo), and Barberton (Mpumalanga)[8].

In Mozambique, two types of internal or domestic trafficking were identified in the study. The first is related to trafficking from rural areas to urban areas (rural-urban trafficking). Children,

especially girls are trafficked from rural areas of the country to urban areas where they are exploited in the sex and commercial industries, as well as sold to international traffickers[9]. Cities such as Maputo, Nampula, Beira, Chimoio and Nacala, were described as main destinations, and sources and routes of trafficking in the country[10]. The second type of domestic trafficking identified in the study is rural-rural trafficking. The external source of threat of human trafficking to South African and Mozambican national security, is based on the use of these countries as transit and destination countries by human traffickers from outside. Findings show that victims from Africa, Eastern Europe, Asia, and South America are trafficked to South Africa as final destination and most use Mozambique as transit route.

With respect to nearness in space and time, findings show that human traffickers live in the same geographical areas as victims, and in most cases are known to the victims. In addition, the use of the Internet for recruitment, electronically brings traffickers closer to victims, thus eliminating physical barriers. The process of globalisation also shortens and eliminates barriers of time and space, thereby placing traffickers in close proximity to victims. Nearness in space and time through physical and electronic presence as well as the hidden nature of the crime amplifies the frequency of human trafficking. Frequent occurrence of human trafficking has a direct impact on South African and Mozambican societies. For example, human trafficking results in depopulation, stigmatisation, and xenophobic reactions.

The threat of human trafficking to South Africa and Mozambique, is further amplified by historical facts. In South Africa, instances of rape, kidnapping, abduction, seclusion, and forced prostitution during the 19th and 20th Centuries, accentuate the historical roots of human trafficking. In Mozambique, the recent increase in human trafficking is also related to its civil war background and historical function as a source of cheap labour for South Africa[11].

The vulnerability of South Africa and Mozambique to the threat of human trafficking is premised on the multifarious and clandestine nature of the phenomenon as well as the easy permeability of their national borders. Findings show that porous borders are among the major facilitators of human trafficking in both South Africa and Mozambique. Significant parts of the Mozambican and South African borders with other countries are largely porous and unpatrolled for different reasons which include insufficient personnel and equipment. Human traffickers illegally cross these countries' borders relatively undetected. However, when detected, reports show that

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corrupt border officials of both countries often accept bribes and allow human trafficking to go on[12]. Illegal border crossing constitutes a violation of the sovereignty and territorial integrity of a state. Thus, it is argued that national security concerns are raised whenever there is a cause to unlawfully cross the borders of a country[13].

To a large extent, illegal border crossings constitute a national security threat because they negatively impact on the way of life of members of host communities. Resentment against the influx of undocumented migrants, among them trafficking victims, is often violently expressed in xenophobic attacks in countries such as South Africa. For this reason, human trafficking is considered a destructive crime that affects individuals and the state. As the number of persons affected increases, society as a collective and national security becomes increasingly negatively impacted[14]. Gallagher has argued, with respect to the adoption of the *Palermo Protocol* that, "…while human rights concerns may have provided some impetus (or cover) for collective action, it is the sovereignty/security issues surrounding trafficking and migrant smuggling which are the true driving force behind such efforts"[15]. Human trafficking also has the capability to cause diplomatic friction between countries[16].

When national security is threatened in the context of the state, human security is equally threatened because both are intricately interlinked. Human security, from its conceptualisation in chapter two, relates to an individual's political, economic (including food sufficiency), health, personal, environmental, and communal well-being. Findings from this study clearly indicate that human trafficking constitutes a threat to human security.

An individual's political freedom or security relates to his or her exercise of fundamental human rights as enshrined in international, regional and national legal instruments. Findings show that control over victims principally distinguishes trafficking from related cross-border crimes and is used to deny victims their natural rights such as freedom of movement, speech, association and communication[17]. From discussions and analysis presented in this study, victims trafficked into or through Mozambique and South Africa through deception and coercion are often secluded, auctioned off as commodities, or forced into prostitution to repay outrageous debts[18]. Seclusion deprives victims the freedom of movement. Auctioning off as commodities dehumanises victims, and forced prostitution depraves them of their free will as capable or rational choice making beings contrary to the requirements of human security.

The exercise of control through force, intimidation and abuse, seclusion, threat of blackmail and violence against victims' families, produces negative psychological effects on victims[19]. These coercive means instill fear and compel victims to obey and submit to the whims and caprices of traffickers. Other coercive methods such as confiscation of travel documents, especially of victims who travelled legally to destination countries, render victims vulnerable to exploitation and block access to state protection[20]. Zimmerman *et al*, confirmed that traffickers maintain control over victims by creating an atmosphere of fear and insecurity[21]. The UNODC further confirmed that traffickers deny victims the right to communication, especially with families through telephone or other means[22]. Limited or lack of interaction with the outside world minimises the risk of exposure, arrest and prosecution of traffickers by local law enforcement agents but increases the vulnerability of victims. All forms of isolation, exclusion and control lead to loss of the social support system, increased vulnerability and consequent reduction in the quality of life of individuals.

Findings further showed that control over victims, ensured through force labour and debt bondage, negatively impacts on victims' economic well-being in Mozambique and South Africa. The imposition of debt on victims and forceful demand for repayment through various working conditions similar to slavery, greatly impoverish victims. In contrast, human security requires individuals to have basic economic security in the form of a steady income from productive and remunerative employment or, in the absence of these, a state funded social support system. In essence therefore, human trafficking often denies victims access to gainful employment and a state funded safety net. Hard labour, and poor and hazardous working conditions also characterise the situations of trafficking victims, contrary to the requirements of human security that individuals live and work in safe, decent environments[23].

Human security also requires that individuals be provided basic protection from diseases and unhealthy lifestyles through access to basic medical services. However, findings from this study show that human trafficking exposes victims to the risk of contracting deadly diseases and adoption of unhealthy lifestyles. Death is common among victims who travel long distances and hours to their destination. In South Africa dead bodies of Thai nationals have been found on rail tracks[24]. Several Ethiopians have died on their way to South Africa as a result of exhaustion, dehydration, poor ventilation and lack of food and access to medical facilities[25]. Findings have

also shown that victims suffer from insomnia, depression, and post-traumatic stress disorder as a result of poor working conditions and positions of vulnerability[26]. In South Africa as well as in Mozambique drug use is forced on victims to form addiction and perpetual dependence on traffickers for support[27]. Drug use puts victims' personal lives in danger as it reduces their life expectancy. Trafficking for sexual exploitation exposes victims to the risk of contracting sexually transmitted diseases such as HIV/AIDS as well as other related communicable diseases such as tuberculosis and scabies[28]. Human organ trafficking results in death and incapacitation of victims, as evidence from Mozambique and South Africa shows[29].

In addition, medical and psychosocial symptoms such as depression and post-traumatic stress that victims experience, negatively impacts on them and their communities, as victims tend to exhibit withdrawal symptoms. In combination with stigmatisation, symptoms such as these prevent victims from making meaningful contributions to their communities[30]. Evidence further shows that some victims do not return to their communities again[31]. Thus, human trafficking exposes individuals to the loss of socio-cultural relationships and values. This is contrary to the requirements of human security which requires individuals to be protected from the loss of traditional relationships and values, and from sectarian and ethnic violence.

It is therefore argued that the assumption that human trafficking constitutes a threat to national and human security can be verified in terms of the criteria for identifying threats as discussed in the conceptual framework. However, it was also pointed out in the study that a social phenomenon can only constitute a formal security issue if "securitising actors" of the state endorse this. In this regard, the extent to which human trafficking has become securitised in South Africa and Mozambique will be assessed in the discussion of the last assumption in this section.

3.2   Human Trafficking and Transnational Organised Crime

Assumption: "Human trafficking is closely linked to organised crime and other forms of cross-border crimes such as illegal migration, as well as to the drug trade and the trade in illegal weapons and contraband goods".

In 2004 the UN Panel on Threats, Challenges and Change identified six clusters of threats which pose an imminent danger to the world[32]. Transnational organised crime was identified together with inter-state and internal wars; nuclear, radiological, chemical and biological weapons; as well as terrorism, as threats to national, regional and international security[33].

In chapter two, it was shown that human trafficking formed part of transnational organised crime. Therefore human trafficking linked to transnational organised crime constitutes a threat to individual as well as national security in Mozambique and South Africa. Findings from this study indicate that organised crime groups in Mozambique and South Africa engage in human trafficking; drug trafficking; money laundering; motor vehicles theft; illegal weapons trafficking, and the obstruction of justice[34]. It is also evident from the study that organised criminal groups from Russia, Asia, and Africa are involved in the trafficking of victims from Russia, Thailand, China, Pakistan, Congo, Ethiopia, and other African countries into and through Mozambique to South Africa. Transnational organised criminal groups are also involved in human organ trafficking in South Africa as well as in Mozambique. Thus, cases of death and physical incapacitation as a result of mutilation for human body parts are reported in both countries. In this regard, a former South African Minister for Safety and Security once stated, with specific reference to the Southern African region and South Africa that[35]:

> Organised crime is a problem in South Africa and in its SADC neighbours, just as it is a problem in most countries of the world. The government is well aware of the fact that the consequences could be disastrous for good governance and the economy in the absence of the political will to confront the phenomenon head-on with all the might and ruthlessness that can be summoned. It could lead to the perception, for instance, that government is weak and that its law enforcement agencies and the judiciary are incapable of standing up to the security threat posed by organised crime…

It is also further stated that organised crime encourages corruption and creates opportunities for public officials to serve their own interests rather than those of the state thereby undermining the security and integrity of the state[36]. Job also asserted, with specific reference to African

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countries, that "corruption and resource mismanagement affect internal security to the extent that these two vices undermine the ability of the nation to create the appropriate internal conditions for promoting national aspirations and satisfying the needs of the people"[37]. Findings from this study further show that human traffickers bribe South African and Mozambican immigration, police and border officials to carry out their activities.

Corruption among public officials has a negative impact on a country's domestic and international standing and by extension on its national economy[38]. This is often the case when organised crime undermines the national economy by creating parallel economies in a country. The creation of parallel economies impacts on a country's stock market activity and consumer interests as illegal economic activities compete with legitimate businesses[39]. The existence of parallel economies discourages foreign direct investment, and the ability of a state to conduct legitimate businesses through its institutions. Human trafficking in conjunction with other transnational crimes, disrupts societal stability. On the basis of this, the assumption that human trafficking is closely linked to organised crime can thus be verified.

3.3 Human Trafficking Conceptualisation and Priorisation in South Africa and Mozambique

Assumption: "Human trafficking is not yet adequately conceptualised and prioritised by policy makers in South Africa and Mozambique"

In chapter two, various conceptualisations of human trafficking were considered. While ontologically, human trafficking shares similar characteristics with crimes such as human smuggling and slavery, trafficking is fundamentally different from these crimes. In this regard, the conceptualisation of human trafficking provided in the *Palermo Protocol* was adopted as a guide to this study on the basis of its universal acceptability.

The *Palermo Protocol* therefore provides the legal and policy basis for global, regional and national campaigns to combat human trafficking. South Africa and Mozambique were among early signatories to the protocol and have adopted national legislation criminalising human trafficking as mandated in the protocol. Findings from this study show that the conceptualisation

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of human trafficking in the South African and Mozambican national legislation, is not fundamentally different from that provided in the protocol. South Africa and Mozambique are also signatories to African legal and policy instruments directly or indirectly relating to human trafficking. For example, both countries are signatories to the *SADC Protocol* and *SADC Plan of Action* relating to human trafficking. These instruments were adopted to give effect to the *Palermo Protocol*. On the basis of being signatories to important global and African instruments relating to human trafficking, South Africa and Mozambique accept the conceptualisation of human trafficking provided in the *Palermo Protocol*. On the basis of this, it cannot be asserted that human trafficking is not yet adequately conceptualised in South Africa and Mozambique. The first part of the assumption that human trafficking is not yet adequately conceptualised in South Africa and Mozambique, can therefore not be verified.

The perception of a socio-economic and political problem by state officials, determines its position in the state's scale of prioritisation or allocation of scarce resources. A highly prioritised socio-political problem attracts commensurate political will and allocation of resources to address it. Political will in this regard, connotes not only the recognition of the seriousness of the problem and the introduction of comprehensive legislation to address it, but also the allocation of sufficient material, human and financial resources to combat it. Based on the theory of securitisation, the prioritisation of a social phenomenon as a security threat is a determination of the state through its leaders or "securitising actors". Thus, while countries such as the US have declared human trafficking, a national or homeland security threat through their securitising actors[40], South Africa and Mozambique have not explicitly declared human trafficking a national security threat.

However, South Africa and Mozambique are concerned over the impact of illegal migration on their national security. For example, in Mozambique, illegal migration and maritime piracy are seen as national security threats by its national leadership[41]. In South Africa also, illegal migration and organised crime are considered as constituting security concerns. Although the leadership of both countries failed to explicitly declare human trafficking a national security threat, discussions and analyses in this study show that human trafficking is embedded in illegal migration[42]. Furthermore, certain governmental actions also point to the seriousness of human trafficking embedded in illegal migration in both countries. The South African National Defence

Force (SANDF), is deployed along South African borders with, for instance, Lesotho, Mozambique, Swaziland and Zimbabwe to protect the country against illegal migration and cross-border crimes[43]. States deploy military forces as a measure of last resort to counter threats to national security. Thus, even without the "speech act", human trafficking, generally considered as part of illegal migration, is seen as a security issue in South Africa and Mozambique.

Furthermore, in a globalising world, the state is no longer considered as the sole provider of security[44]. In this regard, securitisation of socio-economic and political problems with national, regional and global ramifications is no longer the exclusive prerogative of state actors. Multiple actors in the international system now engage in securitisation and in the provision of security[45]. Evidence from South Africa and Mozambique indicates that states rely on NGOs to a large extent, in fulfilling the obligations of victim protection as mandated in the *Palermo Protocol*. It was also evident from the study that international organisations such as the IOM, concern themselves with threats to human life and dignity that can coincide with migration, and most importantly with the phenomenon of human trafficking. Apart from state actors therefore, non-state actors, do not only initiate securitisation, but also implement emergency measures to reduce serious threats to human life[46]. Practical initiatives in this direction include the establishment of rescue and rehabilitation centers for victims of human trafficking by NGOs in Mozambique and South Africa. These actions form an important aspect of securitisation. Therefore, the IOM and other international organisations, through their pronouncements and practical actions in assisting South Africa and Mozambique to deal with human trafficking, have in the process securitised the phenomenon in these countries.

Based on another component of securitisation that when a specific threat continues to occur, counter measures and sense of urgency becomes institutionalised by the state[47], it can also be argued that human trafficking constitutes a security threat to South Africa and Mozambique. Institutionalisation of counter measures and sense of urgency implies the adoption of specific legislation; creation of special agencies; increased budgetary allocation, deployment of military forces, rehabilitation, and prosecution to address a given threat[48]. South Africa and Mozambique have institutionalised counter measures to combat human trafficking. Both countries are signatories to the *Palermo Protocol*. Both countries have national anti-trafficking legislation, and

special units within their law enforcement services and national plans of action to specifically combat human trafficking[49]. Although evidence indicates the insufficient provision of funds to combat trafficking in both countries, this is counterbalanced by increased collaboration with NGOs and institutions such as the IOM and the UNODC, which has led to the creation of special rehabilitation centers to meet the needs of trafficking victims[50].

To some extent therefore, human trafficking is securitised in South Africa and Mozambique but this has not been explicitly declared by the leaderships of both countries. The second part of the assumption as formulated can therefore be partially verified, namely, insufficient prioritisation of human trafficking in South Africa and Mozambique by policy makers.

The argument regarding how human trafficking constitutes threat to national and human security in South and Mozambique is further reflected in Figure 1.

Figure. 1 Human Trafficking Securitisation Process
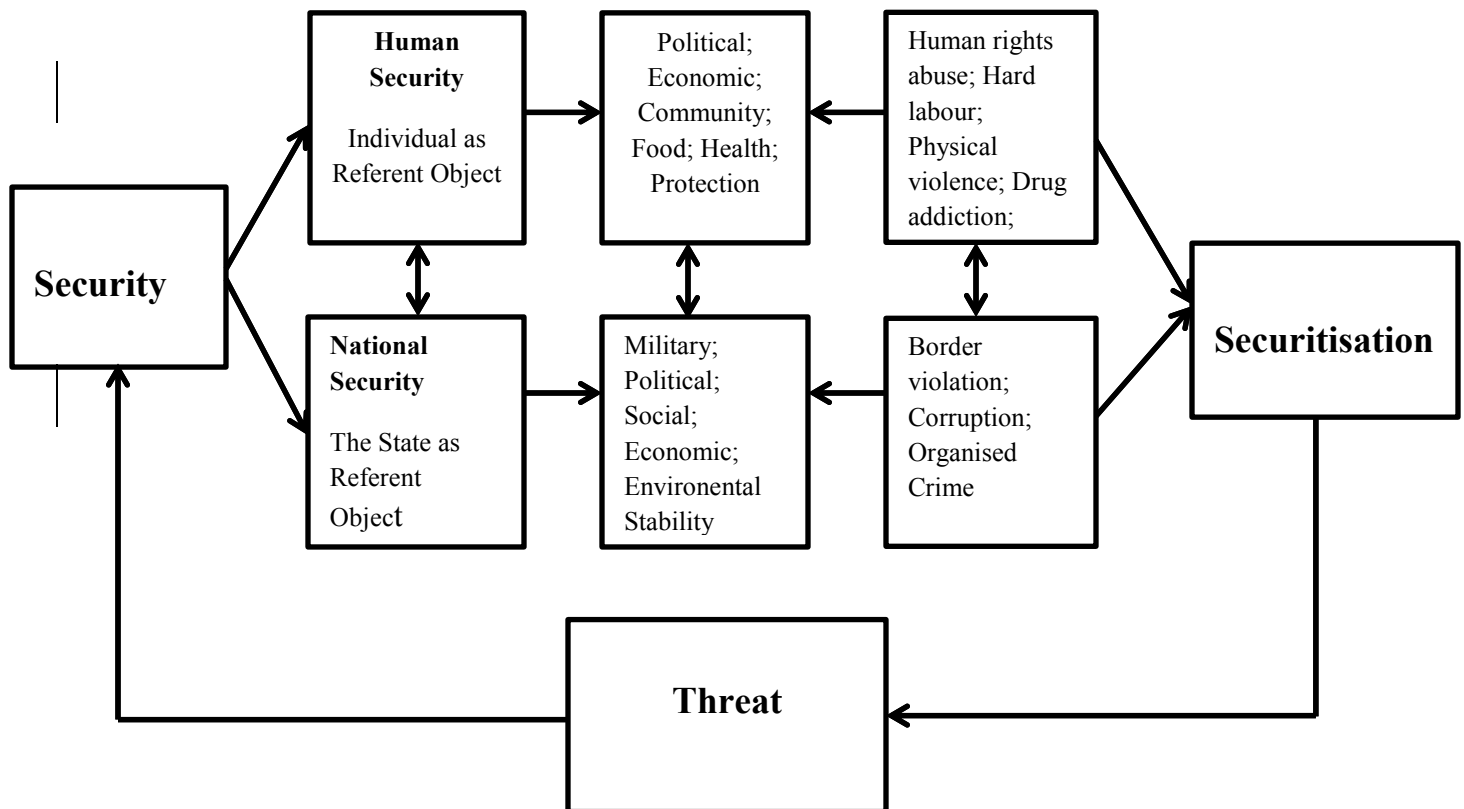
5   **CONCLUSION**

Human trafficking does not, for instance, have the potential to cause large scale physical destruction of lives and property in South Africa and Mozambique, in the same way that an external or internal military attack can. What is clear however, from this study, is that human trafficking poses a threat to the political, social and economic systems of South Africa and Mozambique. Thus, the violation of national borders; the involvement of organised crime; corruption of border officials; the denial of freedom of movement; and the use of physical violence against victims by traffickers, are dimensions of human trafficking that have serious implications for individual and national security. Similarly, national security concerns caused by human trafficking underpin the adoption of the *Palermo Protocol*, and similar agreements in Southern Africa, as well as national anti-trafficking legislation in South Africa and Mozambique specifically.

Human trafficking will remain an ongoing issue for a long time, because the underlying causes of the phenomenon tend to endure although more emphasis than before is being placed on combating it globally. Human trafficking affects all countries in Southern Africa and no country can effectively combat the phenomenon on its own. Considering the multi-faceted nature of the phenomenon, its enduring causes and global dimensions, it is recommended that, South Africa, Mozambique, and other Southern African countries reprioritise human trafficking on their scale of policy preferences. This will require the declaration of human trafficking as a national security threat.

Declaring human trafficking, a national security threat would also entail finding the requisite political will to deal with the phenomenon. Findings from this study indicate that one of the causes of human trafficking is ineffective implementation of legislation directly or indirectly dealing with human trafficking. Ineffective implementation of legislation may indicate the absence of adequate human and material resources to deal with the problem. Most importantly; however, it also indicates the lack of political will on the part of the state. Adequate allocation of resources and support to special units dealing with human trafficking will signal a willingness to combat the phenomenon. In addition to this, it is also necessary for South Africa and Mozambique to improve measures with respect to criminal prosecution, border protection, intelligence gathering, and the campaign against corruption.

Considering the regional and global dimensions of human trafficking, it is also necessary that Southern African countries establish, maintain and strengthen international counter-trafficking co-operation among themselves and international partners, as recommended in the *Palermo Protocol*. International co-operation would lead to the enhancement of the anti-trafficking capabilities of Southern African countries, especially South Africa and Mozambique. The effective implementation of the *SADC Plan of Action* should also be considered necessary, as well as the expansion of initiatives such as the Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO) to increasingly include intelligence sharing on human trafficking.

Finally, in addition to regulating Internet sources and contents relating to human trafficking, Southern African states should also introduce poverty alleviation measures tailored toward addressing the needs of groups most vulnerable to human trafficking. Where these measures are already in place, it is necessary to improve, sustain and effectively implement them. This is necessary because the law enforcement approach presently relied upon to combat human trafficking is not sufficient to effectively address the problem. Therefore, improving the living conditions of groups vulnerable to trafficking, as a complementary measure, will be the most enduring approach to combating the global phenomenon.

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2.5   THESES AND DISSERTATIONS

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ABSTRACT

This study examined and analysed human trafficking as a security issue using South Africa and Mozambique as country case studies. Information gathered through documentary analysis methodology is relied upon to develop a conceptual framework of human trafficking and security. The link between trafficking and security is evaluated based on the conceptualisation of trafficking in the *Palermo Protocol* as well as the criteria for declaring social phenomena security threats, as articulated by the UN and several scholars. Through global and national overviews of human trafficking, its patterns, extent and enabling conditions are identified and analysed. In South Africa and Mozambique, human trafficking has domestic and international dimensions and is facilitated by several factors. However, factors facilitating domestic trafficking do not necessarily facilitate international trafficking in South Africa. The opposite is however, the case in the Mozambican context. An analysis of global, regional, and national counter trafficking measures, shows that the national security implications of human trafficking are not explicitly addressed. Trafficking involves national border violations; organised crime; corruption, and physical violence which have implications for security at all levels. Consequently, recommendations are made for the explicit securitisation of trafficking as well as the demonstration of sufficient political will to combat it. Regional and international co-operation is also considered necessary to combat trafficking, as well as prosecution of offenders and the introduction of poverty alleviating measures.

<u>Key Terminology</u>: Human Trafficking; Human Organ Trafficking; Labour Trafficking; Mozambique; Mozambique and Trafficking; Security; Security and Trafficking; Sex Trafficking; South Africa and Trafficking; South Africa; Southern Africa and Trafficking; Trafficking.