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**South Africa's counter human trafficking approach: global commitments,
domestication, progress, and challenges.**

By

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A dissertation in fulfilment of the degree master's in development studies

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Plagiarism declaration

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ABSTRACT

This study discusses South Africa's commitment to combat the scourge of human trafficking, a pervasive global crime with profound economic and social repercussions. The illicit trade in humans not only results in remittance loss and economic setbacks but also inflicts severe human rights violations. Recognising the intricate nature of this borderless crime, global cooperation emerges as a critical component in its mitigation. Drawing upon diverse perspectives such as gender and human rights, this research explores the multifaceted complexities of human trafficking on a global scale. Within the South African context, the literature portrays the nation as a trafficking hub, attributed to its attractive economy in the continent, internal crime-fighting loopholes, and porous borders that collectively create an environment conducive to criminal activities. A comprehensive methodology was employed, primarily relying on secondary research. The researcher conducted an analysis of existing literature on human trafficking, drawing from diverse sources such as journals, books, newspapers, and official documents related to the subject.

Recognising the limitations of existing literature, key informant interviews were conducted to supplement the information gathered from conventional sources. These interviews involved ten individuals, including academics, officials from Organisations engaged in combatting human trafficking, and law enforcement agents. The findings derived from document analysis, particularly examining official documents from the South African Police Service (SAPS) and other parties shed light on the efforts made by the SAPS in supporting the government's commitment to global objectives in the fight against human trafficking. The outcomes of the study reveal that South Africa has taken significant steps in combating human trafficking, as evidenced by its commitment to global objectives and cooperation with international and regional member states. The country, as a human rights advocate on the continent, has actively participated in early and present ratifications focused on protecting human rights. However, the research also identifies policy challenges that South Africa faces in addressing the rising crime rate associated with

human trafficking. Despite these challenges, the government persists in collaborating with international partners to curb this crime, emphasising the continued importance of a coordinated global effort. This thesis contributes to the ongoing discourse on human trafficking by providing an examination of South Africa's endeavours in countering this crime. The findings underscore the need for ongoing collaboration and the development of effective strategies to address the challenges posed by human trafficking, thereby advancing the collective effort to combat this grave injustice against humanity.

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LIST OF ACRONYMS

UN	United Nations
UNICEF	United Nations International Children’s Emergency Fund
UNODC	United Nations Office on Drugs and Crime
StatsSA	Statistics South Africa
SAPS	South African Police Service
Hawks	Directorate for Priority Crime Investigation
GLO.ACT Migrants	Global Action Against Trafficking in Persons and the Smuggling of
NPA	National Prosecuting Authority
ILO	International Labour Organisation
IOM	International Organisation for Migration

CHAPTER ONE

BACKGROUND OF THE RESEACH PROBLEM

1.1 Introduction

This study is about human trafficking and South Africa's approach to the human trafficking crisis. It seeks to assess the country's global commitments and the extent to which it has domesticated provisions of the United Nations' global protocols and conventions in countering the scourge of trafficking. It further seeks to investigate the country's progress in countering human trafficking within its borders and to improve our understanding of the complexity and challenges in fighting a crime. In this regard, it carries significant lessons for stakeholders involved in the fight against human trafficking in the country as they grapple with finding effective strategies to combat this scourge and injustice against humanity.

South Africa is particularly a good case study because of its political and economic position in the region. More importantly, its geographical position and status as a transit country for many people. In addition, the country is a migrant-receiving country which has made it a hotspot for human trafficking crimes. To gain a better understanding of the subject, the study adopts a qualitative approach employing both secondary and primary research methodologies. This introductory chapter starts by describing the research problem, followed by an outline of the research objectives, the research questions that the study seeks to answer, and the significance of the study. Secondly, a brief review of local literature related to South Africa will be conducted. These steps seek to provide a contextual understanding of the problem in the country. Lastly, a brief outline of the dissertation will be provided which highlights the focus of each of the chapters presented in the dissertation.

1.2. Framing the research problem

The challenge of human trafficking has become a new pandemic across the globe and has sparked debates and policy actions by concerned actors and governments alike. The United Nations Office on Drugs and Crime explains that human trafficking is the recruitment, transportation, transfer, harbouring, or receipt of people through force, deception, and fraud, intending to exploit them for profit (UNODC, 2020). This definition is adopted differently where different elements are added varying with each specific context on what to include and what not to. Such complexity already creates an opportunity for perpetrators to often operate unnoticed making it difficult to discover the crime too (Office for Victims of Crime Training and Technical Assistance Centre, 2018). Moreover, human trafficking holds the potential to destabilise communities and in turn exacerbate conflict and undermine development.

Within the commitments of security forces and peacekeepers, it is a problem that undercuts the ability of international institutions to carry out their missions of promoting peace and stability (Godzaik, 2021). The new report from the Women and Foreign Policy Program points out that human trafficking is fast becoming a violation of human rights across regional, ethnic, and religious lines (Council on Foreign Relations, 2019). With these perceived threats to security, global concerns and initiatives have come in the form of advocacy by international Organisations for collaborative efforts of various regions in the fight against human trafficking. This calls for individual states to adopt mechanisms that will prohibit ill human trading activities, particularly those states in Africa where these activities are prominent (Onuoha, 2011:154). The various regions in the African continent, particularly sub-Saharan Africa, have been seen as human trafficking hot spots. This is because of a variety of migration configurations, including cross-border movements, contract workers, Labour migrants, and the migration of skilled professionals, refugees, and displaced persons (Adepoju 2005:79).

States in the region are said to be vulnerable to human trafficking because of certain internal factors such as challenges of governance, civil strives, unemployment, etcetera,

which leave these states exposed (Onuoha, 2011). In the South African context, despite it being a global player for human rights, it is one of the countries in the region that has been identified as a source, transit, and destination country for men, women, and children subjected to forced Labour and sex trafficking (Van der Watt 2018: 5). Several states have signed the UN anti-trafficking protocols and conventions, and South Africa is one of the parties committed towards finding solutions to the problem. Parties to these conventions have domesticated some of the provisions of these regulations through legislation, which Criminalises human trafficking. South Africa constitutes an excellent case study for understanding the domestication of provisions of these UN Protocols and progress in the fight against human trafficking for several reasons.

Firstly, as literature has noted, a combination of geographical, economic, and social conditions makes it a primary destination for victims of human trafficking. Its economic power and position in the sub-Saharan region have made it a destination of choice for migrants, refugees, and traffickers (Allais 2013:19), while its geographical position also makes it a point of transit (Chaung 2006:34). Secondly, its position makes it more attractive to organised crime. It is not only its geographical position but the high crime rates within South Africa that make it more conducive for perpetrators. The Global Organised Crime Index shows that South Africa is a hotspot for crimes like drug and arms trafficking, and its crime rate is over the international average for crime Kruger (2016:321). It further points out that the presence of illicit markets allows transnational Organised crime to function using the local networks to perpetrate the crime (Allais 2013:28).

A recent publication by Qukula has identified human trafficking as being on the rise in South Africa and Gauteng Province appears to be leading on the list of hot spots (Qukula, 2022). Finally, human trafficking remains elusive because the crime is often hidden. Although shackles on their hands are invisible, the crime is hidden in plain sight whereby victims can even socialise with others in a community and never show signs of being trafficked (Respect International, 2019). Moreover, the recording of the crime is usually integrated into the data of other crimes such as prostitution, sexual assault, or rape (Allais 2013:22). Such complexities blur the existence and severity of the crime and for such it allows the crime to continue unnoticed. One needs to understand the impacts of this crime

that it is not only limited to the individual victimised, but the crime also has a negative bearing on a country's social security.

With regards to South Africa, it already has less investment in social security development, and with such it becomes more prone and less equipped to quickly cope with the crisis (Patel 2018:99). South Africa, thus, has an important role to play in efforts to counter human trafficking, and it is important to understand the country's approach and progress in domesticating international norms. The study is focused on understanding her global commitments, how these have been domesticated in terms of both policies and implementation and the progress achieved thereof, and the challenges encountered.

1.3. Research objectives and questions

Research objectives

The research seeks to achieve the following objectives:

- To analyse the South African government's international commitments in the fight against the challenge of human trafficking.
- To explore measures adopted by the South African government to domesticate international trends in countering human trafficking.
- To investigate the challenges encountered by the country in fighting the crime of human trafficking.

Research questions

- What are South Africa's global commitments in the fight against the problem of human trafficking?
- What measures have been implemented to domesticate global trends in counter-human trafficking?
- How successful has the South African government been in countering human trafficking within the country's borders?

- What are the challenges encountered in fighting human trafficking in the country?

1.4. Significance of the study.

Trafficking in persons represents a multifaceted and expanding global dilemma demanding a comprehensive examination and concerted response. Its pervasive nature transcends regional and national boundaries manifesting as a complex web that spans countries and affects them as places of origin, transit, or destination (UN, 2019). The intricacy of this crime necessitates an in-depth exploration encompassing its nature, existing policies, and the challenges encountered in both implementing and enforcing laws to combat trafficking. In the context of this study, a profound understanding of these aspects is deemed essential not merely for academic scrutiny but as a vital foundation for cultivating informed awareness and robust prevention campaigns.

The research journey is also a personal commitment to unravel the complexities surrounding human trafficking, recognising it as an urgent societal concern. Beyond academic curiosity, the aim is to contribute to the discourse by shedding light on the nuanced aspects of this crime, laying the groundwork for more effective training. More so, scholarly views opined research around this theme allows for enhanced training, identification of links between source and destination countries together with improved and informed investigation and prosecutions (Rankin & Kinsella, 2011). Therefore, the researcher's opinions and analysis based on existing literature and other resources on this topic allow to underscore the significance of addressing human trafficking comprehensively. Also, inspiring greater awareness, and advocating for tangible measures to combat this act on violation of human rights.

1.5. Human trafficking in South Africa

Narrowing down to the South African context, human trafficking proves to be a lucrative crime that continues to ply its trade with impunity. As published in an official newspaper The Mail & Guardian, it was pointed out that according to the latest Trafficking in Persons annual report, the number of people trapped in human trafficking in South Africa doubled, from April 2021 to March 2022, 83 people were trafficked in South Africa compared to the 16 who had been trafficked the previous year (Stoltz, 2022). The most recorded forms of human trafficking in South Africa, include sex trafficking, child labour, domestic servitude,

organ smuggling, child brides, illegal child adoptions, and debt bondages (Dewhurst, 2017). Furthermore, the internally trafficked victims are usually targeted from the economically poorer provinces such as the Eastern Cape, the Northern Cape, and the Free State, after which are then brought to cities such as Durban, Johannesburg, and Cape Town (Dewhurst, 2017). It is also noted that trafficking in South Africa has two dimensions which are internal and external. Internal trafficking involves recruitment and transportation of persons especially children and women in the country from the remote areas to cities for exploitation purposes (Molema 2013:31).

The external dimension involves the recruitment and transportation of persons from other countries into South Africa for exploitation. With this, both documented and undocumented migrants, mostly but not limited to the Southern African Development Community, move to South Africa and end up being exploited (Southern African Development Committee, 2023). It is important to discuss the community misinformation that human trafficking perpetrators are usually foreigners. The reality of the matter is that even some South African nationals are actively involved in outsourcing victims of trafficking. South African crime syndicates are also reportedly involved in human trafficking of both labour and sex trafficking forms intertwined with other cyber and drug crimes (Human Science Research Council, 2010).

Furthermore, according to the 2004 report on human trafficking by the South African newspaper, Independent, nearly 900 000 people get smuggled across borders as sex slaves, child Labourer, and illegal organ donors, and almost 75% of this number pass through South Africa yearly (Najemy 2010:173). However, these statistics have been critiqued for their reliability and they cannot be entirely relied on. Literature shows that the exact scope and statistics on human trafficking in South Africa are uncertain due to the few official statistics verified relating to human trafficking (Tsiriledzani, 2010). Moreover, accounting for this is the absence of an electronic database as the information is being collected manually making it more difficult to get close to statistical accuracy. It is also essential to note that until December 2007, various pieces of legislation were used to prosecute human trafficking perpetrators (Kruger 2010:10). Despite the statistical

imbalances, some non-state parties involved in fighting human trafficking in South Africa have however helped in providing data on the crime as represented in the diagram below.



Fig 1: Statistics of human trafficking for the year 2020. (Source: PEXELS, 2020)

Scholarly views also put forward assertions on human trafficking happening internally in South Africa attributing it to the country's past, present, deep, and dense structural inequalities (Van der Watt 2018:6). One can agree that South Africa's embedded inequalities and divisions in economic and social currency make the crime lucrative

internally as it becomes feasible to prey on victims looking for opportunities as has been discussed above. Moreover, the researcher adds that South Africa is well known for its internal crime rate and proven records that rank South Africa with a criminality score of 6.63 out of 10 and rank number 19 out of 193 countries globally (News24, 2021). Arguments are brought forward by scholars asserting that there is overwhelming research on sex trafficking regarding South Africa overlooking other forms of Labour trafficking, and worse still the media portraying it in a way that audiences perceive human trafficking as only under the bounds of sex trafficking (Check, 2013).

Moreover, in terms of the trafficking forms, as highlighted before, South Africa has recorded a high number of victims of sex, organ donor, child, and forced Labour forms of trafficking according to national statistics summaries. This section briefly discusses these forms below in a South African context.

1.5.1. Sex trafficking

In South Africa, sexual exploitation of both women and children as increased, and victims are trafficked and used as sex slaves for commercial purposes. The new trends show that the target victims are falling within the age range of 10 and 14 years old (Child Welfare South Africa, 2022), and being subjected to the new trend of 'survival sex', where sex is exchanged for necessities such as food, shelter, or even debt settling owed by a family member.

This sex trafficking crime has its hotspots in South Africa, and it appears that the Johannesburg Centre, Saxonwold, and Sandringham suburbs are the heated-up centres for the sex trafficking hubs (U.S. Department of State, 2023). Commercial sex is not only limited to local women but also reports state that there are some trafficked women from Lesotho being forced to work in brothels where they are exploited (U.S. Department of State, 2023). This is evidence that the crime is not only limited to South Africa, but rather confirms that it is a borderless crime. The prominence of consumer-level demand for commercial sex was evident in potentially thousands of sex buyers who used the services of adult and child victims of sex trafficking (Masweneng, 2023). The crime therefore

thrives, because of a high market demand which is an area of interest that needs more firm policy to deter and discourage the said consumers.

1.5.2. Organ trafficking in South Africa

In trying to evade the legal procedures that are deemed less profitable, traffickers utilise black markets for organs and the scandals of attaining the organs are largely owed to human trafficking. In Vermooten's research, he gave reference to the KwaZulu Natal case where a prominent hospital was involved in more than 100 illegal transplants, five of which involved removing organs from minors (Women's Health, 2017). Beyond trafficking for transplants, South Africa also has cases of organ trafficking used for *muti* purposes. In The Citizen it was published that victims are lured with promises of jobs but when they arrive at the destination they would be abducted and taken away to have their body parts cut off (IOM, 2020). In South Africa the most common traditional practice by muti murders is another source factor in which offenders end up in the tides of human trafficking organs for rituals.

Muti murders are described as a murder where the intention is to gather human body parts for use in traditional African medicine and capturing the life essence (Minaar, 2001). Victims are usually selected to fulfil the criteria required for the necessary body parts and in this instance, they target mostly black people both male and female (Labuschagne, 2004). In these cases, it is mostly a crime committed against a relative or friend, an individual known to the offender. However, these murders in South Africa are recorded under the general categories of murder. As such, it is difficult to determine the extent of such crimes of organ trafficking making it seem invisible (Labuschagne, 2004). Unfortunately, as highlighted above, the statistics on organ trafficking are barely recorded, they are generalised as murder, which makes it look like organ trafficking is barely committed.

1.5.3. Child Labour

In 2021 September, between 2018 and 2021 only 781 African children were recorded as victims of child trafficking in South Africa (Statistics South Africa, 2022). These are high numbers that indicate the severity of the crime within the country and an indication that there is high demand for their Labour. In a policy brief, it was highlighted that child trafficking in South Africa has become a central concern for both state and non-state agencies (Van der Watt 2020:66). It is put across that there are extremely high numbers of children being trafficked mostly for sex work, and among the victims are the unaccompanied migrant children that face vulnerability to exploitation, violence, abuse, and restricted access to documentation (Frankel, 2016). One can add the migrant children are sometimes undocumented for example the well know system of illegal entry of Zimbabwean migrants into South Africa. Such migrants are easy prey of traffickers that offer to assist them to get access in South Africa and later pay with Labour upon successful entry.

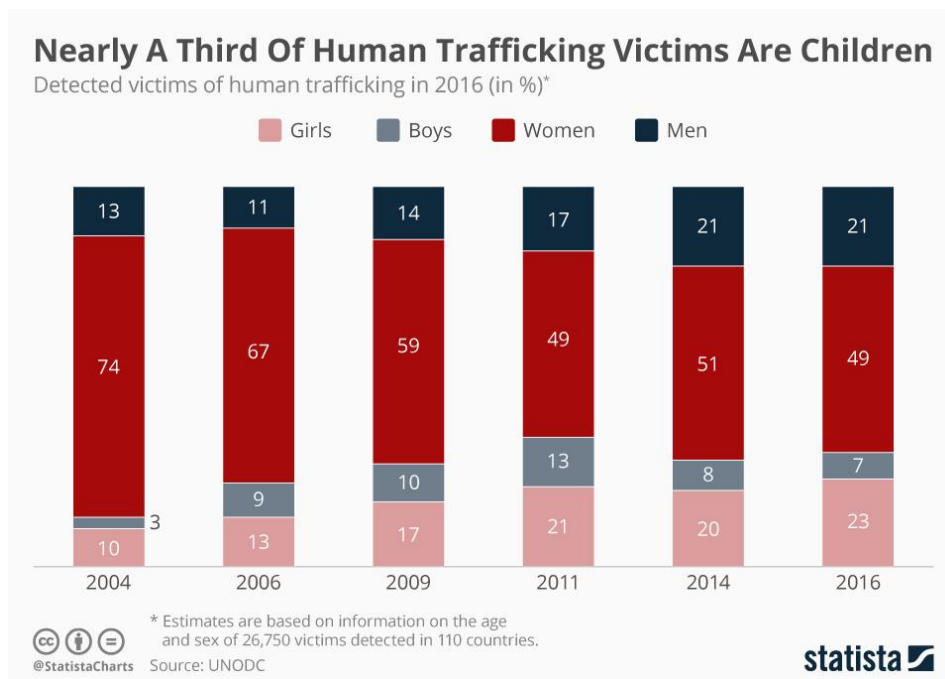


Fig 2: A bar chart illustrating the statistical representation of trafficked groups (Source: UNDOC, 2016.)

The researcher deduced that the absence of legal travel documentation heightens their vulnerabilities as migrants. From experience, as a witness, while traveling to South Africa by bus, several children were being smuggled in a truck full of luggage from Zimbabwe as they did not have legal travel documents. One can also point to the factors inclusive of poverty, lack of education, and awareness as contributory factors that expose children to such crimes. According to Margaret Stafford, the Salvation Army's anti-trafficking campaign put out to the public that they had about 20000 to 30 000 children prostituted (Wilkinson and Sintha, 2013). Although this assertion has been argued against, the reality of the matter is that child trafficking in South Africa is indeed present and like any other form of trafficking it is misrepresented in the statistics which blurs the reality of the crime.

1.5.4. Data on South Africa's human trafficking

South African statistics on human trafficking are labelled as unreliable due to the absence of a formal dataset. With the contributions from actors working on curbing human trafficking, there are some statistics that have been used. However, the indication from the South African Police Service documents shows that about 23 803 people that were reported missing still have their cases unaccounted for without knowledge of what happened to them (Van der Watt, 2018:20). The statistics fluctuate from time to time, which overall has proven problematic in coming with comprehensive research and for purposes of policy formulation. The absence of formal data that can be relied on has had detrimental effects to South Africa's success in combatting human trafficking. It further creates difficulties in understanding the different forms of trafficking. For the sake of further understanding the nature of crime within South Africa, the following section discusses the causes of this crime.

1.5.5. Contributing factors of human trafficking in South Africa

It has been proven that among many causes of human trafficking, discussed below are the most common causes within the South African context.

1.5.6. Poverty and inequality

According to the Borgen Project, potential victims attempt to move from areas with extreme poverty to areas less impoverished (Borgen Project, 2015). In these instances,

potential victims desire to migrate to escape poverty hoping to find greener pastures abroad or in nearby cities. Those suffering from poverty are purposely targeted by traffickers and it becomes easier to prey on poverty-stricken areas by giving them false hope for job prospects (Wright, 2015). Even without relocating, individuals in poverty-stricken areas have a high probability of being victims of labour exploitation.

In South Africa some victims working as domestic workers may not be aware that they are exposed to trafficking, because they earn salary. Furthermore, in some instances, victims are told to work as payment of debts and repercussions include violence, police involvement, or immigration (Martnac, 2021). The 2022 South African Census published that approximately 49,2% of its population was living below the upper-bound poverty line (Statistics South Africa, 2023). With such statistics provided, it is understood that the poverty factor creates more vulnerability for trafficking victims that are easily lured.

1.5.7. Gender discrimination

The issue of gender discrimination is dominant and contributory in intensifying the socio-political problems of any kind. This also applies to the crime of human trafficking; the factor has been argued for as the main basis of the crime from which it stems from, stating that human trafficking is a gender-based crime. According to the American Psychological Association, every 7 in 10 human trafficking victims are women and girls (Novotney, 2023). In South Africa, cases of gender-based violence that extend to murder are high, with a total of 1485 attempted murders of women in the first quarter of 2023 (Statistics SA, 2023). Such condition further promotes the breeding of the human trafficking culture within South Africa coupled with the pre-existing patriarchal structures. Also, as acknowledged by the United Nations Secretary-General Report on trafficking, “the trafficking harms are more severe for women and girls than for men and boys, and these are most trafficked for sexual exploitation and forced marriage” (United Nations, 2018). More so, gendered poverty, lack of viable employment opportunities, lack of control over financial resources, and limited access to education are all factors that can exacerbate the vulnerabilities of women and girls to trafficking (UN, 2018). Stoltz gives a South African context on sex trafficking as a gendered crime that is lucrative due to high

unemployment, and low wages that is racialised and gendered. The researcher also adds that the racial and gender inequality in access to opportunities places most women at a disadvantage. Female foreigners are also at risk of trafficking as they are easily lured into those syndicates with hopes of getting more money (Stoltz, 2022).

1.5.8. Lack of appropriate legislation

Advocate Shamila Batohi, the head of the National Prosecuting Authority (NPA), describes a criminal justice system as one that is buckling in the face of rising crime (Versluis and Lange, 2019). The South African law enforcement has collapsed with the NPA stating in its annual report that prosecution rates of serious crimes have been as low as 2% (Versluis and Lange 2019). These challenges are argued as stemming from a broken law of human trafficking that is not effected enough to produce desirable results. In the presence of a weak legislation the government continue to struggle in combatting the crime of human trafficking that already has a difficult nature to detect. It is further provided that poor investigations and botch-ups by the prosecutors have resulted in a historic low point of an astronomical 103 760 criminal cases have simply been withdrawn (Versluis and Lange, 2019). One can add that the South African environment also allows for porous laws that give a leeway for crimes to go unpunished and the scene of violence that has been carried over from the apartheid era continues to flourish as an inherited culture that is overpowering the system (Versluis and Lange, 2019).

More so, the researcher believes that the crippling of the legislation is also a result of underlying corruption within institutions, which limits the effectiveness of the law. By so doing it creates room for crime to prevail because some high-profile people responsible for law enforcement might suspiciously be involved in bribery and corruption on such crimes. Statistics from the African continental indexes show that South African institutions are heavily embedded in corruption circles as illustrated with the bar chart below.

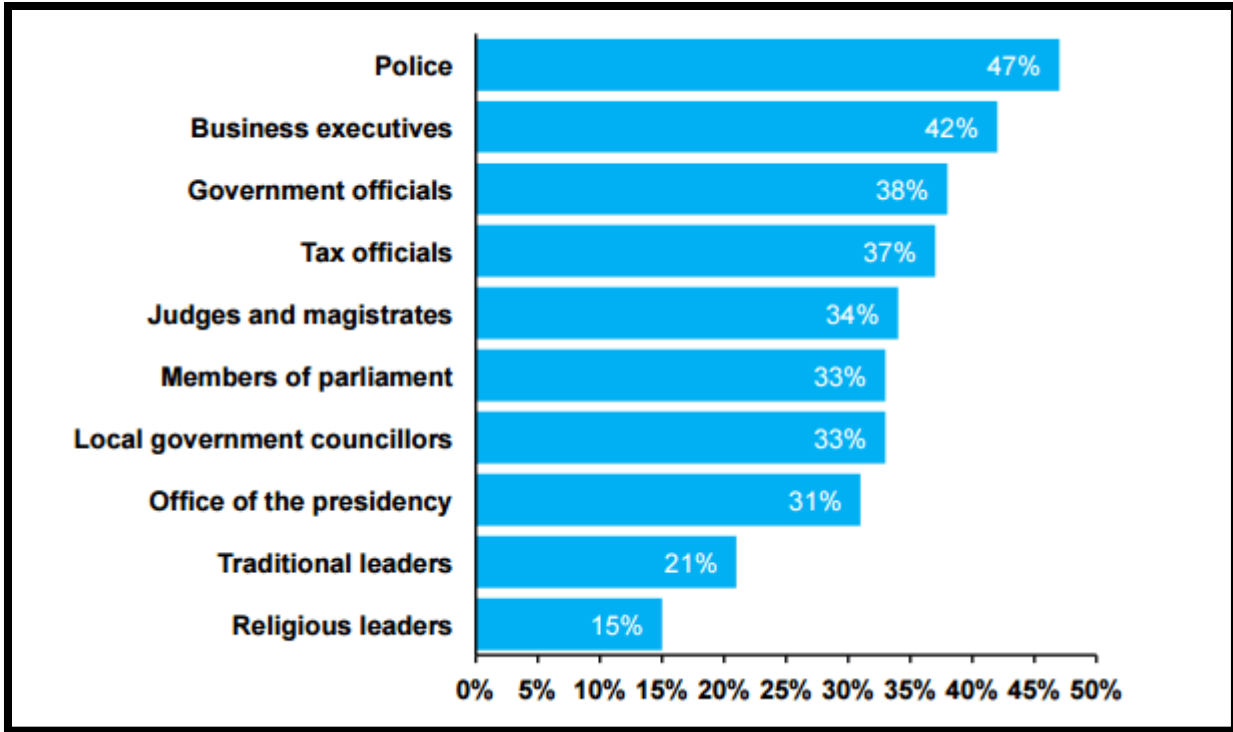


FIG 3: a chart showing how different institutions are corrupt in South Africa (source: transparency international, n.d).

As seen in Fig 3, most law enforcement agencies and implementors have had corruption detected within their institutions. This indicates the decadence of responsible authorities which is crippling the legislation’s capacity to curb human trafficking. Nkosi in the *Soweto Live* points out that the chair of the National Lotteries Commission stated that the South African state and its police are weak and unable to uphold law (Nkosi, 2023). With this situation present it is difficult to expect efficient prosecution and identification of the trafficking syndicates operating within and around South Africa’s borders. It challenges the law implementation and defeats the efforts and campaigns on human trafficking awareness projects hence allowing the crimes to flourish.

1.6. Organisation of the study

The study is structured into six key parts focusing on different aspects. These include the introduction, the review of the literature, the development of a theoretical framework, methodology, results, and conclusions. These parts are divided into five main chapters.

The first chapter is the introduction to the study which discusses the research problems, outlines the research objectives, and questions. It discusses the significance of the study and encompasses a brief literature review on South Africa's human trafficking situation and key defining terms. The second chapter provides a literature review on a global level as well as concepts on human trafficking. Additionally, it also discusses definitions, concepts, complexities in understanding human trafficking, causes, perspectives and finally concludes with a chapter summary.

The third chapter presents a methodology which describes the methods used in the collection of data, a step-by-step procedure on key informant interviews, and lastly provides a chapter summary. The fourth chapter presents the research outcomes on South Africa's global commitments. In this chapter the researcher outlines the past and present ratifications entered globally by South Africa. It also provides South Africa's commitments on a continental level, regional, domestic, and institutions responsible for the human trafficking. Chapter 5 investigates the challenges and successes in policy implementation on human trafficking within South Africa. This provides an understanding to measure the extent of commitment to the global protocols. Chapter 6 concludes the research study, providing recommendations on resolving South Africa's misalignment with international legal standards on curbing human trafficking. The chapter provides recommendations that hold the potential to solve the challenges restricting South Africa from fully aligning with international standards on human trafficking.

CHAPTER TWO

LITERATURE REVIEW ON HUMAN TRAFFICKING

2.1. Introduction

South Africa remains a major global player and a country that the international community looks up to in the continent to play an intervention role in issues of peace and security. To date, she has played a leading role in mediation for nations that are affected by civil strife, including former President Thabo Mbeki's mediation role in Zimbabwe. Most recently, President Cyril Ramaphosa led a delegation of African leaders to mediate peace between Russia and Ukraine. Through her role in championing peace, her position as a regional political powerhouse, and being a signatory to several United Nations Human Rights protocols, South Africa is expected to play a key role in the fight against human trafficking.

The role of South Africa in the global fight against human trafficking can only be understood within an analytical framework that encompasses the context, which shaped the country's domestication of provisions of international protocols, together with the country's specific circumstances. This is because these processes shaped the institutions and legal frameworks in the country, and the progress, or lack thereof. To understand the country's counter-human trafficking approach, it is important to examine not only the internal but also the external processes in combating human trafficking. The concepts of human trafficking, UN protocol/conventions, and state sovereignty are going to be used in developing a general understanding of South Africa's situation. This chapter discusses these key concepts and attempts to bring them closer to our understanding of South Africa's position. It begins broadly by discussing key concepts, before looking at the regional context, and then the local context. This discussion of the concept of human

trafficking attempts to understand South Africa's role in the fight against the challenge of human trafficking.

2.2 Human trafficking on a global level

2.2.1. Defining human trafficking.

One must understand that with the differences in culture, geographical location, nature of challenges, and policies, states do not have a homogenous definition for human trafficking. Most definitions suggest that trafficking represents "a denial of the person's rights to liberty, integrity, security, and freedom of movement" (Gajic-Veljanoski & Stewart 2007: 79). However, despite the uniqueness of each state's definition of human trafficking they still have common elements in the definition which they take from the United Nations' international definition. In serving the purpose of this study a definition from the Protocol to Prevent, Suppress and Punish Trafficking in Persons was adopted.

According to the definition, human trafficking is the recruitment, transportation, transfer, harbouring, or receipt of persons employing the threat or use of force for exploitation for prostitution, forced labour, or removal of organs (Du Pont, 2009). Although a universal definition of human trafficking exists, it is still cumbersome to ascertain the difference from other related crimes. Literature points that there is a lack of understanding of the relationship for example between human smuggling and trafficking, which is not the same crime, but with abuse of consent and exploitation differentiating the former from the latter (McInnis, 2012). Moreover, there are still existing differences and ways in which states choose to include or exclude some crimes as illegal or legal. An example, the United States does not consider organ trade human trafficking whereas the United Nations and Canada do (United States, 2013). Such differences in understanding sub-crimes that build up human trafficking make it challenging to have one universal definition for the crimes and worse off to combat them.

With the existence of debates and lack of homogeneity in the definition of human trafficking, a three-conceptual framework has been adopted to break down the elements of the crime. The framework simplifies it into three classes that involve the act, means, and purpose (eNCA, 2015). The act includes the force that is used when recruiting and transporting victims to their destination (U.S. Department of State, 2021). For the means element, it includes the trafficker's coercive threats of force or confiscation of identity documents, and to maintain submission addictive substances are also used (United States Department of State, 2021). The purpose element focuses on the perpetrator's goal to secure labour or services and there is no limit on the location or type of industry (U.S. Department of State, 2021). Fig 3 below shows the three elements and processes involved on each phase a model illustrating and articulating the federal definition of a victim of severe forms of trafficking in persons.

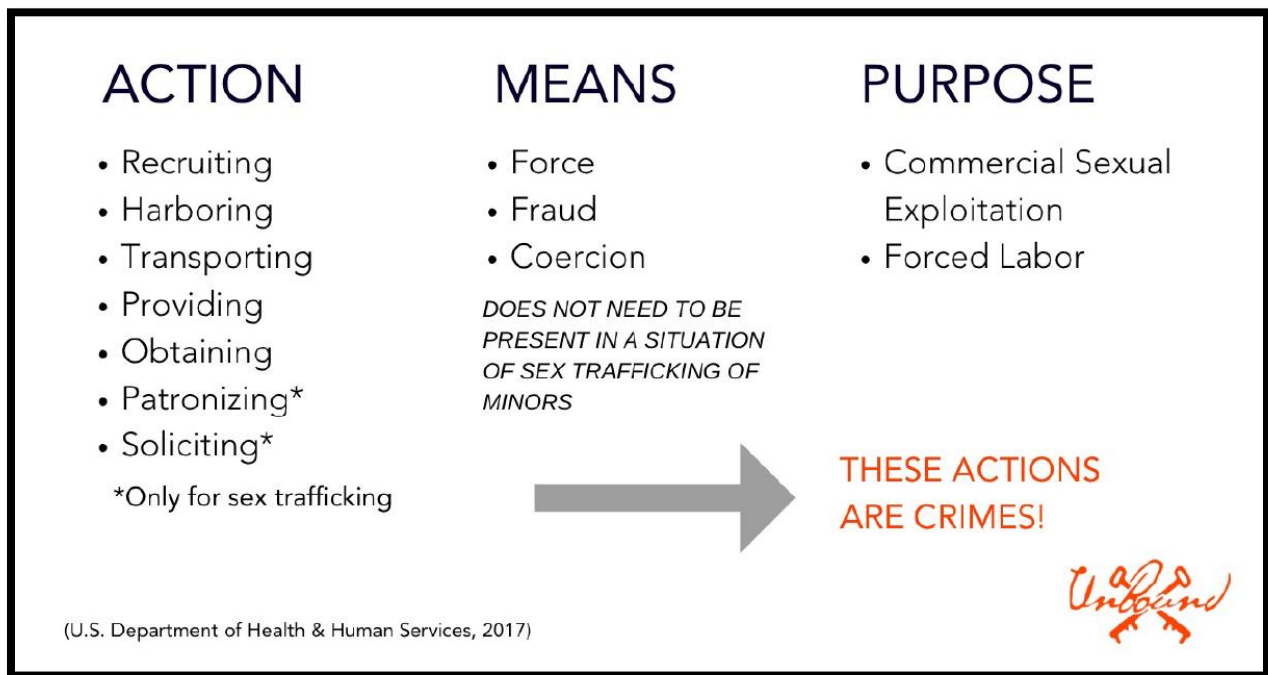


Fig 4: Three elemental framework used in understanding human trafficking. (U.S. Department of Health & Human Services, 2017)

Concerning the concept of consent, it now becomes a narrow focus on the trafficker's conduct and not that of the victim, the perpetrator's coercive scheme is what matters (U.S.

Department of State, 2021). These have been the key guidelines for member states to determine or tear apart human trafficking from other related crimes.

Unlawful recruitment is another key element noteworthy in understanding the process of human trafficking. It usually refers to the involvement of illegal recruitment using force and intimidation (U.S. Department of State, 2021). In addition, it is disputable as some forms of recruitment are not always through force. Perpetrators can have deceptive agreements that one can blindly agree to without knowledge of the consequences. In explaining the three-elemental frame, the Polaris Project provides that there should be at least one element from each of the three columns present to establish a potential situation of human trafficking (Polaris, 2019). However, the researcher is of the idea that using the three elemental frameworks to determine human trafficking puts a limit on crimes that might miss one of the elements yet qualifying to be human trafficking.

Furthermore, to understand the magnitude of damages and risk that the crime brings upon an individual and the state at large, UNODC introduced 14 educational modules. These have guiding principles ranging from defining human trafficking, indicators, the psychological reaction of victims, control methods to the sentencing in trafficking in persons cases (UNODC, *n.d*). Of importance is the further expansion of one of the means used by traffickers to acquire and keep their victims, which is the explanation of trafficking in persons enshrined in chapter four. It provides that traffickers only become successful when they can control their victims. This is maintained in several ways which include debt bondage, isolation, imprisonment, deception, collusion, religion, violence, and cultural beliefs (United Nations Global Initiative to Fight Trafficking, 2009). In maintaining their control, the traffickers can have concessions such as giving small amounts of freedom, a low wage, or a call privilege and these keep their victims in check and obedient (UNODC, *n.d*). The case study below gives an example of a scenario in which control is acquired and maintained.

Case study

Aksana grew up in a situation of violence in a small village in a country in transition. Her mother, an alcoholic, pushed her out of the window from the second floor when she was 10, with assaults and physical battering being the rule rather than the exception. The family was poor, as the only steady income was the pension of the grandmother. Aksana got acquainted with a female friend of her mother's. This woman lent Aksana some money and invited her to live in her flat for a while. She later forced Aksana into prostitution at the age of 15. Once Aksana was even locked in a basement in wintertime, wearing only her underwear. Aksana was afraid to refuse, as she was told that everyone in her hometown would know that she had been a prostitute. Moreover, Aksana was threatened that her little brother would be killed. Aksana had to work to pay off a "debt" she had allegedly acquired. Although her mother knew of the situation her daughter was in, she did nothing to help her.

Extracted from ***Violation of Women's Rights. A cause and consequence of trafficking women. La Strada International 2008***

This case demonstrates the way in which the offenders attain control and power over their victims. The use of manipulation and creating a culture of dependency for survival are all common strategies implemented by offenders to keep their victims in check.

2.2.2. Human trafficking statistics.

Despite more attention and an increased response given to human trafficking on the international platform, states, and non-governmental Organisations, it seems that the number of trafficking victims is increasing. According to the Statistics Research Department, between 2008 and 2019, the number increased from around 30 000 to nearly 120 000 (SASD, 2022). On the 5th of August, more statistics were released stating that in 2021 only, there were 90 354 victims of human trafficking that were identified worldwide which is a significant increase in the crime activity (UNODC, 2022). The numbers show the seriousness of the crime and the level at which it is threatening human security and infringing human rights, which calls states to act and revise perhaps their policies on

fighting the crime. In a more elaborate and trafficking-classified statistical report, the UNODC provides that the most common form of human trafficking that is increasing numbers is sexual exploitation which consists of 79% of the crime with a predominance of women as the victims (UNODC, 2009). Sex trafficking is more common across the globe, and it thrives in plain sight as there is a thin line of separation from voluntary prostitution. However, it is further proof that the crime is mostly a gendered crime where women are more vulnerable to its ills.

The second most common form of trafficking is forced labour. It is estimated to be forming 18% of the trafficked victims recorded, and 20% goes to the child trafficked victims although in some parts of Africa, children are most of the victims forming up to 100% in regions like West Africa (UNODC, 2009). As for destination statistics, in 2021 approximately 100 000 people were trafficked into the United which is one of the largest destinations for victims of the sex trafficking trade (Wood which & Stevenson 2023). The researcher adds that most victims, if not all, are trafficked for their involuntary labour force that is considered cheap and profitable. Recently, there has been a high increase of 15% in number of trafficked women working as domestic workers in Oman under harsh conditions (Zimbabwe Broadcast Television, 2023). This is fast becoming one of the target market destinations for trafficked victims after the United States. The image below is a graphical illustration of the flow of trafficked victims into the United States and the form of trafficking, with sex trafficking being predominant.

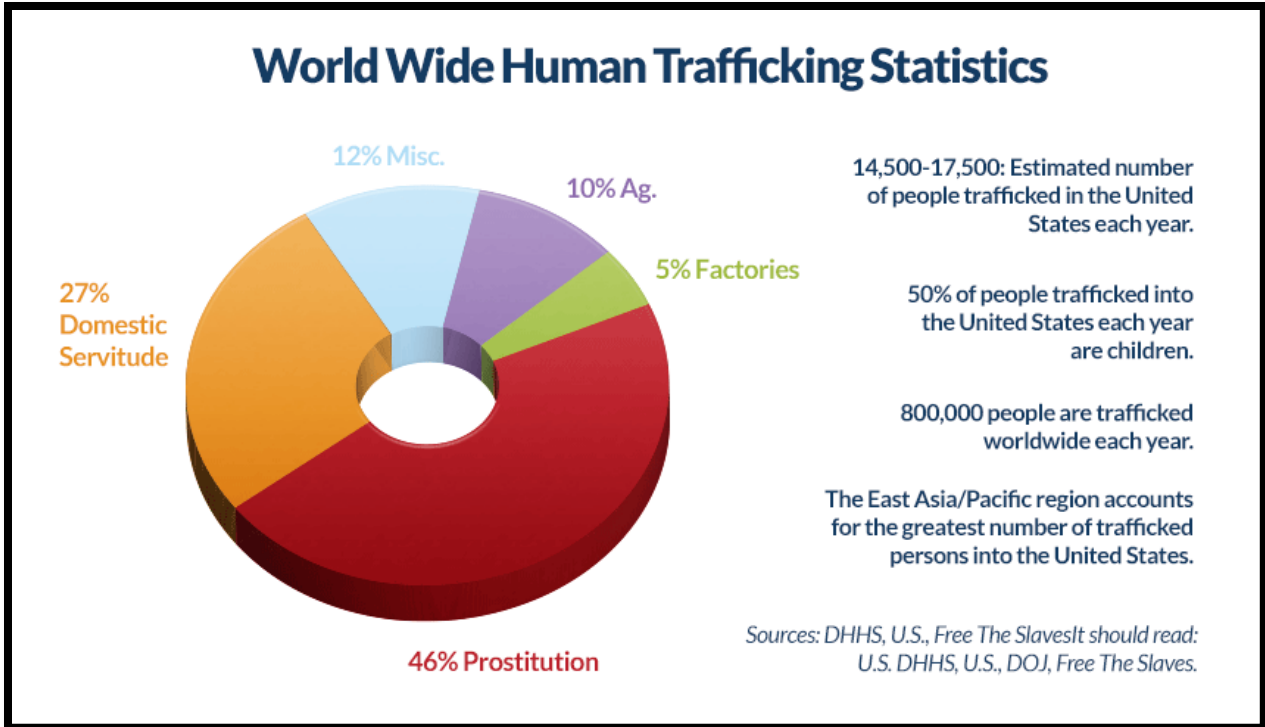


Fig 5. A pie chart showing forms of human trafficking statistics. (Source: DHHS, n.d).

In Fig 5, one can notice a large share in percentage of victims trafficked for prostitution, and this is the case globally not only limited to the United States. Much more evidence continues to support that human trafficking is mainly for sex work and its target victims are women. However, without making an oversight on the gender issue, there are also 4% of men that fall victim of sex trafficking and most of them are young boys (UNICEF, 2018). In both cases, it further proves that human trafficking is also majorly for the purposes of forced sex work.

2.2.3. Human trafficking as a global crisis.

With human trafficking, countries are either a source, transit, or destination country making it an interlinked problematic global issue. The United Nations Office on Drugs and Crime estimated that around US\$7billion dollars are generated annually through the global illicit trade of humans (Feingold 2005: 28). The economic model on human trafficking explains these profits by showing that human trafficking is an opportunistic

response where human traffickers connect the supply of labour in the source-areas with the demand for labour in the destination areas (Chuang, 2006). With this, both on a global and state level, the increase in crimes of human trafficking have led most member states to increase large-scale prevention programs. These include campaigns, and counselling services that are guided by international protocols to improve their legal systems (Clark, 2003).

Globalisation has interlinked states with the exchanges of social-economic capital diffusing effortlessly around the world, and so does the crime of human trafficking which is a now borderless crime. Efforts are therefore continuously generated to allow for a collaborated approach in combatting human trafficking globally. States are in constant efforts to ensure that each state has binding laws and tightened borders that can potentially deter international human trafficking, and having stringent domestic laws that seek to protect the human rights. Moving forward for one to understand the crime, the following section discusses the types of human trafficking that are globally recognised.

2.3. Types of human trafficking.

Human trafficking takes many forms for which victims are trafficked for. In some instances, they are trafficked away from their communities and families with low chances of ever returning, while some are trafficked within their area of residence, such forms include:

2.3.1. Forced Labour.

This is understood as Labour trafficking in which an individual is coerced to work involuntarily against their will for a less wage if any (WHO, 2015). In most cases victims do not receive remuneration, if they do it will be an incentive of pretence that they are benefiting out of it yet the wage will be below minimum requirements. Those subjected to forced labour work under ill conditions that threaten health security as the offender's attempt to spend less for more profit outcomes. In some cases, those working in mines

or shoe factories work without required protective clothes which reduces their life expectancy. Also, the World Health Organisation (WHO) points out that victims are trafficked into many forms of labour and are vulnerable to a range of occupational health risks, which include lack of protective equipment, bacterial contamination, and poor training in the use of high-risk equipment. As a result, most of the victims suffer accidental injuries (World Health Organisation, 2012). In addition, the international labour Organisation (ILO) identified six factors of forced labour. These include threats of physical or sexual violence, movement restriction of the worker, debt bondage, refusal to pay wages, retention of passports as well as the threat of document denunciation to the authorities (ILO, 2023).

Those that are most vulnerable to this crime are the illegal migrants whom most scholars as a migration gone awry (IOM, 2011). And forced Labour of immigrants is estimated that it contributes almost 122 goods from 58 countries around the world (Trafficking Acts, 2019). The International Organisation on human trafficking also provide statistics that 49.8 million people were living in modern slavery in 2021, with 27.6 million of the fractions in forced Labour and more specifically 17.3 of the 27.6 million exploited in the private sector, while the remaining 6.3 million of them worked as forced labourers in commercial sexual exploitation (International Labour Organisation, 2023). The statistics show that there is a gap in monitoring and protection of workers' rights mostly in private sectors. One would also question the efficiency of Labour Organisations when the number of forced unpaid labourers is increasing and bringing large profits to the industry as demonstrated in Fig 6.

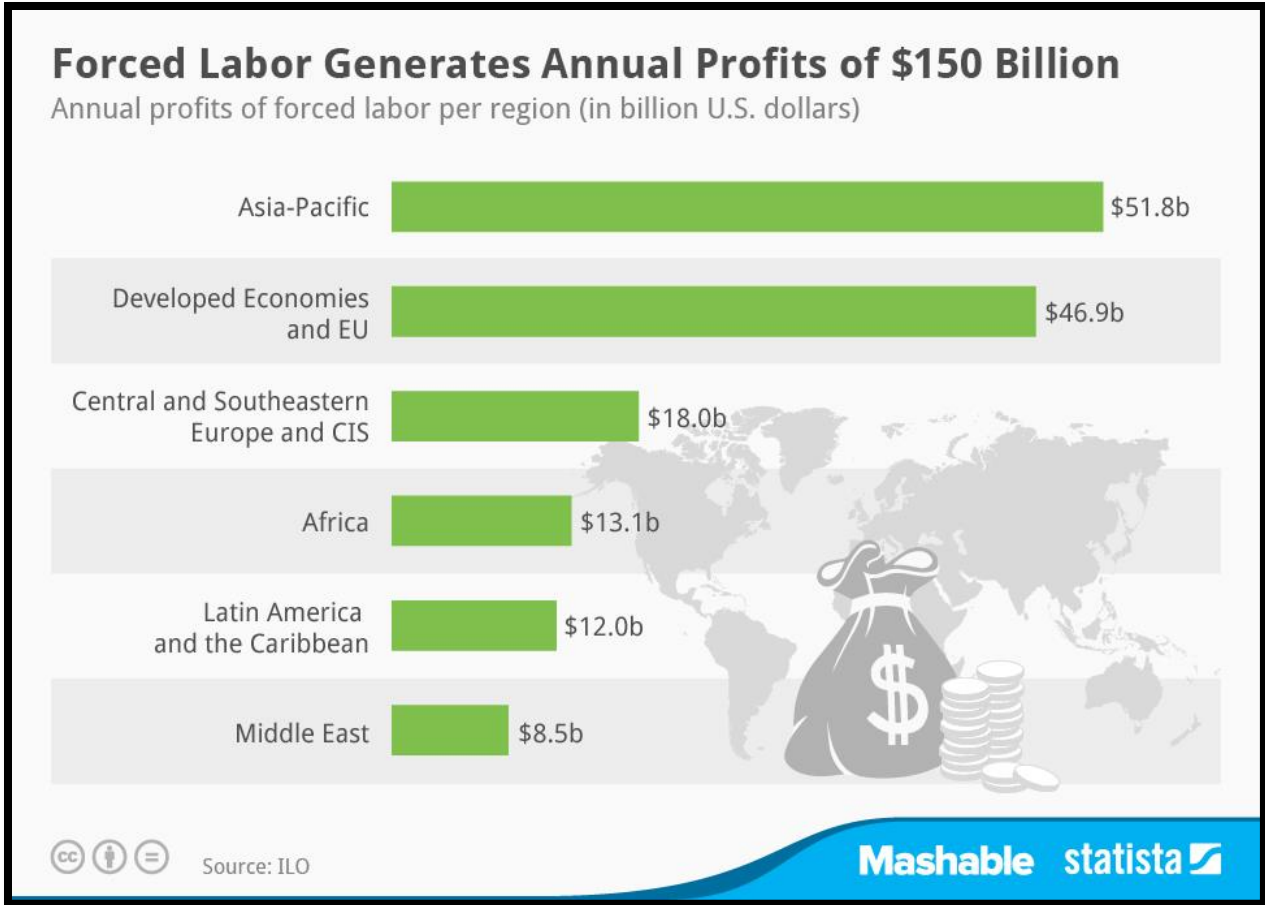


Fig. 6: A diagram showing the profits from forced Labour in regions it is most dominant. (Source: International Labour Organisation, 2021)

As shown on Fig 6, syndicates and private sectors within developed countries benefit the most. Human trafficking is modern slavery where flows of forced Labour are continuing from the periphery to the core, although not taking away that it also occurs in the periphery.

2.3.2. Sex trafficking

According to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons paragraph (a), sex trafficking is the recruitment, transportation, transfer, harbouring, or receipt of persons employing the threat or use of force or another form of coercion, abduction, fraud, deception, abuse of power, the position of vulnerability, or giving or receiving of payments or benefits to achieve the consent of a person having control over

another person for exploitation (UN, 2004). To add on, Burke (2013:45), adds that victims are forced into non-consensual sex behaviours or positions of sexual exploitation where some might end up working in adult films. On the other aspect of sex trafficking, the researcher is of the thought that people that consume the content from adult movies or pornographic material are allowing and creating a market for more victims to be exploited. Also, the researcher further argues that the law needs to be put in place to scrutinise, if not ban, the production of such content. There have been varied scholarly thoughts and views shared on pornography as either a victim or victimless activity. Roux (2010:10), argues that it contradicts a prohibition law on prostitution as it is seen as freedom of expression making the two confusing. Such contradictions are rather confusing and make it difficult to prosecute and identify victims of trafficking. There is need to raise global awareness about sex trafficking as not only for brothels but that it is increasingly used for media content.

2.3.3. Forced marriage.

Regarding forced marriages, according to the U.S Citizenship and Immigration Services, forced marriage means a marriage with one or more elements of force, fraud, or coercion without consent (U.S. Citizenship and Immigration, 2023). Also, the international definition of articles one and two of the United Nations Convention on Abolition of Slavery is akin to forced marriage as a form of slavery (Freedom Centre, 2023). Due to it being done mostly for cultural purposes, the researcher notes that practices such as *Ukuthwala* in South Africa, the *Watta Satta* in India, and *Kurotswa* by the apostolic sect in Zimbabwe are some of the practices of forced marriage. These are hidden behind the cultural practice, yet carrying elements encompassed in definitions of human trafficking. According to Human Rights Watch, the practice of child brides is more rampant in Zimbabwe especially within the apostolic sect, with a reported trending case of a 14-year-old girl that died during childbirth at an apostolic church in Marange (Mavhinga, 2021).

The story of Memory Machaya is a demonstrative case that shows a contradiction between human rights and the right to freedom of worship (Mavhinga, 2021). Such an overlap makes it difficult to deal with the cases of such human rights violations under the

umbrella belief of cultural freedom. Furthermore, the United Nations Human Rights Commission provides statistics that more than 650 million women worldwide were married as children with at least 12 million of them getting married before reaching the age of 18 (UNHRC, 2022). It is also essential to understand that this form of human trafficking affects more women than men United Nations Trafficking in Persons Protocol seeks to end forced marriages, and it is noted that girls of underage are mostly the victims, (UNODC, 2020). This form is also under reported due to cultural beliefs that it is rightful and an exercise of human rights.

Combatting this form of trafficking might also be difficult because the way the crime is perpetrated is very different and country specific. It is a challenge to come up with one universal legislation to rule it out. United Nations report points out that it is difficult for the victims to report this form of trafficking because marriage is normally considered a private family matter which cannot be discussed even when domestic violence is involved (UNODC, 2020). The chart below shows the female and male proportions of forced marriages, it is indicating that the female victims have a higher percentage of vulnerability to such exploitation.

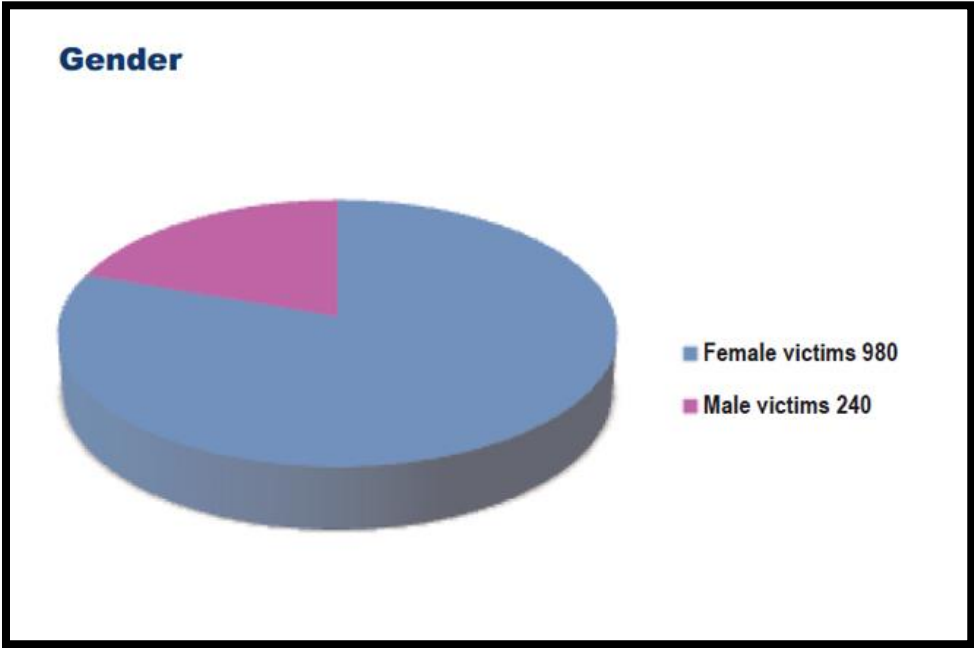


Fig 7. A pie chart representing victims of human trafficking based on gender. (Source: Statistics South Africa, 2019)

2.3.4 Trafficking in children

The International Labour Organisation provides a context of the crime as that which happens when children are taken out of their protective environment and exploited (ILO, 2000.). Scholars note that it is a gross violation of human rights which deprives minors of their fundamental rights such as the right to personal identity, to a family and culture, to healthcare and nutrition (Martinho *et al.*, 2020:33). The 1999 Convention on Worst Forms of Child Labour no. 182 further classifies it among forms or practices of slavery which need to be eliminated as a matter of urgency (ILO, 2000). In the year 2018 on human trafficking day, UNICEF published that children make up a third of all human trafficking victims worldwide, with most of them being displaced and migrant children for varied reasons from fleeing war to domestic violence (UNCF, 2018). Children are preyed on because of their age and inability to make their own decisions, more so it is in children's nature that they obey elders' orders. This then gives offenders an added advantage to manipulate their victims subjecting them to long hours of work and harsh working conditions.

The Daily Maverick also pointed that it is also pointed out that the profile of child trafficking is often characterised by many intersecting vulnerabilities which also include socio-economic dimensions, lack of parental care, and or dysfunctional families (Warria, 2021). In a more context-specific scenario, in Ghana explaining that most Ghanaian children are trafficked from their home villages to work in the fishing industry where they work for long hours daily (Johansen, *n.d*). Children are easily exploited because of their vulnerability and inability to access authorities that can help them. Most of them are unaware of the laws, and therefore easily manipulated. According to a video published on X (formerly Twitter) on the 21st of June 2023, a viral video showed shocking scenes of toddlers and young teenagers being rescued after being placed in sacks to be sold as a commodity, the link is in the reference list (PSAFLIVE, 2023). One can only imagine what these kids are trafficked for, and for whichever reason, it must be a billion-dollar syndicate that profits for the criminals to take such risks.

2.3.5. Child Soldiers

This form of trafficking is most common in the African context where civil wars are rife. The regional director for International Labour Organisation, Cynthia Samuel Olonjuwon, remarked that when children are trapped in forced labour and trafficked to participate in armed conflict, we must urgently protect their rights and restore their childhood (Olonjuwon, 2020). As discussed above children are easy targets to manipulate, most warring zones have been reported on child recruitment for war labour and most of them have been exposed to sexual and drug abuse. According to UNICEF between 2005 and 2022 more than 105,000 children were verified as recruited and used by parties in a conflict, and often these children suffer extensive forms of exploitation and abuse that might not even be fully captured with the term (UNICEF, 2021).

This practice is not foreign, the researcher recalls the traumas of the 2008 election period in Zimbabwe. Most able-bodied boys and girls of underage were forcibly recruited by ZANU PF leaders to terrorise their opponents under the title of Youth League. They were manipulated to think that all ZANU PF opponents were traitors ready to sell the land back to the colonizers. Moreover, it is also pointed out that children become part of the armed forces for various reasons; some are abducted or threatened by army leaders to join as scouts, cooks, guards, messengers, and as fighters (UNICEF, 2021).



Fig 8: Image showing a child soldier assisting as bullet carrier in a civil war (source: Africa 2012)

2.4. Human trafficking-related crimes

2.4.1. Human smuggling vs Human trafficking

Human trafficking and smuggling have a thin line that make them distinct. The international community, through the United Nations, defines trafficking as the recruitment, transportation, transfer, harbouring, or receipt of persons through threats, force, or other forms of coercion (DuPont, 2009). On the other hand, smuggling is the procurement to obtain, directly or indirectly, a financial or other material benefits through the illegal entry of a person into a state party of which the person is not a national or a permanent resident (Iselin & Melanie 2003: 5). The two crimes are different but due to similar elements, they have key differences based on consent, purpose, and issue of

borders (ENACT, 2023). More so, smugglers complete their interaction with migrants once they have been moved and traffickers continue to exploit the people (ENACT, 2023). It is essential to understand these differences for it to be more effective in policy draft and implementation knowing the specific aspects and clear-cut distinctions to take note of, so that no crime remains out of the bracket or is overlooked.

2.4.2. Human trafficking vs Prostitution

There is a thin line between consensual commercial prostitution and commercial sex trafficking or rather sex work that is micromanaged. It is argued that the link creates a perception that glosses over the existence of trafficked sex workers, as largely it is often perceived that the individuals would have engaged willingly in selling their bodies to get money (ICMPD 2007: 99). Narrations from a research interview by the Centre for Migration have responses from participants pointing out that perceptions have made it difficult to protect the victims. Extracts were taken from one survey where a policewoman said to the victim, “You are all the same, you cover up for each other, you protect your bosses.” (ICMPD 2007:100). One can argue that when the professionals responsible for helping the victims act in such a manner it defeats the purpose of victim protection and for such one would suggest that such personnel need to get training on ways to protect and identify victims.

To add on there is also an outcry that victims of human trafficking, mostly those residing illegally in a country, find it challenging to report human trafficking for fear of arrest and unfair deportation (ICMPD 2007:105). Allen further brings the argument stating that there is a grey area that needs exploration, considering that some willingly do it to pay off debt bondage (Allen, 20212). The researcher is of the view that the closest one can get in separating prostitution from sex trafficking is that for the former, one does it wilfully to get money without anyone coercing them into it, whilst trafficked sex workers, have no autonomy over their bodies and the money they earn therefrom.

In most cases, women express the need to leave. According to a 1998 study, it is given that 88% of the labelled “prostitutes” stated that they wanted to leave the sex industry (Marcin, 2013). One can also argue that consented sex work or prostitution is a challenging term of classification that makes it difficult to tear apart victims from those intentionally doing it. It is essential to treat prostitution as part of human trafficking that has less micromanagement, which will help in tackling the human trafficking crime (UN Women, 2012). This contributes as well to poor statistics on victims of human trafficking. To win on this, there is a need to pay attention and redefine what sex trafficking is. In the researcher’s opinion, to legalise prostitution, although those will be difficult to achieve because of the state’s sovereignty and individual autonomy over their body.

2.4.3. Migration

Regarding migration, it is not novel, humans have been moving in different forms and for varied purposes. To date, migration patterns are still existing mainly resulting from socio-economic issues in one’s land (Chibba, 2013). The aspect of moving for greener pastures since the hunting and gathering time has evolved to mass movements for better economies and opportunities as the new modern green pastures. Relating to human trafficking, statistics show that the form of forced migration due to civil wars or other inhumane factors that push one to move have been creating a pool of victims to traffickers (Yousaf, 2018:206). Literature gives an understanding of the involuntary migration and human trafficking nexus, the interdisciplinary discussions and research on the migration-trafficking nexus indicate the high vulnerability of migrants to human trafficking (Chibba, 2013).

The International Organisation on Migration defines forced migration as an element of coercion that exists and includes threats to life and livelihood (ILO, 2018). In response to this, the United Nations General Assembly in Resolution 55/25 adopted a convention that illegalises the smuggling of migrants as it forms the greater part of trafficking (Nadig, 2002). Furthermore, experts argue and attribute the trafficking of migrants to restrictive and exclusionary immigration policies, insufficient channels for regular migration and family reunification as well as lack of access to labour markets for asylum seekers all

contribute to the exploitation of migrants (UN Human Rights Commission, 2016). When it comes to forced migration at large, the World Economic Forum Report provides that forced migration is a result of violence and conflicts, environmental and or economic reasons. When these are met with the long stay of forced migrants in host countries, ineffective humanitarian aid, and long term needs of refugees they escalate the chances of such individuals to be trafficked by perpetrators of this crime (Yousaf, 2018:209).

2.4.4. State sovereignty and human trafficking

With all these efforts in place, there are however barriers encountered in effecting these laws and global efforts to counter crimes of human trafficking. The issue of state sovereignty has on several occasions hindered the protection of trafficked migrants. One reason identified for the continued trafficking is that states focus on the protection of their citizens and neglect migrant individuals that are endangered by crime (United Nations Chronicle, 2013). The complexity comes in when the state can determine the admission of non-nationals into their country and the detention of the non-nationals illegally settling in the country (Thompson, 2013).

Even though states are obliged to uphold the rights of individuals within their territory, they still have the power to manage migration flows into, through, and from their territory (Perruchoud, 2012). However, other member states can no longer pursue and advocate further for another member state to take responsibility of illegal immigrants flocking into its borders. The aspect of the state's right to enact laws of its choice makes it difficult to push for the implementation of international laws as some states might choose to be more conservative on uplifting the rights of its citizens and neglect those of immigrants (Perruchoud, 2012). The Protocol Against the Smuggling of Migrants aims to ensure the cooperation of states to protect the rights of migrants and against the worst forms of exploitation characterised by trafficking (Thompson, 2013). Trafficking in persons increasingly affects all regions and there has been growing acceptance that there is a need for an effective, internationally coordinated response (Gallagher & Holmes 2008:20). However, independence or sovereignty presents a barrier to the progress

towards countering human trafficking, and these are factors that need more scrutiny to effectively combat human trafficking.

2.4.5. Prosecution and Protection

The prevailing challenge of human trafficking has prompted the establishment of international laws and guidelines, directing states on both prosecuting offenders, and safeguarding the rights of victims. While an extensive array of legal instruments exists, this section focuses on essential elements and challenges associated with their implementation. Scholars emphasise the pivotal role of trafficked persons in crime investigation and prosecution, acknowledging their susceptibility to external influence and fear (Gallagher & Karlebach, 2011:19). Moreover, inadequate time and support from legal authorities contribute to a lack of trust between victims and the legal system, thereby impeding effective prosecution efforts (UN, 2022).

Another crucial guideline emphasises the necessity for laws to shield trafficked individuals from charges, custody, or punishment related to illegal entry or residence in the destination country (OHCHR, 2002). This safeguard aims to protect victims from summary deportation, recognising the potential security risks such actions pose to the trafficked person and their family. Additionally, collaborative efforts with non-governmental Organisations are highlighted as essential for providing secure and suitable shelter tailored to the specific needs of trafficked individuals. Importantly, these provisions should not be contingent upon victims' willingness to testify in criminal proceedings (United Nations High Commissioner for Refugees, 2017).

Turning to prosecution, the annual Trafficking in Persons Report underscores the graveness of investigating and prosecuting human trafficking crimes with sufficiently stringent prison sentences to deter such activities (US Department of State, 2019). The Trafficking Victims Protection Act (TVPA) advocates for treating trafficking prosecutions with the same severity as other serious offenses like kidnapping or rape, obligating governments to criminally charge all individuals involved in human trafficking, including

those aware of planned exploitation. Notably, it discourages substituting prison sentences with alternatives such as fines or administrative penalties. Furthermore, aligning with the Palermo Protocol, states are urged to establish legal frameworks prioritising victims' rights, enabling court-ordered restitution or compensation in conjunction with successful trafficking convictions (OHCHR, 2020).

2.5. Causes of human trafficking

2.5.1. Economic factors

Human trafficking is understood as an industry in which the traffickers are the intermediators between vulnerable individuals and employers by supplying differentiated products to the employers (UNODC, 2022). Chuang maintains that human trafficking is an opportunistic response where traffickers connect the supply of Labour in source areas with the demand for labour in destination areas (Chaung2006:140). This chain market works well because of the economic instability, mostly in the sending country where the victims are easily lured into relocating to other countries for better opportunities. Most of the studies focus on the income differentials between developed and developing countries, capitalism, and transnational corporation as the centre of the economic pull and push factors for the migration that often leads to human trafficking (Anderson & Bales, 2003). Furthermore, Ejalu believes that poverty, lack of education, urbanisation unequal employment opportunities are part of the limited economic currency within sending countries or areas where victims are extracted from and become subjected to human trafficking (Ejalu 2006:171).

In both the markets that are international and national as discussed above, one can reiterate that the decisions to relocate are dependent on the perception of better wages in the areas that have better income stability than those from their sending countries. The targeted victims receive little or no income and with that, their agency and voice in making decisions lead them to become easily commodified (Hughes, 2002). Those in a low-unskilled labour pool are then subjected to illegal migration due to the high-cost demands of legal migration. The United Nations Office on Drugs and Crime reports that irregular

migrants are increasingly resorting to services offered by migrant smugglers (UNODC, 2009). It then thrives because most of the immigration rules in most countries have weak anti-trafficking laws in place to impede the flow of illegal migration and those that have them, they have very low enforcement laws (Salt, 2000).

2.5.2. Political instability

Political instability is reckoned as one of the key catalysts of human trafficking with its consequences giving room for human trafficking to take more momentum. With political instability, civilians become more vulnerable as the instability affects socio-economic lifestyle. This is a breeding ground for traffickers to lure their victims with ideas of better employment (UN, 2008). Mass migration also comes out of such instability where people opt to relocate for greener pastures. Scholars point out that with such instability, people end up with unparalleled opportunities to obtain a passport or to afford legal means of relocation (Duong, 2019). Literature state that traffickers often target those wishing to explore migration for new opportunities. According to human trafficking experts they state that political instability caused by government austerity measures, conflict situations, and regime change means a push for people to seek better living conditions in another promising land (Wheatburn, 2015).

Cameron and Newman also argue that the interaction between structural factors or variables such as poor law enforcement, political instability, and economic deprivation is key to understanding why some individuals are vulnerable to human trafficking using deception and coercion (Cameron & Newman 2007:2). Political instability creates civil unrest as well as destabilising social security for the citizens and as such people involuntarily disperse to areas of potential opportunities. This also explains the high numbers of trafficked immigrants from most parts of the global South. Most countries within this region experience wars and political instability which creates unfavourable living conditions for its residence. Human traffickers have been capitalising on this and making use of social media adverts of job prospects for people in African countries overseas and they yield to it as the majority will be desperate to leave their countries.

2.5.3 Cultural Practices.

Certain practices are done as part of the societal culture, which in turn facilitates human trafficking. Interesting to note is the fact that most of these cultures create more vulnerability for women and girls, making it a gendered issue. This is more prevalent in the African and Asian cultures where practices such as *Trokosi* have been one of the underlying root causes of human trafficking (Msuya, 2017:4). Almost every country in Africa practices some cultural beliefs which subjects women to a second-class citizen thereby increasing their vulnerability. Looking into the *Trokosi* system practiced among the Ewe people, young virgin girls are sent to live as forced labourers in the traditional shrines (Msuya 2017:3). In these shrines they are used as Labourers and used as sex slaves by the priests residing in those shrines (Msuya 2017:4). In this culture, when a family commits a crime, especially those of murder, they become obliged to send virgin girls to the shrine. These girls should have an age range of six to fifteen, where they are subjected to heavy labour and often used sexually by the priests of the shrine (Aird, 2001).

Once a girl has been sent into the *Trokosi* servitude, she becomes a *Trokosi* for the rest of her life. When she dies, she must be replaced by her family, and through such, the priest would have gained full ownership over the girl, and they have the power to control who they talk to and physically abuse through punishment (Parrot & Cumming, 2006). These practices contain most aspects of human trafficking where there is forced labour and violation of basic rights such as freedom to education, which in this case are violated as the girls are kept in a controlled environment and their childhood is ripped off them.

Despite the culture being banned in Ghana specifically in 1998, more than fifteen years after the *Trokosi* servitude was abolished, an estimated 3000 to 5000 *Trokosi* remain enslaved in Ghana today (Thipanyane, 2015). The research also stresses a point that these practices are embedded in patriarchy which praises masculinity and subordination of women, reinforcing the idea that women are a commodity that should be of access to men. With such, human trafficking continues to breed in open sight. In the case of

Zimbabwe, a similar practice is called the *Ngozi* system where virgins are used to pay off the sins of a family member that would have murdered someone. These women usually end up having their education rights violated as they can easily succumb to mental illness which disables their functionality in the society (Chivasa, 2019).

2.6. Consequences of human trafficking.

2.6.1. Mental and Physical trauma

Human trafficking is an obvious crime that involves violence both mentally and physically. Most of the victims go through trauma even during the reintegration process in the post-trafficking season. According to Hartman, victims of human trafficking can experience devastating psychological effects during and after their trafficking experience (Hartman 2021:12). Most of the survivors usually end up experiencing post-traumatic stress, difficulty in relationships, depression, memory loss, anxiety, fear, guilt, shame, and other severe forms of mental trauma (WHO, 2012:3). Many victims also experience physical injuries. The researcher also adds that victims face abuse from their trafficker's clients if they fail to comply with or meet the needs of the client. Scholars acknowledge that these victims are subjected to brutal rape and beatings, and this happens over a long time which affects both the mental and physical position of one (Hartman, 2021:15).

Furthermore, those victims as they are also subjected to drugs to foster their dependency on the trafficker, they get exposed to risks of illnesses. These include cancer, tuberculosis, with higher chances of getting sexually transmitted diseases which are further worsened by lack of medical attention. The World Health Organisation adds that the isolation situation that one is subjected to, losing contact with family, and movement restriction to maintain power over the subject lead to trauma and mental challenges (World Health Organisation 2012:4). It is imperative to highlight that, women were the ones suffering the most traumatic and sexual experiences with physical abuse. More so, scholars add that women even face forced pregnancy termination and being overly exploited in bars and strip clubs (Sambo & Spies 2020:83). Considering that men are also trafficking victims, their experiences are mostly physical when they get subjected to hard

labour and severe beating as punishment for disobedience or attempted escape, which in both cases shortens the life span of victims either male or female.

2.6.2. Economic impact

Although statistics show that human trafficking is a billion-dollar industry, the cost of human trafficking crime is a lucrative one with ready and wide markets. Unfortunately, the dirty money does not end up in the government's hands. It is for personal gain that only benefits those within the syndicate. In a UNODC report, it is argued that the costs of the crime include the value of all resources devoted to its prevention, the treatment and support of victims, and the apprehension of offenders (UNODC, 2008). The researcher believes that the money generated creates a stable and regular source of income for offenders which maintains the expenses incurred in the process of human trafficking for the syndicate. Fig 9 illustrates the money earned on each section of trafficking:

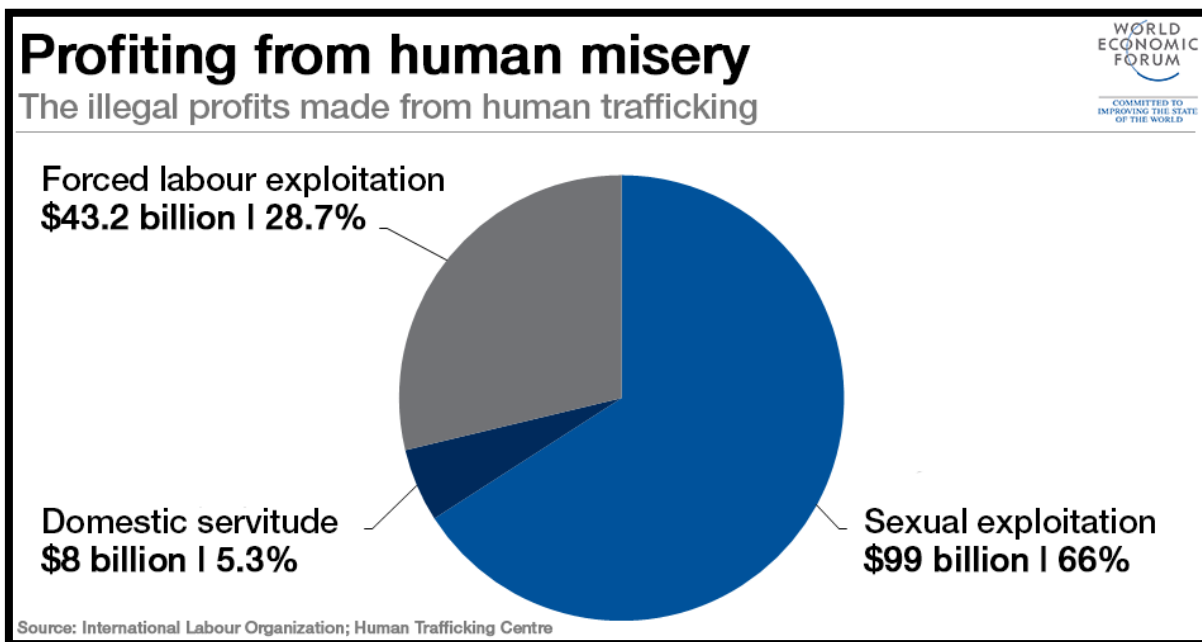


Fig 9: A pie chart showing forms of human trafficking and respective profits gained from it. (Source: ILO; Human Trafficking Centre, 2018)

With so many profits, all these ends up in the coffers of the traffickers to benefit their syndicates and there is not any that the government benefits from. In addition, the

institutions and entities tasked with dealing with crime or victim assistance and health care also get funding from the government to support their initiatives (Wheaton, 2009). These entities receive private and government funding so that they can combat this terrible crime. Such spending is a strain on the government for there is a lot of money injected to ensure that there is efficient protection, prosecution, and protection of the victims of human trafficking (Easy Llama, 2023). One can also add that the money spent on attending to this crime could, in the absence of the crime, have been used in other socio-economic development aspects.

2.6.3. Social and moral impacts

The most affected are the victims, their families, and to a certain extent the society from which they would have been abducted from. Human trafficking brings social instability and induces fear in people within communities. Most affected are the victims that get stigmatised, and more feeling of being unsafe (UNODC, 2011). Moreover, in some victim-focused research surveys, the outcomes have shown that most of them find it challenging to get a decent job after reintegration due to the stigmatisation as well as trauma that affects mental and physical stability (Butler *et al.* 2017). Furthermore, the reintegration process is complexified as they naturally become socially alienated and marginalised as part of the stigmatisation. A research survey found that 65.5% of the participants were not ready to return home due to many reasons inclusive of discrimination (Magesa & Kitula 2020: 19).

2.7. International Protocols, Conventions, and federal laws about human trafficking.

2.7.1. UN Protocol on human trafficking.

With the chaos caused by the trafficking in persons, the international committee came together motivated to curb the crime and its ills. The United Nations Convention Against Transnational Organised Crime has since been the instrument of a fight against transnational Organised crime which includes human trafficking (UN, 2000). The UN's internationally recognised definition of human trafficking provides a vital tool for victim

identification as well as the detection of all forms of exploitation constituting human trafficking (Raymond, 2002). The countries that ratified the treaty are obliged to criminalise human trafficking and develop anti-trafficking laws that fall in line with the Protocol's legal provisions. The prevention and address on trafficking in persons and migrant smuggling further support states to prevent and address trafficking in persons by paying attention to the conditions that make people vulnerable to exploitation (UNODC, 2021).

In 2000, there was an introduction of the Palermo Convention, an updated version of the early trafficking in person's protocol. It now focused more on the trafficked persons especially women in prostitution and child labourers to reconsider them not as criminals but as victims of the crime of trafficking (UN Human Rights Commission, 2000). Furthermore, it introduced that global trafficking will be answered with a global response, and all victims of trafficking are entitled to protection even without proof of being trafficked (UN Treaty Collection, 2003). The researcher comments that this extension of mercy has the risk of opening room for non-victims to abuse the privilege for other personal reasons, and lack of screening devalues the victim protection unit.

Having considered that the previous UN Protocol terms were limiting the effectiveness of human trafficking policies, the revised Protocol saw the need to extend the bracket of policies on protection so that the formerly excluded would be included again (Raymond, 2002). For inclusivity purposes every victim introduced should not only be limited to those smuggled through borders, but it must be inclusive as well of those that are domestically trafficked for prostitution and forced labour within their countries (Gallagher 2010:113). Also, it was reconsidered that the key element in the trafficking process is exploitation rather than the movement across the border as explained in Article 3a of the protocol (Gallagher 2010:122). All these sections, among many others, were developed and introduced to assist in the effective combating of crimes of trafficking globally.

2.7.2. United Nations Convention Against Transnational Organised Crime

The United Nations Convention Against Transnational Organised Crime is supplemented by three protocols, one of them being the Protocol to Prevent, Suppress and Punish Trafficking in Person. This is the globe's key primary legal instrument to combat human trafficking (UNODC, 2018). Its internationally recognised definition of human trafficking provides a vital tool for victim identification as well as the detection of all forms of exploitation constituting human trafficking (Raymond, 2002). It plays an essential role in curbing any form of Organised crime and give legislative rights to member states to prosecute external offenders within their territory.

2.7.3. 2000 Palermo Protocol

The Palermo Protocol came in as an updated version of the Early Trafficking In-person Protocol. It now focused more on the trafficked persons, especially women in prostitution and child labourers, to reconsider them not as criminals but as victims of the crime of trafficking (UNHRC, 2000). The new protocol introduced a more comprehensive definition that extends to incorporate means of trafficking recruitment such as abuse of the victims' vulnerability (Raymond, 2002). Also, a previous protocol introduced that for a trafficking crime to be considered, there must be violated consent. Once there is given consent, it meant it wouldn't be considered human trafficking (UNODC, 2011). However, the new protocol revised that the consent of a victim of trafficking is irrelevant in determining if a case should be charged. This had been creating a barrier in the identification of victims of human trafficking as it would be used as a scapegoat by the perpetrators of the crime (UNODC, 2020). Further arguments state that a victim might be coerced to give consent or in a situation of a minor they can give consent because of the inability to comprehend and understand the potential danger in what they are persuaded into. This is most common with job offers that have low wages and exploitative against the child's rights. Having considered that the previous UN Protocol terms were limiting the effectiveness of human trafficking policies, the revised Protocol saw the need to extend the bracket of policies on protection so that the formerly excluded would be included again (Raymond, 2002).

Furthermore, with recognition that migrants from unstable or warring states are more prone to the crimes of trafficking, a union was introduced. The Global Action Against Trafficking in Persons and the Smuggling of Migrants-Asia and Middle East was introduced for a collaborated approach to curb human trafficking. This is a joint initiative by the European Union and the United Nations on Drugs and Crime to assist governmental authorities and civil society Organisations in targeted and demand-driven interventions (UN, 2007). A dual prevention and protection approach was adopted with varied objectives which included strategy and policy development, capacity building, and legislative assistance (GLO.ACT, 2021). The collaborations have allowed for the development of a multi-disciplinary approach in addressing the ills of human trafficking globally.

2.7.4. Protocol on the Sale of Children, Child Prostitution, and Child Pornography

Article 1 of the protocol requires parties to protect the rights and interests of child victims of trafficking, child prostitution, child pornography, child labour, and especially the worst forms of child Labour (UN, 2019). It intends to prosecute every violation of children's rights under this crime and to ensure that child victims are given ample support. With the Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000), prohibits trafficking in children for any purpose (UN Human Rights Office of the High Commission, 2014). States are also mandated by international law to take all appropriate measures to promote physical and psychological recovery and social reintegration of victims of human trafficking (UN Human Rights Office of the High Commission, 2014).

It also provides various dimensions in which trafficking can contextualise and these include, (a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration. (b) Use of a child in sexual activities for remuneration or any other form of consideration. (c) Definition of child pornography as any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes (UNHRC, 2012). These provisions are a

guideline for member states in identification of the crime, prosecution, and protection of the victims, and more to it these influence their legislation on curbing the crime.

The Protocols and conventions take from each other, and sub-acts have been put in place too, such as the Trafficking Victims Protection Act (TVPA), to help build up stronger policies with more understanding of the nature of human trafficking. The Act was introduced in 2000 as a tool to equip the United States with more effective resources to mount a comprehensive and coordinated campaign to eliminate modern forms of slavery domestically and internationally (Zimmerman, 2017). It protects former, current, and potential trafficking victims, prosecutes its perpetrators, and prevents further trafficking (Bishop, 2003). The Act further breaks down the three main Ps that are used as components building up the Act's aims.

The first 'P' is the responsibility to "protect" trafficked foreign national victims. That extended to include the provision of assistance to victims and the establishment of non-immigrant status for victims of trafficking (Government Gazette, 2013). The second P" entails the "prosecution" of traffickers including the incorporation of a series of other crimes like forced labour and document servitude (Bishop, 2003). This has been put in place to help reduce the limitations and complications that have recently been discovered as barriers to the identification of human trafficking activities. Prevention comes as the third 'P' that is focused on by the TVPA. With prevention, it allowed for the increased prevention measures including authorisation of governments to assist each other to combat human trafficking, provision of assistance to countries in drafting laws to prosecute trafficking, creation of programs for trafficking victims and assistance with the implementation of effective investigations (Bishop, 2003). All these sections were developed and introduced to assist in the effective combating of crimes of trafficking globally.

2.7.5. Human Trafficking in the Regional and African Continent Context

Human trafficking is also a serious problem in Africa, and this is essential to discuss in this paper for the case under study is within Africa. Considering that trafficking is a borderless crime, understanding it in the continental and regional context will help. Africa is a major origin and source for trafficking victims that are trafficked into other parts of the world such as Europe and the Middle East (Obokata 2019: 530). Estimations state that 3.7 billion people in Africa are in slavery and forced labour at any given time, and annual profits for such amount to US\$13.1 billion in the African region alone (Obokata 2019:531). It is added that Africa is more susceptible to human trafficking due to the embedded social problems inherent in its history, culture, and government (UNICEF, 2003). Scholars put forward that there is also an illusion that trafficking is mainly done across borders or that victims are taken overseas. Although this might be the case, there still is a needed to provide an understanding that the crime can also be committed within a country through rural to urban migration. In most cases the individuals end up as victims of forced labour or sex trafficking (Centre for Religion and Civic Culture, 2017). However, there is also trafficking of people in the rural areas where one can be subjected to hard labour in farms and mines.

One can add that this blur is because some of the acts of forced labour happen unnoticed. It does not only need the disappearance of an individual for it to be labelled as trafficking as one can still be exploited within their areas of residence or country and other people might never know the working conditions that one will be exposed to. Moreover, the civil unrest and political instability in most parts of South Africa create more vulnerability and expose its civilians to human trafficking predators. It is supported that conflict causes lawlessness, poor law enforcement, and dismantling service delivery. These conditions provide a fertile ground for organised traffickers to obtain and sell human beings (McCall & Lucio, 2020:238). Moreover, conflicts destabilise economies and threaten citizens' safety, which in most cases will propel them to escape in search of better conditions where there is stability and safety.

2.7.6 Southern Africa's Migration History

Migration flows in the Southern region date back to the late 19th century influenced by the socio-economic differences between countries. Wentzel & Tlabela (2006) give an overview of cross-border migration from Mozambique, Zimbabwe, Lesotho, Botswana, and Namibia to South Africa have constantly been increasing. Contemporary migration into South Africa is a common feature of the region as the country is regarded as the economic honey pot in the region and as such, attracts migrants from within the region and beyond (International Organisation for Migration, 2000). However, there is no accurate data on the increasing number of people migrating to South Africa and such highlights the difficulties that the region is facing in addressing the smuggling of migrants and transnational human trafficking. Effective prevention measures are then hindered as there is no accurate picture of whom or how many people are vulnerable to these crimes within the region. Focusing on the region provides results that South Africa is both a source and transit country in the illegal trade of humans and gave an example of the 2011 uncovering of a trafficking ring that moved as many as 40 women and girls monthly between Mozambique and South Africa each allegedly sold for R9000 (Gender links 2013:2). This supports the existence of human trafficking in and out of South Africa showing the need for the region and South Africa to take up more action in fighting the illicit trade.

2.8. Theories and perspectives of human trafficking

2.8.1 Human rights perspective

The aspect of trafficking as a human rights problem develops from the international human rights standards which have been normalised in several international protocols like the International Covenant on Civil and Political Rights (1966). It proclaims that no one should be held in slavery and servitude as well as the Economic, Social and Cultural Rights (1966), which recognises the right to work and with favourable working conditions (OHCHR, 2010). Therefore, when looking at the key crimes in trafficking, most rights are violated and with this approach means putting victims at the centre of anti-trafficking policies by prioritising the protection of their rights. Addressing the problem through this

approach allows the protection of trafficked individuals irrespective of the reason because of the victim's rights.

The adoption of different approaches to the problem of human trafficking creates a wider pool of problems in countering human trafficking. Scholars point out that most state-level policies approach trafficking as an issue of prostitution, border control, or Organised crime rather than human rights issues which detrimental impacts the rights of trafficked persons by making them secondary to another policy objective (UNHRC, 2011). This has complexities in that one's rights can be infringed when the crime is treated as such hence one can suggest for a need to draw closer to a human rights approach. This allows for the respect of human rights and dignity of all victims of trafficking while working toward its eradication. It is essential in tackling the problem to have a creative approach that addresses the specific needs of victims in ensuring they receive the support and legal aid they deserve.

2.8.2. Gender Perspective

Statistical estimations show that at least 70% of the 40 million people trapped in modern slavery around the world today are women and girls, forced to work in dangerous and exploitative conditions (Organisation for Security and Co-operation in Europe, n.d). The EU strategy towards the eradication of trafficking in human beings identifies increasing knowledge of the gender dimension of trafficking as a key priority for the EU's response to human trafficking (EU, 2009). However, this dimension is criticised as inefficient as the "gender" aspect is more inclined toward femininity as the one more vulnerable to crime and in need of more help as opposed to the masculine gender (GPS, 2021). While the perspective is critiqued, the researcher is of the view that applying a gender perspective might be essential in promoting the protection of women rights. This helps to evade the imbalance, and more so the need to engage with other perspectives that will cater for the elements left out with the gender perspective.

The second wave of the gender approach to human trafficking argues that the invisibility of male victims of human trafficking contributes to the misidentification of victims (Inter Agency Coordination Group, 2007). Such balances require that all pools of perspectives be put together to come up with efficient policies that provide solutions irrespective of gender specifics. According to Moreno Diaz, most women and girls form the greater percentage of 51 victims that are trafficked for sexual exploitation and other forced labour. For this, there is a need for a gender perspective in the content and implementation of the directive (European Economic and Social Committee, 2023). Falconer brings in another perspective arguing that taking a gender perspective on trafficking and slavery has meant pathologising and disempowering women and girls. We need to reverse this by investing in women to lead the anti-slavery movement and challenge the gender norms and power structures that allow exploitation to thrive (Falconer, 2021). This approach believes in giving power to the most affected groups such that they can help provide solutions from their lived experiences.

2.8.3. Conflict theory.

The conflict theory explains that on a macro-level there is always competition for the available resources and the elite has control over the poor and weak. Concerning human trafficking, the perpetrators are explained to be the elite wanting to use women and children as property and their supply to keep their market of human trafficking strong (The Human Trafficking source, 2022). The theory also provides an understanding of human trafficking on how and why social inequality, power imbalance, and oppression occur. It is further illustrated that socioeconomic inequality, also existent globally between developed and underdeveloped nations, fuels sex trafficking, violence and political strife and civil war (Barner *et al.* 2014). Furthermore, the way a relationship is maintained between the victim and the oppressor is that of power control over the subordinates (Barner *et al.*, 2014). Traffickers are alleged to make use of power and control to rule the lives of their victims by using drugs, or force as their means of control. The victims cannot escape without fear of death or injury because the world they would have been trapped in is a social system filled with fear tension, inequality, and lack freedom (The Human Trafficking Source, 2022).

2.9. Chapter Summary

To place the study's research question into context, this chapter has provided a foundation of knowledge on human trafficking on a global level which helped in identifying research gaps. The chapter as presented in the introduction breaking down to definitions, types of human trafficking, causes, effects, as well as contesting theories in explaining the crime, guided the researcher in developing a framework for understanding the commitments made by South Africa to curb the crime. Although definitions of human trafficking vary per country, there is an overall accepted definition that is used as a guideline in determining the crime. Despite such differences, it is generally accepted that sex trafficking, forced labour, forced marriages among others are common forms of the crime across the globe.

The impacts of human trafficking are not only for individual victims, but they also affect the society at large as well as wearing off the economy through tax evasion of the million-dollar industry. Understanding the negative impacts of the crime led member states across the globe to cooperate in formulating policies in response to the crime. These were set also as a framework that had to be adopted by countries in developing their own policies suitable to combat the crime in each unique context. Human trafficking being a topic with challenges in understanding its nature and driving motives, varied approaches have been employed to understand it from different angles. The ambiguities identified at the global level have also been noted as the same challenges faced by South Africa in addressing the crime. It has however proved that most of the underlying causes and consequences of the crime are almost homogenous as has been understood in the case of South Africa. Hence with an understanding of commonalities on dealing with the crime, it is of paramount importance that South Africa should cooperate effectively globally and regionally. Cooperation is one of the most feasible ways for countries to make progress in fighting the crime.

CHAPTER THREE

RESEARCH METHODOLOGY ADOPTED FOR THE STUDY

3.1. Introduction

This study sought to attain information for the identified gaps in research on human trafficking and particular to this study, the global commitments made by the South African government in combatting human trafficking. Based on the study's research problem, questions, and objectives the study made use of a qualitative type of research in sourcing out information. The study based its data collection methods on three major methods which were interviews with key informants, document analysis and literature review. These methods were utilised in a way that enabled the collection of information that provided an understanding of human trafficking's causes, forms, consequences, global, and regional responses. Also narrowing down to its nature within South Africa bringing knowledge on its global commitments, domestic responses to the crime, successes, and challenges in implementation. This chapter therefore explains ways in which the data was collected to answer the questions and objectives of the topic under study. It contains the overall strategy that the researcher used in carrying out the study, which is the research design, data collection methods, data analysis, and ethical considerations. Lastly, the chapter gives a summary of the chapter, highlighting the main points it has discussed.

3.2. Research design

This study was guided using qualitative research, which according to Bhandari is defined as the collection and analysis of non-numerical data to understand concepts, opinions, or experiences (Bhandari, 2020). It has also been defined as the systematic inquiry into human experience through an interpretive approach (Dangal, 2021). As the study had elements of inquiring into the experiences of those knowledgeable on matters of human trafficking policies such that it attracted more the use of the qualitative type of research and methodologies. The researcher relied on these as appropriate tools to extract the required information answering the research questions. Qualitative methodologies were adopted for this research, and they assisted in framing the problems that were under

investigation. The choice helped in making logical links between the problem, data generated analysis and drawing of conclusions. Jackson and colleagues point out that qualitative methodologies are preferable for research based on social inquiry that relies mainly on non-numerical data in the form of words, and textual and narrative analysis (Jackson, 2010). As this project relied more on document analysis, the qualitative model became fitter for use in the collection and analysis of data outcomes. It further helped in the adequate conceptual understanding of the problem that was under investigation.

3.3. Methods of data collection

Kaplan defines data collection methods as the tools, techniques, and or procedures used in the generation of data (Kaplan, 1964). This research relied on three techniques of data collection, which were interviews that focused on key informants, document analysis, and literature review. The three methods were selected as effective in providing more information and deeper insights. For an example, key informants proved essential for the study as it was one of the beset ways of understanding the policies and steps taken by the South African government. These informants, being insiders knowledgeable on the subject helped in extracting more first-hand information based on first-hand experiences. The participants had diverse backgrounds and knowledge expertise concerning the matter. The researcher interviewed three participants from the South African Police Service, one from South Africa's customs border migration control unit, another from the statistics department. The researcher also interviewed human rights activist, public relations experts, policy makers and also individuals from the civil society on human trafficking. All were part of the knowledge pool that was interviewed for this research.

3.3.1 Secondary research

Secondary data is best defined as every dataset not obtained by the author, or it can be understood as the analysis of data gathered by someone else (Martins, 2018). It may include data that has been previously gathered and is under consideration to be reused for new questions for which the data gathered was not originally intended (Vartanian, 2010). This study adopted the document analysis and literature review as secondary research methods which helped in synthesising the existing information on past and

present global commitments that South Africa has made in the efforts to combat human trafficking.

The researcher analysed the provided data on the topic guided by the research question and its objectives. This has been used in framing and refining information that was thought to be essential in closing the research gap. Understanding that the present literature is inadequate, the researcher employed the use of key informant interviews which were important in comparing the provided literature in books, journals and in official documents with data from the insiders that were well informed and working closely with the matter. This technique therefore helped in the collection of data which explored the existing patterns and showed a correlation in the data sets which produced a framework that helped in assessing the successes and challenges in human trafficking policy implementation.

3.3.2. Document analysis

The analysis of documents is a systematic procedure for reviewing or evaluating documents that are either printed or electronic material (Glen, 2009). It requires the examination and interpretation of data to elicit meaning and develop empirical knowledge (Corbin & Strauss 2008). The documents that were used for this research's evaluation were selected from a wide section that included journals, newspapers, memoranda, background papers, brochures, policy documents both international and domestic, and books on human trafficking.

Some of the documents analysed included the South African Police Service's (SAPS's) official document on human trafficking. These documents provided information on the efforts made by the SAPS as a department aiding the South African government in meeting the global commitments in combating human trafficking. Additionally, the analysis of the South African government's gazette which provided an overview of the South African laws and policies on human rights protection and anti-trafficking was incorporated. These, amongst others, have helped in building up conclusions and

recommendations on the questions raised in the study. The gathered data, for ease of its interpretation, was organised into themes which created a story from the top to the core of the matter under study. Documents were analysed for their relevance to the study, such as the documents published by the United Nations agencies concerned about human trafficking. The researcher analysed information on their provided definitions, theories, causes, consequences, nature of crime, the statistics and policies implemented globally to combat human trafficking.

3.3.3. Literature review

As a third technique to the secondary research, a literature review was made use of in this study to collect data. Coffta defines literature review as a comprehensive summary of previous research on a topic. It is a survey of scholarly articles, books, and other sources relevant to a particular area of research (Coffta, 2020). The literature review was used for this research to provide an understanding of the developments in the field and to inform the reader that the author has indeed assimilated all significant works in the field into research. With this provided, the literature review further helped in the synthesis of research findings in showing evidence on a meta-level and uncovered gaps in which research is needed (Mohammed, 2021). This technique is often suggested for research that seeks to fill in gaps in already established work or to provide more understanding of a particular topic. As Snyder argues, literature review provides a basis for building a new conceptual model that helps in the mapping of research development (Snyder, 2019). Literature review for this study has allowed the researcher to build a well-informed conclusion based on a thorough analysis of the work done before.

The literature on human trafficking for this study was accessed from varied sources mainly journals, books, newspapers, and official documents on human trafficking. It also took information from official publications by other parties working on human trafficking in South Africa like The Salvation Army. These provided some statistics on protected victims of trafficking in South Africa. Such statistical literature helped in coming up with average estimated statistics which were used in the study to measure up the successes and

challenges encountered in dealing with human trafficking. To reiterate, the use of literature review for this study was essential in bringing familiarity to human trafficking as a crime overall and that assisted in placing the research question into context.

3.3.4. Key Informant Interviews

The research made use of interviews to obtain information from key informants from select organisations and institutions. The key informants refer to those people that are experts, knowledgeable, or have interest or experience in a particular field, and these are in a better position to give primary information about the topic in question (Denscombe 2010:173). Key informant interviews are often qualitative, in-depth interviews with a select number of people based on their first-hand knowledge about a topic of interest (USAID, 1996).

These allowed for the free flow of ideas and information on South Africa's counter-human trafficking approach. Key informants were asked to share knowledge on the subject as individual experts and not as representatives of their organisation. Thus, the information obtained was not sought by the organisation, but from people in their capacity. The researcher approached ten key individuals who included academics, officials from organisations involved with human trafficking, and law enforcement agents involved with human trafficking. The interviews followed these steps:

❖ **Question formulation:** the questions were formulated based on specific concerns of the study and included six unstructured questions which were open ended. The use of open-ended questions allowed participants to answer based on their complete knowledge and understanding of the human trafficking issue (Turner, 2018). This allowed the researcher to acquire more information from the informants as the questions were not limited.

❖ **Interview guide preparation:** the interview was guided by the research questions and objectives of this project to get an exploration of the issues in depth.

❖ **Selection of key informant's key:** the selection of individuals was based on their area of specialisation and expertise such as host government agencies, and project implementing agencies. The engagement of varied stakeholders helped to capture the divergent understanding of human trafficking as a crime and the policies in place.

❖ **Conducting interview:** at the beginning of the interview the researcher explained the purpose of the interview. After ensuring that they had understood, it proceeded to ask questions that required opinions.

❖ **Taking notes:** these were taken and used to develop an accurate detailed interview report. Then after the notes, the data was carefully analysed at the end of each interview and it provided information about the key informant's position, main points raised, and insights during the interview.

3.4. Sampling techniques

In selecting participants, as highlighted above, the suitable technique to identify informants for this research was purposive sampling. Purposive sampling is a group of various non-probability sampling techniques that depend on the researcher's discernment to select the units such as people, organisations, cases, events, and pieces of data that are studied (Black 2010). It proves to be more effective for research that concentrates on a limited number of people that serve as the primary data sources (Saunders *et al.* 2012). Ten participants were selected from select civil organisations dealing with human trafficking, the South African Police Service Department on trafficking, and other stakeholders fighting human trafficking.

The ten participants were selected through purposive sampling. The researcher collected information on possible participants from the government website, non-profit organisations on human trafficking, state law enforcement agencies working on human trafficking, and these were identified for their expertise. One example is the selection of an informant working from the courts of law which was for the purpose of attaining information on successes and challenges on prosecution of perpetrators. Some informants were selected for their knowledge on dealing with victims and some for their skills on policy analysis.

As the research aimed to work with ten candidates the selection was based on one's knowledge relevance to the study. However, the researcher opted to remain with 12 candidates to which consent forms were sent. This was done to have a balance; in case some would decline the request. Through such a strategy, the researcher managed to attain the ten participants for the study.

3.5. Data Analysis

After collection of the data, it was analysed for its relevance, and the raw data set helped in answering the identified questions for this research. In getting information to assess the success and failures of the implemented policies, the interview questioned the experiences of policy implementers. The responses were refined and measured against the core aims of the policies in place to scale if it was progressive or ineffective. The analysis of the information from these varied sources helped in the construction of suggestive questions that helped in the observation that were made on issues surrounding human trafficking. Some of the documents were accessed from varied libraries, organisational files such as police publications and newspaper archives. These helped in indicating answers to the issues surrounding the topic under investigation. In doing the data analysis I followed the steps described below:

Step 1: Defining the research question.

To obtain solutions for the identified gap, the researcher constructed questions that were specific and guidelines for the analysis of the data that was gathered. The guiding questions focused on understanding South Africa's global commitments in combatting human trafficking, and the measures implemented thereof. The study also included other questions that enabled the extraction of information guiding on the achievements and failures encountered in policy implementation and barriers experienced in effecting the policies.

Step 2: Data collection

Aligned with the research questions and objectives, the data collection process for this study encompassed three principal methods: literature review, key informant interviews, and document analysis. The literature review and document analysis were not geographically restricted, allowing for the extraction of valuable information from various sources. However, emphasis was placed on contextualising the findings within the South African landscape. As for key informant interviews, these involved ten purposively selected individuals chosen based on their diverse areas of expertise and comprehensive knowledge of the human trafficking subject.

The selection criteria also considered geographical diversity within South Africa, with participants from locations such as Johannesburg, Arcadia, Hatfield, among others. The rationale behind confining the key informant interviews to South African experts came from the primary research question's focus on understanding the government's collaborative efforts at the international level to combat human trafficking. The interviews were conducted remotely employing phone calls. The researcher sent the questionnaire to the participants before having the phone call interviews. The selected individuals represented a spectrum of roles, including law enforcement, and policymaking, ensuring a comprehensive understanding of the multifaceted aspects of human trafficking within South Africa.

Step 3: Information categorisation and analysis

The collected data was selected for its relevance, and the researcher identified similar patterns on the data and used that to arrange the information in different themes answering the research questions of this study. The themes were broken down in a way that led to answering the question by identifying the patterns and relationships found in the sourced data. Scholars describe that in grouping information for a study, the researchers need to identify the recurring and important themes to provide a description of the phenomenon under study (Noble & Smith, 2013). The researcher employed the top-down approach in grouping the information that is data on human trafficking definitions, nature, causes, effects, measures, and statistics on a global level narrowing down to the South African context. The information was further grouped into three main

categories which included the role of South Africa on the global arena, commitments made, and assessment of successes and failures.

After grouping that data, it was further selected and presented in a way that interpreted a story on the crime of human trafficking both globally and in the South African context. This assisted in deriving insights that helped answer the question under study. To achieve this and to avoid generic feedback content analysis was made use of. This was used to determine the themes that emerged frequently in the collected data on human trafficking, and these were coded to check for the validity and reliability. To cater for the information provided by the key informants, the researcher made use of the narrative type of data analysis, which is defined as the reformulation of the stories given by respondents in a survey or interview where they give an account of their experiences (Riessman, 1993). It was therefore necessary to employ this tool to assist in interpreting the participant's information that they relayed as well as identifying the relationship that the information had to the main study question. The raw data from key informants, quotations in official documents or press statements were used in some instances as emphasis supporting the findings.

3.6. Ethical Considerations

While carrying out the research, the researcher took into consideration the ethical protocols that had to be observed. Nama & Swartz (2002) assert that when the ethics code is broken, it puts the participants or communities involved in great danger if the confidential information is mishandled. A researcher should not practice power over participants. Before carrying out the interview informed consent was sought from the participants. Informed consent means that the participants in the research should freely give permission willingly and without coercion from the researcher (Vandana 2016). The following considerations were taken for this research study:

3.6.1. Voluntary participation

Scholars stress that voluntary participation is a universally accepted and expected procedure as a precondition for all research that involves human beings (Marshall et al, 2006). As a required code of conduct, and that the research involved humans the researcher ensured that all the participants engaged on voluntary basis. This was done through requests formally sent to potential participants, and it was made clear that their involvement was voluntary. Freedom of choice was ensured by allowing the participants to voluntarily select a specific time for a scheduled meeting for the interview which was flexible per individual to respect the voluntary engagement.

3.6.2. Informed consent

Considering that this forms core ethical concerns, the researcher also carried out the interviews with the informants after careful consideration of their consent. After the participants volunteered to be interviewed a consent form was sent out that they had to voluntarily sign. Denzin and Lincoln argue that the cornerstone of every ethical research is informed consent (Denzin & Lincoln, 2011). The consent forms had an explanation of their rights during and after the interviews; the rights to access the information as well as the rights to withdraw from the interviews at any point if they felt uncomfortable. Moreover, in the aspect of the informed consent the researcher also included personal information about as a researcher, the research's intention, the type, and form of data to be collect. Likewise, the researcher made known to them their level of commitment as well as ways in which the data was to be reported and stored.

3.6.3. Debriefing

As an extension to the informed consent, for the participants to be fully aware of what they were engaging in, a detailed explanations were provided on the topic under study, its aims, and intentions. At the end of each participation the researcher provided a debriefing statement to the participants. The statement informed them of the information collected, a summary of the interview and reiteration of the way in which the data was to be used. This was communicated through plain English language without the use of

research jargons. Lastly, the participants were given the opportunity to ask questions, add comments, and raise areas of concerns at the end of each interview.

3.6.4. Confidentiality

This stage in ethical consideration is a condition whereby the researcher knows the participant's identity but takes steps to protect the identity from being discovered (Kaiser, 2009). The researcher ensured this by keeping the participants anonymous as well as disassociating the information provided from their organisations and departments. This was done to avoid the representation of information as provided by the organisations. The information collected was kept safe through password protected files on the device I used during the interviews. Information on storage was shared with the participants for their collected data.

The researcher made it known to them that it was going to be used in writing up my research which after examination will be stored within the University's research department and can only be used with full consent for further use and or publication. The researcher also made it known to the participants that the information they provided was not to be associated as representing their organisations to avoid risks of employee misconduct.

3.7. Challenges

During data collection, the researcher encountered challenges including language barriers and reluctance during the selection of participants. On approaching most of the informants for the interview, they showed reluctance as some of the information was considered sensitive. With Regards to their respective positions some were not willing to participate to avoid compromising their work positions. As for language, although it was not the case with most informants, a minority of them preferred to use their indigenous language in expressing some of the points.

3.7.1. Reluctance

It is a common element of human nature that one questions any random selection to participate, and this proved to be one of the challenges the researcher encountered in recruiting the participants. Deane explains this as a “why me” element often encountered as resistance from their targeted research participants (Deane, 2019). To deal with this challenge, the researcher took a step back and sent follow up emails that explained further the purpose of the study and reasons for selecting those individuals. Research approval letters were also sent to them to showcase the authenticity of the study and as a guarantee that the information was not going to represent neither them nor their organisations, and departments.

3.7.2. Language barrier

As a foreign student it became a challenge to communicate efficiently with some of the key informants as they found it difficult to fully describe their experiences and the first-hand knowledge they possessed, because of the language. In some instances where the participants used their vernacular language, the researcher resorted to the use of google translation to overcome this challenge, especially to understand the meanings of some words that were used in-between interviews.

3.8. Chapter Summary

This chapter provided information on the methods and procedures used in the data collection, analysis, and ethical considerations. Additionally, the challenges faced were also discussed in this chapter. The study was based on qualitative research methods which included key informant interviews from varied areas of expertise on the topic of human trafficking. These were particularly selected within South Africa as the study sought to understand the commitments that South Africa had entered to date. Literature review and document analysis were both used as sources of data for the study. Having found broad information on human trafficking the researcher indicated in this chapter that the data was selected and analysed for its relevance to the study.

The process was guided by the main research questions and objectives which were essential points of departure in the selection of information that helped provide answers and recommendations sought by the study. The researcher ensured that the participation was voluntary, and as they expressed concerns with confidentiality, the researcher debriefed each participant to study, protect identity, storage, and use of data. Despite the challenges of language barrier and reluctance, the researcher took steps to encounter these challenges that would have affected the research's outcome.

CHAPTER FOUR

UNDERSTANDING SOUTH AFRICA'S GLOBAL COMMITMENTS AND DOMESTICATION OF POLICIES IN COMBATTING HUMAN TRAFFICKING

4.1. Introduction

The topic under study aimed at understanding South Africa's role in the fight against human trafficking, which has become an issue of global concern. Not only because it has become widespread, but because it is a human rights violation. As a major global player and a country that is considered a hotspot, mostly because of its specific circumstances, which incubate human trafficking activities, the country continues to play an active role in fighting this inhuman act. The objective of this chapter is to understand the country's commitment in fighting against human trafficking. It is an analysis of the country's global commitments in combating against human trafficking, and how these commitments have been domesticated.

The chapter is based on an analysis of written sources, both secondary and primary, including legislative documents and policies, media reports, and scholarly literature. It also draws on opinions and perspectives from key informants, who were interviewed specifically because of their expertise, interests, and role in human trafficking in the

country. For ease of understanding, the chapter is organised in the following. Firstly, it discusses the country's global commitment, identifying and analysing the various protocols that the country has signed, as well as platforms in which it has participated internationally. The second part of the chapter moves from the global to the local scene and analyses the domestication process. The analysis focuses on the institutions and other infrastructure established by the government and the laws and policies that have been legislated.

The data collection aimed at being consistent with the research questions and objectives of analysing the above-mentioned topic. With the help of three key data collection methods; document analysis, literature review, and key informant interviews the obtained information has helped to provide information to questions raised with the research's problem statement. The findings are descriptive data that will have elements of numerical data representation that will help map out the clear picture of answers to the research's questions and objectives.

4.2. South Africa's global commitments to human trafficking

South Africa is a major global player, and its engagement in global economic, political, and social issues has become a significant part of its foreign policy. As one of Africa's economic powers and a model democracy, the country has a major role to fight injustice. The country has been actively getting involved and participating in global initiatives that are aimed at combating human trafficking crimes (Georgina, 2019). The commitments have been global at large, regional, and narrowed down to influence local domestic laws and initiatives on fighting the crime of human trafficking.

This section is focused on discussing the country's global commitments, analysing protocols and platforms, which the country has endorsed and participated in, and its role in the region and sub-region. The following sections are a description of the outcomes of the global commitments, presenting ratified and signed protocols by South Africa on

human trafficking. As well as the discussion of regional, and domestic laws and the South African institutions and organisations involved in this cause.

4.2.1 Ratification of past conventions

South Africa's commitment to the global fight against the scourge of human trafficking is linked to its commitment to fighting social and human injustice. Over the years, it has ratified several conventions, which are associated with stopping human injustice. These have included the ratification of the 1926 Slavery Convention, the 1930 Forced Labour Convention, and the 1979 Convention on the Elimination of Forms of Discrimination Against Women. One expert in policy making related that, "the engagement of the South African government with trafficking protocols also comes from the aim to overcome human rights violation related crimes" (Interview, Pretoria, 2023). The researcher would argue that the government has taken more pro-active action to cooperate in having control over this crime. One would say that South Africa's history back dates showing its efforts to fight the crime although acknowledging the shortfalls in implementation it has still done better. This section discusses signed and ratified protocols concerning South Africa, showing the commitments it has made as a move of cooperation.

4.2.2. The 1926 Slavery Convention

South Africa having committed to the provisions of the convention, acceded to it in 1927 and in 1953 was its first year of commitment to participation. Surprisingly, slavery has not ended, instead, it has resurfaced as trafficking. Despite having moved centuries away from the abolition of slavery worldwide, forced labour is still a huge problem (UNHRC,1926). Hence, the South African constitution, since 1927, has continued to utilise the provisions of conventions in its legislation. It undertook the responsibility to prevent and suppress the slave trade and related crimes by cooperating with member states to bring about the complete abolition of such crimes (Kruger 2010:16). The South African government has, to date, kept the provisions of the slavery protocol in building its

constitution to ban it. Dugard points out that with slavery being labelled as *Cogens* (International Fundamental Law), the South African courts follow the International Customary Law approach in prosecuting acts of slavery (Dugard *et al* 2005). In section 35.6.1 of the South African constitution, it has been pointed out that no person shall be subject to slavery, servitude or forced labour (Steytler, 1998). These have been used to punish any crimes that are related to forced labour and by so doing. A case of reference is that of thirteen offenders that were arrested in 2011 for human trafficking and were given an imprisonment term for subjecting individuals to servitude conditions on their three farms in Mpumalanga (Interview, Mpumalanga, 2023).

Moreover, the South African government committed that slavery would also be prohibited under its common law as part of the International Customary Law (South African Gazette, 2013). According to one public relations officer of crime and justice as our key informant, it was mentioned that the action taken against Ediozi Oddi by the Gauteng High Court who received 6 life sentences and additional 129 years of imprisonment for human trafficking and slavery-related charges is plausible, for it shows the commitment that the government has in prosecuting such crimes (Interview, Durban, 2023). South Africa's commitment to the provisions of the conventions allowed the prosecution of crimes related to human trafficking, and it became feasible to also have traffickers prosecuted even before the introduction of a comprehensive law on human trafficking.

4.2.3. The 1930 Forced Labour Convention.

With the intensity of human rights violation crimes, more action had to be taken to incorporate elements that could have been left out. South Africa being proactive in the protection of human rights gave proactive consent by signing the forced labour convention in 1997. This was a will in cooperating with other members to close the gaps and allowing for the strengthening of international cooperation to combat forms of human rights violations (Kruger 2010:202). South Africa's constitutional assembly shows that the nation has committed to carrying the duty to criminalise illegal forced labour and to enforce adequate penalties for related crime. According to one of the participants they highlighted

that “there is an overlap within forced labour related crimes, within my department there has been an introduction of short training for officials dealing with such crimes, enabling them to also track down its relation to human trafficking”.

With these insights, literature also depicts that South Africa further included in its bill of rights that everyone has a right to fair labour practices and this bill applies to all laws and binds the legislature, the executive, and organs of the South African state (Government Gazette, 2018). Another informant said that “this part of crime actually happens in the eyes of the society without knowledge on its illegality which also is a point of reference that even in the presence of this law there is need for more awareness of this public but hidden crime”. Furthermore, these laws cover a multitude of human trafficking crimes as they are part of the process in which trafficked individuals become subject to forced labour. This can be through sex work, working on plantations or large factories, and farms unpaid to produce profits for their masters (UNODC, 2015). In 2014 there was a follow-up launch on the Protocol of Forced Labour Convention and again South Africa committed to taking more effective measures to prevent and eliminate the use of forced labour (ILO, 2016). These commitments have helped South Africa to prosecute crimes related to human trafficking. In protecting these basic human rights, it enabled itself to align with the global requirements to fight the crime.

4.2.4. The 1979 Convention on the Elimination of all forms of discrimination against women

South Africa took another step of cooperation and commitment by signing the convention on 29 January 1993 and ratifying it in 1995. The convention aimed to reaffirm faith in fundamental human rights concerns in the dignity and equal rights of men and women (United Nations General Assembly, 1979). Bonthuys and Domingo outlined that it was a compilation of women’s rights in existing treaties together with additional rights commonly known as human rights (Bonthuys and Domingo 2007:60). A participant from the crime statistics department highlighted that every 10 out of 15 trafficked persons are women

and commented that this is one of the indicators that gender inequality plays a key role as a determinant for one to become more vulnerable to trafficking (Interview, Brooklyn, 2023). Understanding that the crime thrives on such disparities, South Africa has put in place measures to empower women and policies that protect their rights to limit the vulnerability. The country has many segregation lines that affects one's chance to break through the glass ceilings in having access to thrive in the economy. With the lack of opportunities women are more vulnerable to fake promises of job prospects.

Yasmeen Hassan argued that human trafficking is a much-gendered crime and most of its prevalence can be laid at the door of gender inequality (Perdue, 2021). The South African government committed to condemning discrimination against women in all its forms by providing policies that prohibit such. It further adopted legislative and other measures that include sanctions, where necessary, to prohibit discrimination (UNHRC, 2011). Additionally it also committed to embodying principles of equality of men and women in their national constitutions. South Africa in response to discrimination, it gave the provision of appropriate measures and legislation that abolish customs and practices constituting discrimination against women (UNHRC, 2011). Human trafficking international statistics show that 76% of the most vulnerable groups to human trafficking are women and young girls as demonstrated on Fig 10 below.

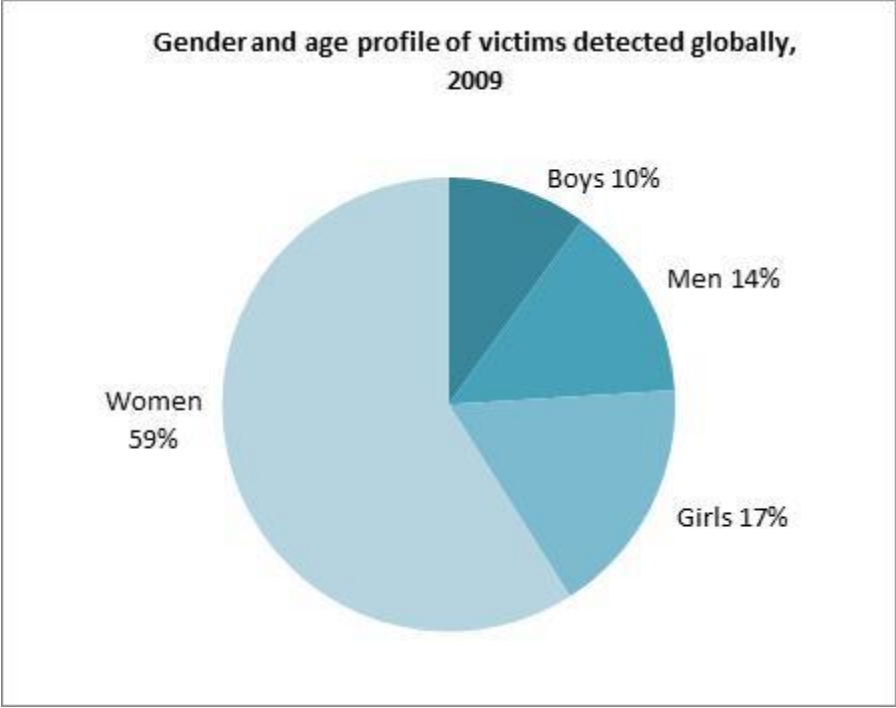


FIG 10: A statistical representation of trafficking victims based on gender, (source: UNODC, 2009)

The convention was necessary as it addressed one of the root causes of human trafficking emanating from discrimination practices that make women and girls more vulnerable. Falconer also stresses that an estimated 70% of the 40 million people trapped in modern slavery around the world today are women and girls that are exposed to exploitation due to the contributions of gender norms and discrimination in economic shares which then renders them more vulnerable (Falconer, 2020). Anonymous in the interview expressed that women are at an economic disadvantage, and whenever there is a crisis even political upheavals or civil unrest women get most of the socio-economic impact and that explains their higher vulnerability to human trafficking deceit (Interview, Durban, 2023). Hence providing laws to end discrimination is a worthy step that South Africa has taken in addressing the ills of human trafficking.

4.3. South Africa’s commitments to international institutions and protocols

South Africa also made commitments to international institutions and their protocols for combating human trafficking beyond its past ratifications. The following section continues to give the South African story of its commitments to the international institutions and essential protocols it signed on the international level. These guide ways of identifying, and prosecuting perpetrators of the crimes as well as protecting the victims of human trafficking. 70% of the key informants discussed the Rome statute of the international criminal court, protocol on child involvement in armed conflict, and protocol against Organised crime and these are going to be discussed below.

4.3.1. The 1998 Rome Statute of the International Criminal Court

Under this statute, it was signed on the 17th of July 1998., Within a short space of time the government deposited its instrument of ratification of the Rome Statute on 27 November 2000. The statute established four core international crimes including crime against humanity and under this sub-crime is human trafficking which is labelled as a serious international crime (Kamidi, 2007). South Africa then committed to carrying the responsibility of investigating and prosecuting international crimes. As a state party, it enacted the implementation of the Rome Statute of the International Criminal Court Act of 27 of 2002 (CICC 2008:1). An informant in the government said the statute has been used to determine the modalities of prosecuting perpetrators of the crimes against humanity in the South African courts (Interview, Johannesburg, 2023).

Also following this, the Implementation Act provides that South African courts will have jurisdiction over these crimes not only when they are committed on the territory of South Africa but also when they are committed outside the republic (Kayitana, 2015). With this in place, the South African government has managed to possess the power to prosecute any offender regardless of their nationality as well as holding the responsibility to protect the victims despite their legal or illegal migrant status. Such cooperation has allowed for progress in prosecuting human trafficking and as a demonstration of South Africa's commitment not only on paper but in policy implementation to curb the crimes of trafficking.

4.3.2. The 2000 Convention Against Transnational Organised Crime

Globalisation has made the world deeply interconnected, and although it has its blessings it is a curse too when one flips the coin to look at its dark underbelly. Due to the interconnectedness and porous borders, it has allowed increased networking of transnational organised crimes such as human trafficking (Study driver.com, 2004). This has probed the international community to introduce a legal instrument, a Convention Against Transnational Organised Crime which had three supplementary protocols dealing with specific persons, trafficking in firearms, and migrant smuggling, and South Africa ratified this Convention on the 20th of February 2004 (Gallagher, 2010:130).

According to an informant from the justice courts, our government took the responsibility to help promote cooperation to prevent and combat organised crime by criminalising it and introducing more stringent laws on migration (Interview, Cape Town, 2023). According to Article 18 Section 13 of the Convention, the Director General of the Department of Justice and Constitutional Development of South Africa was further designated as the central authority to receive requests for mutual legal assistance (Government Gazette, 2020). Additionally, the South African government committed to the obligation of criminalising participation in an organised criminal group, and the laundering of the proceeds of crime (Jordan, 2002b). Furthermore, South Africa also signed three protocols that supplement the convention against organised crime and of relevance to this study is:

Protocol against the Smuggling of migrants by land, sea, and air supplementing the United Nations Convention against Transnational Organised Crime.

South Africa accepted it on the same date, the 20th of February 2004, and committed to prevent, investigate, and prosecute the offences established. In article 6 of this Protocol, it criminalises offences that are transnational and involving organised criminal group (UN,

2010). It also agreed to commit to the provisions of Article 5 of the protocol which state that each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally (UNUN, 2000). The researcher points out that this protocol has more impact in ensuring that there is migration legislation that allows prosecution of human trafficking during the phase of transportation of victims. Also, it has allowed the facilitation of protection of victims when identified from their enslavers instead of subjecting them to illegal migrant status. Another informant working with migrants and border control pointed out that a distinct law to differentiate independent illegal immigrants and undocumented smuggled migrants has of late helped in the classification and protection of human trafficking victims (Interview, Limpopo, 2023).

United Nations Protocol to Prevent, Suppress and Punish Trafficking Especially in Women and Children.

This protocol carried further the objectives of the 1979 convention discussed on past ratifications. South Africa, once more, accepted and signed it on the 14th of December 2000, and on the 20th of February 2004, ratified it. In doing so the nation committed to having more strengthened action to prevent and combat trafficking in persons, especially women and children (UNODC, 2021). As has been mentioned, statistics provided in the literature show that 65% of the trafficking in persons, between 2004 - 2019, in South Africa were mostly women and children (Statistics SA, 2020). A key informant from one human trafficking organisation shared that traffickers usually target vulnerable people and in the South African context women and children are more vulnerable because of their poor economic position (Interview, Arcadia, 2023). In addition, 90% of the key informants provided related information that traffickers in South Africa seem to have adopted a strategy where they target people and areas that are poverty-stricken. Areas with high unemployment and have child-headed households have been targeted by traffickers in South Africa.

With this background information, the government's commitments to this protocol have helped to mold South Africa's legislation on trafficking in a way that can address the root causes of human trafficking as well (Raymond 2002:494). According to the United Nations official document, South Africa, on this protocol, committed to prevent and combat trafficking in persons by paying particular attention to women and children (UNODC, 2021). South Africa has further introduced initiatives to protect and assist victims. These have been incorporated in South Africa's legislation and used as a guide in executing the prosecutions and protection of victims of human trafficking.

4.3.3 Global Action Against Trafficking in Persons.

According to South Africa's Department of Justice, it is shown that on the 19th of January 2018, they signed a grant agreement for the provision of direct assistance services to migrants in vulnerable situations in the Kwazulu-Natal province in South Africa (Department of Constitutional Development, 2019). This was in cooperation with the Global Act to Prevent and Address Trafficking in Persons and the Smuggling of Migrants. In cooperating with the GLO.ACT South Africa allowed its government to be assisted together with its non-state actors and civil society on ways to identify the crime protect its victims and efficiently prosecute offenders. It has further accepted to host the collaborated workshops with other stakeholders such as the international migration department in South Africa. These are working together to raise awareness of human trafficking and inform each other of the best ways possible to curb the crime as required on the international platform.

In the interviews most participants discussed about this move that the government made in signing for the grant. From one participant they pointed out that despite the efforts to oversee and protect victims of the crime, the government is overwhelmed in its budget to effectively provide for these victims, which affects the efforts on human protection. In agreement another participant expressed that "the signing in agreement for the direct assistance has helped to address the shortages in victim protection supply". The collaborated effort is plausible as the government's aim is being actively pursued to

ensure that the victims are protected. Also, the process is not only government centralised, but rather open and allows the input and assistance from other interested parties.

4.4. South Africa's commitments on the African continental and regional level

With human trafficking being a crime without borders, it has proved essential for states to cooperate in putting a plan of action that helps counter human trafficking. South Africa has taken a proactive approach of cooperation with other states in fighting the crime, as it is increasingly getting mass migration, especially from its neighbouring states due to its better economic standards. Such conditions continue to attract a breeding ground for traffickers. Literature has also actively shown that South Africa is a trafficking hub providing passage for victims in transit and being a source and destination of trafficked victims too (Dewhurst, 2017). South Africa has therefore adopted a collaborative approach with other nations to have an effective law to counter human trafficking. This section then discusses the commitments that South Africa has made on the continental and regional levels concerning human trafficking.

4.4.1. African Charter on human and people's rights on the rights of Women in Africa 1981 (Maputo Protocol).

The African Charter on Human Rights covers most of the elements that are violated in human trafficking. South Africa, a member of the Charter, committed to improving the status and lives of all women and girls. This has been done through addressing gender inequality and abuse against African women comprehensively. South Africa ratified this protocol on the 17th of December 2004 committing to introduce legal measures that protect women from violence, inequality in marriages as well as harmful practices (Bello & Olutola, 2022). One participant in policy analysis pointed out that, "in complying with the provisions of this charter South Africa has enabled its law to curb another form of

human trafficking emanating from forced marriages and cultural beliefs that lead to the exploitation of women” (Interview, Brooklyn,2023).

Also, by signing this protocol South Africa is now obliged, according to Article 62 of the African Charter and Article 26, section 1 of the protocol, to submit state reports every two years indicating legislative and other measures undertaken towards the full realisation of the rights enshrined in the protocol (Centre of Human Rights, 2021). To further assess the state parties’ compliance with the obligation member states including South Africa committed to doing state reporting on progress about responses in legislation to the protocol provisions, (UN, 2019). The facility to produce state reports has prompted South Africa to refine the data it presents on the regional level and used it also for official readings on a global level.

4.4.2. Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children of 2006.

This action plan was introduced as a reaffirmation of the international instruments on trafficking in persons and provides specific measures and recommendations to tackle trafficking particularly women and children (African Union Report, 2009). Again, South Africa committed to introducing measures to combat human trafficking using the human rights perspective putting the best interest of children as of paramount importance (Bello and Olutola, 2022). South Africa has shown its continued interest and commitment to combating human trafficking by acceding to protocols and adopting plans that reiterate each other’s provisions. It committed to the principles of this plan to ensure that there is education for the public and law enforcers on crime, as well as raising awareness about crime as a key preventative measure. The plan advised on the use of mass media and information campaigns to reach out to many people that are most prone to the crime of trafficking (Ouagadougou, 2006). South Africa has set up structures that oversee media platforms and use them to raise awareness. Moreover, identifying that human trafficking feeds on poverty, economic difficulties, and unemployment as a principle of the plan. South Africa further committed itself to providing employment opportunities. The

government has given will to most of the protocols, plans and conventions that push for the prioritisation of addressing root causes of the crime. That is seen helping South Africa in shaping up its policies in a bottom-up approach.

Regarding victim protection as part of the plan, South Africa found more ways to strengthen its victim protection agenda by committing to base its policies, programs and some other measures on victim protection as suggested by the Ouagadougou plan. It has further adopted the principles committing to aid on human rights instruments including the ones that relate to forms of forced labour (Ouagadougou, 2006). These have prompted the South African government to find appropriate measures to ensure protection and empowerment of women and children. According to an informant the government has resorted to a multi-disciplinary approach in research to promote the development of more efficient and relevant measures that can bring varied contributions on alleviating the imbalance (Interview, Pretoria, 2023). It is worth noting that the international and continental protocol provisions attempt to use the bottom-up approach in addressing human trafficking. This includes the emphasis on vulnerability and the need to protect women and children from human trafficking. This approach is highly appreciated as it prioritises the most vulnerable groups in the society.

Moving on, South Africa committed to tailoring its legislative framework in a manner that ensures effective implementation of the prosecution of individuals involved in committing the crime. This has extended to its government being influenced to adopt national legislation consistent with the regional and international instruments on anti-trafficking to ensure that all aspects of trafficking are criminalised Mensah-Ankrah and Sarpong (2018). Considering that trafficking thrives in war zones especially the use of child soldiers, the plan encourages its member states to adopt legislation that assists in preventing the use of child soldiers that is having combatants below the age of eighteen (Vhumbunu, 2020). The South African government has further committed to ensuring the establishment of channels of communication that are more directly considered to establish joint investigations and border patrols. The government implemented this by increasing the number of officials monitoring border movements also it is working with the Department

of Home Affairs to ensure that all entries are legal as a frantic effort to limit incentives for the offenders to move their victims.

4.4.3. 10-Year Development Plan of Action on Combating Trafficking in Person, especially Women, and Children in Southern Africa.

Scaling down to the regional level, trafficking in person is still a public security concern in Southern African Development Committee member states as it is around the world. Focusing on South Africa specifically, it emphasised its commitment again towards preventing and combating trafficking in persons by adopting the 10-year action plan. An individual working for an organisation on human trafficking in South Africa said, “human trafficking is not only a South African problem, but a crime that negatively impacts regional, continental, and international peace and security, and we see that for this cause, states have collaborated for a coordinated response to the crime”, (Interview, Arcadia, 2023).

South Africa committed to adopting the plan’s eight strategic areas of focus which include the legislative policy measures, training for skills enhancement, capacity building, prevention and public awareness raising, victim protection, and regional cooperation (Vhumbunu, 2020). After the review, there was refocusing of the plan in 2016 and the Revised Strategic Plan of Action on Combating Trafficking in Persons, especially Women and Children (2016-2019) was also developed and approved by the SADC Ministerial Committee of the Organ on Politics, Defence and Security Cooperation (OPDSC) in 2017 (SADC,2017).

To this end, South Africa committed to the new revised elements of the plan which were now encompassing capacity building and training. It also promotes, public education and awareness raising, victim support and witness protection, research and information sharing, coordination, and regional cooperation, as well as harmonisation and operationalisation of laws (National Policy Development Framework, 2020). Committing

is one thing and implementation is another, the researcher points out that South Africa has demonstrated its focus orientation and efforts to cooperate with other member states to combat human trafficking. It is evident enough that it went beyond written commitments. South Africa has further demonstrated its efforts to combat the crime as well as maintain its regional status as an advocate of human rights protection. This has been done through domestication of precepts for the objectives of the protocols and conventions it has signed at ratified on different levels to combat human trafficking.

4.5. Domestication of Global Commitments

Further to the discussion in 4.4.3, South Africa has been labelled as one of the countries that hold high regard for human rights, displaying efforts to protect them. Faced with one of the human rights-violating crimes of human trafficking, South Africa has taken a cooperative approach to fighting human trafficking. With the protocols, conventions, and plans on human trafficking, it has acceded from the international to regional level and has utilised these to structure its domestic policy and hugely influenced its operational measures on anti-trafficking. The current anti-trafficking law in South Africa is highly influenced by global instruments and responses to human trafficking. This section provides a discussion of South Africa's domestic laws, institutions, programs, and projects put in place to help in the fight against human trafficking. It will also show ways in which South Africa has complied with international, continental, and regional obligations in combating crimes of human trafficking.

4.5.1. South Africa's policies and legislation on human trafficking.

A police official in the interview specifically commented that the government has made great use of international tools on anti-trafficking to formulate its domestic laws that are custom-made for the country (Interview, Pretoria, 2023). With regards to human trafficking crimes in South Africa, the Criminal Law Amendment Act 105 of 1997 states that it attracts a life imprisonment sentence (25 years) and is eligible for parole after 25 years. This, however, depends on whether this is the first, second or third-time offender (Department of Correctional Services, 2023). This is accompanied by other laws and precautionary legislations inside the South African constitution. The Republic created national human

rights obligations that are relevant in prosecuting human trafficking. It contains the Bill of Rights that enshrines the rights of all people in South Africa placing an explicit obligation on the government to respect, protect, promote, and fulfil these rights (Kassan, 2008).

The Bill of Rights of South Africa is well-founded through its enshrining of the rights of everyone and affirmation of democratic values of human dignity, equality, and freedom. The Constitutional Court of South Africa provides the Bill of Rights with 15 rights, but of relevance to the topic in the discussion are the four key rights. Firstly, it provides that everyone is equal and must be treated equally. Secondly, no one has the right to discriminate against another based on their race, gender, sex, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, or birth among others (South African Human Rights Commission, 2017).

This resonates with the sentiments of the protocols and conventions discussed above against discrimination, especially on women and children. These are found to be the foundations creating vulnerability of women and children to varied forms of human trafficking. A police official echoed that “you know our constitution is regarded as one that is progressive in terms of protecting human rights, we do not see it lightly when the human violation occurs and worse still the painful violations of rights of those held in bondage by another person” (Interview, Durban, 2023). With human dignity, everyone has a right to inherent dignity and the right to have their dignity respected ([Government gazette, . 1996](#)). Human traffickers take away one’s dignity, the Roman Pope in a press address, in response to human trafficking shared that “*Human trafficking disfigures dignity. Exploitation and subjugation limit freedom and turn people into objects to use and discard. And the system of trafficking profits from the injustice and wickedness that oblige millions of people to live in conditions of vulnerability.*” (EWTN, 2023). Therefore, the government has placed measures that put the needs of women first and economic initiatives that empower women to move out of the poverty cycle through these opportunities.

The provisions of section 10 of the constitution also provide that these right covers acts and omissions that fall in their exclusive domain and are not included within the scope of

other rights (Barak 2015:12). In protecting this right, the ills against human dignity committed during trafficking allow the South African constitutional law to prosecute it under violation of these provisions. Freedom and security mean that no one can be incarcerated without good reason; be detained without trial; be tortured in any way or be treated or punished in a cruel, inhuman, or degrading way (South African Constitution, 1996). The government has made it illegal for anyone to be held prisoner under any unfavourable conditions which also assists in prosecuting offenders in human trafficking for brutally subjecting their victims to conditions of imprisonment. With reference to the case in Johannesburg, women were rescued from their offender who used to keep them in one room for commercial sex under unfavourable conditions in which they were denied access to the money they worked for and often beaten for misconduct (Interview, Johannesburg, 2023). These are some of the cases in which the government has demonstrated their commitment in eliminating the crime.

Lastly, concerning slavery, servitude, and forced labour, the constitution gives every individual the right to choose who they want to work for and the kind of work they do, and you must be paid for your work (South African Constitution, 1996). According to the United Nations Human Rights Office, human trafficking is a form of modern slavery that involves the exploitation of someone's labour, body, or freedom (UNHRC, 2018). Provided with this information, human trafficking is then prosecuted under this law in South Africa as it similar with a thin line slightly differentiating it. These were however all considered as fragmented laws that were borrowed to address human trafficking. With the problems arising from these and inadequacies identified in these laws, there was the introduction of a more comprehensive law that sought to deal with the crime specifically, the Prevention and Combatting of Trafficking in Persons Act of 2013.

4.5.2. South Africa's Prevention and Combating of Trafficking in Person Act of 2013.

With years of challenges in combatting the crime through fragmented laws, this act was signed into law by Jacob Zuma in 2013. This has been praised as the first South African

comprehensive law on human trafficking holding potential to close the gap in implementation. The legislation adopted a broad definition of what constitutes trafficking, with the definition being moulded from the UN's definition of human trafficking. The definition includes the delivery, recruitment, procurement, capture, removal, transportation, transfer, harbouring, sale, exchange, lease, disposal or receiving of a person, or the adoption of a child facilitated or secured through legal or illegal means, within or across the borders of the Republic, of a person trafficked or an immediate family member of the person trafficked, by various means which includes a threat of harm, fraud or abuse of power (Goitom, 2013). The act gave effect to the Republic's obligations concerning the trafficking of persons to meet terms of international agreements. The researcher adds that the presence of this 2013 Act has empowered law enforcement agencies to provide guidelines for penalties, measures for victim protection, and a backup in the prosecution process.

An official in policy formulation commented that the provisions of the trafficking in persons act of 2013 brought a more understanding of human trafficking within the South African context limiting the ambiguities in identifying it, which now increases the prosecution, prevention, and victim protection efforts (Interview, Johannesburg, 2023). In addition, it provided a list of offenses that the legislation enumerated, and these included allocating a maximum life sentence for trafficking in persons. It further illegalises any conduct leading one to debt bondages, benefiting from the services of trafficking and any involvement in facilitation at any point in the process of trafficking (Government Gazette, 2013). The government, being aware of the use of media conduct leading to trafficking in persons, has illegalised such misuse of public goods making it a crime for prosecution. Specifically, the government has identified some platforms used to traffic people and these include Facebook, Instagram, and WhatsApp where people are to work as models or brand ambassadors (Brederode, 2023).

According to the transparency report, Meta stated that action was taken on 25.1 million pieces of child sexual exploitation, nudity, and physical abuse post over the last three months of 2022 (Statistics South Africa, 2022). An informant gave reference to the recent

case of posts for a promotion that were posted by the Balenciaga fashion company where the kids were dressed in adult sexual clothing. The public reacted to this as the promotion of paedophiles and a clear indication of media at play in trafficking (Interview, Mpumalanga, 2023). The government has, therefore, responded by re-establishing a coordinated structure that supports online safety. This includes the input of internet service providers, law enforcement, privacy experts and technology companies to assist in curbing the crime. Furthermore, the legislation gives South African courts extra-territorial jurisdiction in cases where a suspect is a juridical person registered in South Africa and or if the suspect is not extradited from South Africa (Goitom, 2023).

With the challenges of limited victim protection for trafficked illegal migrants, the new legislation introduced protections for victims of human trafficking, including foreigners. It provides that a victim of trafficking may not be charged for violating immigration law, for carrying forged documents, or for other crimes that he/she was compelled to commit by his/her captors (South African government website, *n.d*). In response one informant with knowledge of migration law, pointed out that “to carter for those victim immigrants who can potentially be prosecuted for illegal residence, the legislation now allows for their access to public health care services and temporary residence” (Interview, Arcadia, 2023). This now allows South Africa to protect the victims despite their nationality just they would treat a non-resident offender. This has been a positive move that practically protects the human rights of any victim of the crime of human trafficking. With that it has acted as an incentive for victims to report their cases without fear of arrest on charges of illegal residents. More so, the legislation requires the Department of Home Affairs to grant alien victims of trafficking permission to remain in South Africa for non-renewable 90-day terms as a “recovery and reflection period” (Goitom, 2013). However, realising that this would not work independently without a structure, a National Policy framework came into use to guide the process.

4.5.3. South Africa’s National Policy Framework on human trafficking

The development of the National Policy Framework on human trafficking was introduced to give effect to South Africa's obligation to the United Nations Protocol. As South Africa has committed to prevent, Suppress and Punish Trafficking in Persons, especially women and children, the framework sought to provide a backbone for its effectiveness (Department of Justice and Constitutional Development, 2019). In the interview, an informant stated that the National policy framework is a progressive response in action to counter human trafficking and has been actively used to guide government departments, stakeholders engaged, and civil societies in the implementation of anti-trafficking responses and statutory responsibilities (Interview, Cape Town, 2023).

More also, at the launch of the framework the deputy minister of Justice and Constitutional Development, Honourable JH Jeffery pointed out in his speech that forms of trafficking recognised in South Africa include debt bondage, Labour trafficking, organ smuggling, domestic servitude, forced marriage; and forced criminality (South African government website, 2019). South Africa therefore has made use of the framework in countering the identified crimes. And these efforts are backed by the international protocols and ratifications that South Africa recognised and committed to. In addition, the minister showed confidence in the new framework that came into effect in 2015 and the newly introduced policy framework that they both hold the potential to produce a systematic response (South African government website, 2019). Such efforts resemble the extension of action being taken by the government to meet their global commitments domestically to fight against the scourge of human trafficking.

4.5.4 South Africa's integration of the Global Action Plan on Trafficking in Persons

Further efforts have been seen through the integration of the Global Action Plan on Trafficking in Persons into the government's domestic policies. According to the assessment report for 2016, it is provided that South Africa's International Cooperation in Criminal Matters Act 75 of 1996 allows the domestication of its obligations under international law to provide mutual legal assistance through facilitating the provision of evidence, executing sentences, and confiscation of proceeds of crime (Department of

Justice and Constitutional Development, 2019). In its integration, it has allowed for the drafting of monitoring tools on the policies in place thereby giving power to the evaluators the right to provide assessments for policy improvement. It further strengthens its efforts on victim protection through re-affirming the need to protect vulnerable groups and limit chances of re-victimisation of former victims of the crime.

Table 1 shows the way in which South Africa domesticated the Integrated Strategy and Action Plan of 2019 – 2022.

3.1 PARTNERSHIP: NATIONAL LEVEL								
Strategic Goals	Specific Objectives	Activities	Responsibilities	Timeline Years			Financial Resources	Indicators
				1	2	3		
	To increase special funding by government bodies and IOs	Submit budget proposal to National Treasury and IOs	DOJ&CD National Departments Provincial Departments	Biannual			International Organisations	<ul style="list-style-type: none"> Total extra-budget resources allocated/spent on activities Break-down of allocations per pillar (4Ps)/Province
3.1.4 MONITORING, EVALUATION & REVIEW								Regular monitoring and evaluation mechanism of the NPF in place
To improve continuously anti-trafficking responses adjusting them as needed in time								
	To ensure systematic data gathering and analysis of all relevant information and data at strategic and operational level	Drafting of a monitoring tool/adoption of the SADC tool adapted for South Africa Appointment of actor/expert responsible for monitoring Drafting of monitoring tools	DOJ&CD NICTIP	X	X	X	International Organisations	<ul style="list-style-type: none"> ToR for monitoring Monitoring tools Yearly monitoring report
	To ensure annual monitoring and reporting of all activities and measures undertaken within the NPF	Drafting of Departmental Reports Drafting of Annual Consolidated Report Appointment of actor/expert responsible for evaluation Drafting of evaluation tools	DOJ&CD, DSD, DHA, SAPS and NPA NICTIP PTTS	X	X	X	R200 000	<ul style="list-style-type: none"> Annual Reports received from Departments Consolidated Annual Report Tabling of Annual TIP Report to Parliament Yearly evaluation report
	To ensure the review and evaluation of the NPF as stipulated by the Act	Drafting of review ToR Appointment of actor responsible for review Drafting of review report	DOJ&CD NICTIP PTTS			X	R 500 000	<ul style="list-style-type: none"> ToR for review Review report/every two years

3.2 PREVENTION								
Strategic Goals	Specific Objectives	Activities	Responsibilities	Timeline Years			Financial Resources	Indicators
				1	2	3		
3.2.1 AWARENESS RAISING AND EDUCATION To raise public awareness and prevent trafficking in persons								<ul style="list-style-type: none"> Increased awareness on TIP and related risks among population and reduced rates of victims
	To improve knowledge of the general public on trafficking in persons	Design and develop communication implementation strategy (Awareness tools e.g. print/online campaigns, TV/radio initiatives, websites and social media content music/theatre performances and of community engagement events Assessment of awareness raising activities	DOJ&CD GCIS NICTIP PTTs	X	X	X	R 2 million	<ul style="list-style-type: none"> ToR Strategy and work plan Communication strategy/concept document Tools developed Assessment reports <ul style="list-style-type: none"> No. of tools delivered No. of initiatives delivered No. of community engagement events held No. of persons reached
	To prevent trafficking of vulnerable groups and re-trafficking of former victims	Design and implementation of awareness tools (e.g. print/online campaigns, websites and social media content, TV/radio initiatives, music/theatre performances) Design and implementation of community engagement events Assessment of awareness raising activities	NICTIP PTTs	X	X	X		<ul style="list-style-type: none"> ToR Strategy and work plan Communication strategy Tools developed Assessment reports <ul style="list-style-type: none"> No. of tools delivered No. of initiatives delivered No. of community engagement events held No. of persons from at vulnerable reached
To effect change by buyers who purchase	Organize community dialogues with stakeholders	NICTIP PTTs		X	X		<ul style="list-style-type: none"> ToR Number of dialogues held 	

3.3 PROTECTION AND VICTIM ASSISTANCE								
Strategic Goals	Specific Objectives	Activities	Responsibilities	Timeline Years			Financial Resources	Indicators
				1	2	3		
	To implement legislation and guidelines on victims/witnesses in cases of trafficking in persons	Regular use of legislation and guidelines for protection of victims/witnesses	NICTIP PTTs	X	X	X	Baseline Budgets of Relevant Departments	<ul style="list-style-type: none"> No. of victims/witness in criminal proceedings who access witness protection schemes No. of risk assessment procedures
	To ensure compensation schemes for victims	Development of measures to improve the lodging of compensation claim and access to compensation schemes	NICTIP PTT	X	X	X	To be determined	<ul style="list-style-type: none"> No. of compensation claims lodged No. of compensation issued Compensation amounts average
3.3.4 RETURN AND REPATRIATION To ensure a safe and sound return/repatriation and integration to trafficked persons into their South African community, origin country or – if deemed necessary – into a third-country	To develop comprehensive SOPs on return of trafficked persons, both nationals and migrants	Drafting of SOPs for return/repatriation Formal adoption and use of SOPs for return Multi-agency training on SOPs for return/repatriation	DHA NICTIP PTTs	X	X		Baseline Budgets of Relevant Departments International Organisations	<ul style="list-style-type: none"> SOPs on return/repatriation issued No. PPTs and RRTs members trained on SOPs by Province
	To establish appropriate risk assessment and voluntary resettlement procedures for victims to avoid re-victimisation and/or re-trafficking	Drafting procedures and related guidelines for voluntary resettlement to be included in the SOPs on return and repatriation	DOH DSD NICTIP PTTs	X	X		Baseline Budgets of Relevant Departments International Organisations	<ul style="list-style-type: none"> Procedures and guidelines for voluntary resettlement developed and included in the SOPs

3.4 PROSECUTION								
Strategic Goals	Specific Objectives	Activities	Responsibilities	Timeline Years			Financial Resources	Indicators
				1	2	3		
3.4.1 INVESTIGATIONS AND PROSECUTIONS To strengthen the capacity of the criminal justice system to investigate and prosecute TIP ensuring protection and assistance to trafficked persons								<ul style="list-style-type: none"> Increased number of investigations with respect to previous year/s Increased number of prosecutions Perception of improved capacity to response of criminal justice practitioners
	To improve cooperation between investigators, prosecutors and all other stakeholders	Pilot Joint mock investigation trainings for police and prosecutors on TIP cases	SAPS NPA NICTIP	X	X	X	International Organisations	<ul style="list-style-type: none"> No. of joint training per Province
	To investigate organised crime groups engaged in TIP	Training programs for police and prosecutors on TIP as O.C. – institutionalised (different levels and combinations of practitioners)	SAPS NPA NICTIP	X	X	X	Baseline Budgets	<ul style="list-style-type: none"> No. of TIP investigations/year Number of criminal networks targeted/affected Links between trafficking and other forms of organised crime
	To institutionalise training on trafficking in persons for all criminal justice actors	Training programs on TIP – institutionalised	NICTIP	X	X	X	Baseline Budget International Organisations	<ul style="list-style-type: none"> Effectiveness of cooperation according to specialized criminal justice practitioners Satisfaction of specialised criminal justice practitioners No. of training per Province
To focus on investigating and prosecuting trafficking for labour exploitation								<ul style="list-style-type: none"> Increased number of cases of TIP for labour exploitation investigated/prosecuted Increased no. of victims identified
	To enhance the capacity to detect and investigate trafficking for labour exploitation	Training programs for police and labour inspectors on trafficking for labour exploitation – institutionalised	SAPS DOL NICTIP	X	X	X	Baseline Budgets International Organisations	
	To develop standard operation procedures for TIP labour cases	Draft SOPs for TIP labour cases Validate and adopt SOPs	DOL NICTIP	X	X	X	International Organisations	SOPs for TIP labour cases adopted

Table 1. The table demonstrates the design used by the South African government to adopt the objectives of the action plan in its domestic policies. (Source: DJoCD 2019).

As demonstrated in table 1, South Africa has further strengthened its policies on human trafficking by introducing strategic goals that reiterate the need to have effective prosecution through timely evaluation of laws. One participant from one of the law enforcement bodies pointed out that “our government continuously opens the floor to take input from varied stakeholders and the public as well, which in the past 4 years I would say the inputs have shaped the policy outcomes” (Interview, Limpopo, 2023). More so, more integration has allowed for the development of a standard operation procedure for trafficking in persons. This has been further implemented through introducing training facilities for police and labour inspectors who deal with the cases of trafficking (DJoCD, 2019). This has also resulted in more cooperation between crime investigators, prosecutors and other interested parties involved in combatting human trafficking.

4.6. South Africa's Acts Applicable to Trafficking in Persons.

Progressing, the South African government has made use of supplementary acts that had already been put in place to deal with other matters, however with the correlation in crimes, these have been useful in combatting human trafficking. Crimes of human trafficking are not unique as we see that those classified and labelled as human trafficking crimes, some instances have since existed and had their acts in place to address them as individual crimes in isolation from human trafficking. Now that they are crimes committed in the process of trafficking, it has made it more feasible to prosecute perpetrators in human trafficking-related crimes. The following acts discussed below have been used in assisted prosecution of human trafficking offenders.

4.6.1 The National Health Act 61 of 2003

This act criminalises several offences committed against individuals that threaten their health. It has made it possible to prosecute organ traffickers that exploit people for their organs for purposes of rituals or transplants without consent. It states that one can be prosecuted for the illegal commercialisation of organs or human tissue, and such an offence attracts an imprisonment sentencing of up to five years (Kruger & Oosthuizen 2012:428). Following the violation of this act, five doctors were arrested in South Africa for illegal trade in human organs and they faced charges of possible fraud and assault, as well as violation of the human tissue act (Sidley,2005).

Another participant from civil society expressed some concerns with difficulties in identifying the crime within legal institutions stating that, "my perception is that incidents of organ trafficking are easily committed within these public sectors because there is general assumptions that it is procedural and legal" (Interview, Limpopo, 2023). Thus, the government is making efforts to close the gap and not overlook blind spots in crime. Therefore, the government only makes it permissible to be carried out when institutional permission has been granted under section 24 to perform the acts referred to in that section (Department of Health website, 2011). The law has assisted in the prosecution of

3% of crimes related to human trafficking that involved the violation of health rights (DJoCD, 2018). The law has therefore allowed for the protection of individuals subjected to trafficking as well as potential victims of the crime from threats to their health. It also has allowed for fair treatment for the victims of human trafficking without incurring charges.

4.6.2. The 1997 Basic Employment Act

This act was a response to counter the ills of forced Labour, giving effect to obligations of the international community to counter servitude and forced Labour. Some of the essential provisions in the Act in Chapter 2 state that every employer should regulate the working time of each employee to protect the workers' health and safety. South Africa has made it illegal for an employee to work for more than 45 hours in a week and every employee is entitled to 36 hours of rest in each week. (Government Gazette, 2014). A reliable source in the interviews pointed out that these provisions help to illegalize long hours of forced labour. Henceforth making it possible to prosecute employers that subject their workers to such conditions which has made it more possible to prosecute the perpetrators (Interview, KZN, 2023).

The provisions of this act in Chapter 4 of section 30 requires every employer to display an informative statement on worker's rights where it is accessible to be read by every employee (Government Gazette, 2014). On section 31.1, employers must keep information on every employee on job specifications, expectations, salaries and working hours (Government gazette, 2014). This has also contributed in assisting crime prosecution of offenders that have conducted illegal employment and subjected their workers or victims to ill working conditions. Through this, workers have been informed of their rights which helps individuals to identify any deviations that can potentially lead to forced labour conditions.

4.6.3. Immigration Act 2002

As human trafficking involves the movement of victims from one point to the other, migration becomes part of the key processes in the human trafficking chain. It is pointed out that the perpetrators in moving their victims within and across borders breach migration laws making illegal movements (International Organisation on Migration, 2012). The South African constitution considers the possibilities of such illegal movements and to curb this, the Immigration Act 13 of 2002 regulates entry and departure from South Africa (Koyana & Bekker 2007:144). Specifically, it prosecutes traffickers that enter and remain in South Africa with a maximum imprisonment of three months and this law is also binding on traffickers that assist their victims to illegally enter and remain in or depart the country Oliver *et al* (1995:12).

Another informant with border control knowledge provided information that successful illegal entry is enabled using illegal identity documents by the traffickers, and in cases where they are unable to cross borders, they would reach extents of using their relatives' documents with whom they look much alike (Interview, Limpopo, 2023). An informant expressed in the interview saying that, "we have had several cases in which individuals use fake documents and the increase in such cases has made a call to action". Another said, "I recall in one incident we called the police to rescue 3 kids that were being illegally transported and upon investigation the claimed guardian produced fake identity cards" (Interview Pretoria, 2023). These narratives confirmed the information in literature and recorded statistics on the occurrence of such incidents.

However, the immigration act has been utilised to regulate such illegal activities by criminalising the use of tailored identity documents to cross South Africa or assist one to do so (Mushanya, 2020). It also prohibits a person from owning another person's travel or identity documents, and any breach of this results in jail term of up to 4 years (Rodrick, 2020). With this act in place, regulating migration and illegal entries continues to assist the government in reducing illegal migration. In doing so, the human trafficking flow gets interrupted reducing the chances of migration of trafficked persons.

4.6.4 Children's Act

As a direct response to the global protocols and conventions ratified on child protection, the South African government established that through the Children’s Act there is a need to protect any persons under the age of 18. As has been pointed out in this study’s literature review, one of the forms of human trafficking was identified as child labour. The Labour and Employment minister of South Africa, Nxesi, pointed out in a press statement and explained the concerns to eradicate such crimes to promote social justice and human rights for all (Global Conference on the Elimination of Child Labour, 2022). These are some of the reassuring responses that are crucial in ensuring that the policies set in place to address human trafficking are consistently revived. In 2021 the survey activities of young people found that 5% of children are subjected to ill forms of labour inclusive of forced begging and sexual exploitation (StastSA, 2021). Table 2 provides key indicators on South African children’s work and education.

Children	Age	Percent
Working %	5 to 14	15.0
Attending school%	5 to 14	97.4
Combining school and work%	7 to 14	17.7
Primary completion %	7 to 14	92.0

Table 2. Statistics on Children’s work and education (Source: UNESCO, 2022).

In response to these ills the government has allowed for the inspection of worksites and has introduced stations where complains can be lodged under the child labour act. It is seen also that the government has been making efforts to introduce a system that gives children more access to education to limit the chances of them being subjected to early labour for survival. One can also point out that this is more evidence of South Africa’s consistent efforts to stay aligned with global initiatives. An informant gave information that the child labour act in South Africa is guided by the principles of the international labour organisation that seeks to transform the labour market and develop a decent world of work, and this is essential in fighting the forced labour markets of human trafficking (Interview, Arcadia, 2023).

The act further criminalises offences of facilitating the trafficking of a child and or the illicit trade of them, any involvement in facilitating the process attracts imprisonment of a maximum of 10 years (Sadie & Corrie, 2010). It also makes it an offence to expose any child under the age of 15 years to labour exploitation. (Department of Employment and Labour SA, 2019). Following this was the Durban call to action on ending child labour, the government stakeholders committed to scaling up action in accelerating multi-stakeholder efforts to prevent and eliminate child labour giving priority to the worst forms of child labour (Government Report, 2019). In addition, 80% of the key informants also highlighted that recently there has been the emergence of a new trend of child trafficking, especially boys and those with disabilities being subjected to forced begging which is a case of forced labour and trafficking. The government report also shows that child labour in South Africa is currently at a 10% increase in child labour recruitment for criminal activities (Government Report, 2019). Statistics also show that child labour globally has had a sharp increase over time with the most progression increase experienced from 2016 to 2020 as shown in Fig 11

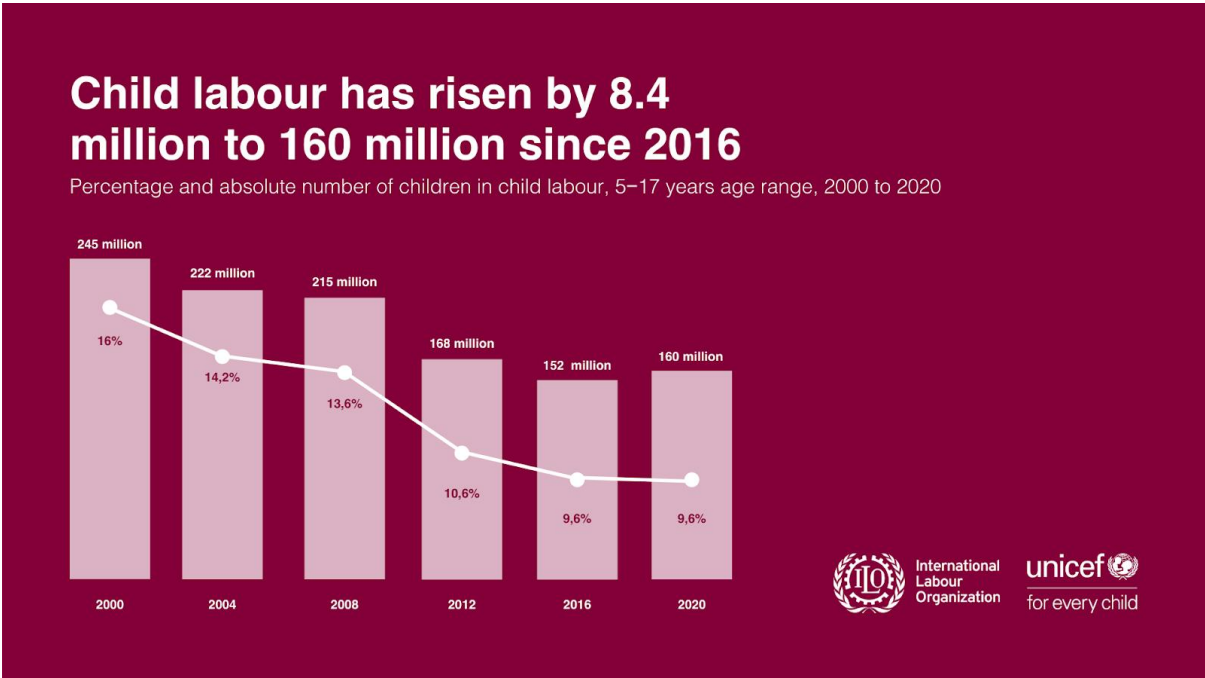


FIG 11. An illustrative graph showing the child labour graph for the years 2000-2016. (SOURCE: ILO, 2021).

According to a media statement, South Africa in response to child trafficking further proceeded to launch the Child Protection Campaign on Sunday the 30th of May 2021 (Development of Social Development, 2021). In efforts to aid on this matter, the South African Social Development Department as a party in curbing human trafficking introduced the provision of alternative care in which trafficked children are placed in assisted protection centres (Department of Social Development, 2021).

4.7. South Africa's Common laws, departments and institutions on combating human trafficking in Persons.

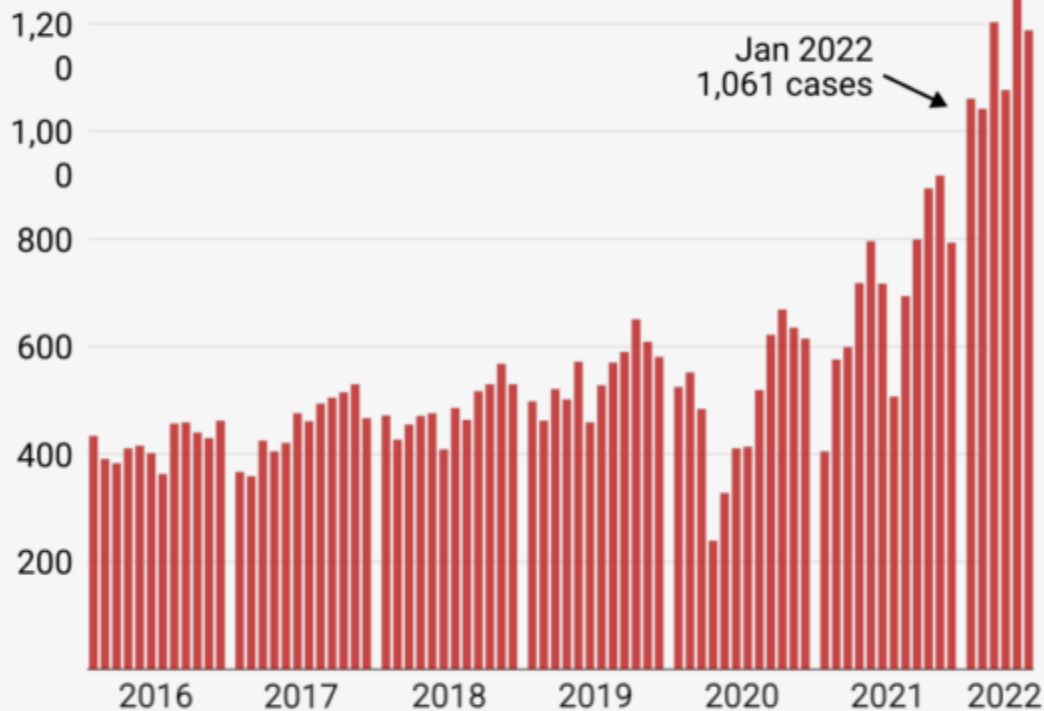
Similarly with the supplementary acts discussed above, there are common laws that are used in the prosecution of perpetrators of human trafficking which include:

4.7.1. Kidnapping

As of January 2022, to June 2022, an average of 579 cases of kidnapping were reported to the South African Police Service and the cases are surging to over one thousand per month (SAPS crime stats, 2022). From the interview one participant provided information that “within my department we record on an average 20 cases of missing persons in every two weeks and I would think there could even be more because some are underreported or recorded under other crime classes”(Interview, Pretoria, 2023). This shows the severity of the crime in South Africa, crimes related and committed during human trafficking, Fig 12 below further demonstrates the situation.

Kidnapping crime surges

More than 1,000 cases a month reported in 2022



Source: SAPS crime stats

theoutlier.co.za

Fig 12. A graph on kidnapping statistics in South Africa. (Source: SAPS crime stats, 2022).

The government's law gives provisions to curb this crime and allows the prosecution and conviction of kidnappers in the trafficking process. Kidnapping violates a trafficked person's freedom of movement by either physically moving the trafficked person, using force or deception, to another place or by keeping the victim locked up (Kruger 2010:310). South Africa has therefore illegalised kidnapping as a human rights violation in which an individual is violated of their freedom of movement and taken away from their families. It

has imposed a 5-year minimum sentence for this crime (Government Gazette, 2016), and such assisted in detaining offenders of human trafficking that use the kidnapping method in acquiring their victims.

4.7. 2.Proposed law reform

In further efforts to fight against the scourge of human trafficking, the South African Law Reform Commission (SALRC) requested a law reform on human trafficking to cooperate in a more comprehensive investigation into the crime as part of the research program (Stuurman 2004:5). An expert in policy formulation pointed out in the interview that “in 2003 a law reform was approved by the minister of justice and constitutional development, and 2004 the process was spearheaded by the publication of the issue paper on trafficking in persons” (Interview, Cape Town, 2023). This publication was set as a platform to attract comments on areas of improvement in dealing with human trafficking (SALRC 2004:3). It allowed for input from the public which is a bottom-up approach essential in addressing the root of a problem, through the assisted varied inputs. The researcher adds that this was also a process that initiated more awareness of the rise of the crime and the need for more stringent laws to ensure that it is combatted and reduce its impact on the society and economy at large. Such collection of inputs from the public allowed for a multi-dimensional approach to human trafficking solutions under the law reforms.

4.7.3. South African Police Service

The South African Police Service, being the nation’s institution responsible for law enforcement, it was important for this study to investigate their contribution and strategies in place to counter human trafficking in South Africa. According to a live broadcast by the SABC News, the former National Police Commissioner Khehla Sithole said, “The rise in child kidnappings in South Africa prompts the need to cooperate with our Southern African Development Committee members and the International Police organisation to work together in finding solutions to combat human trafficking” (SABC News, 2020). This

displays the efforts that the SAPS is contributing to ensuring that the global commitments entered are implemented in the domestic policies of South Africa on curbing the crime of human trafficking. Furthermore, SAPS has a website that lists and defines the crime of trafficking for public knowledge. According to an informant, “we have a range of plans and initiatives that we are working on as a driving force for the change in awareness strategies, we are also aware that not everyone has access to the internet, so our plan is to also create a strategy that delivers informative messages to the remote areas” (Interview, Johannesburg,2023).

However, the website has varied definitions of the forms of crime that are most common in South Africa, including sex trafficking, which they define as a crime that covers prostitution, pornography, stripping or exotic dancing, touch-and-peep shows, and escort services in a forced way (South African Police website, 2014). The researcher adds that despite the debates on difficulties in separating sex trafficking from consented sex work, the South African policy defines it all as illegal. Such classification, although some may argue that it infringes on the freedom of expression, is a plausible move that lessens the challenges in identifying human trafficking. It also has a definition of trafficking for non-commercial sex purposes including early marriage, forced marriage, arranged marriage, compensation marriage, transactional marriage, temporary marriage, or marriage for childbearing (South African Police website, SAPS 2014).

Understanding that South Africa is a patriarchal society, and that being an African country there are high cases of traditional marriage practices that with time have been identified as forms of human trafficking. The male dominance and cultural beliefs that women are sexual subjects and must obey their male counterparts increase the cases of forced marriages which is a violation of basic human rights and a classified form of human trafficking. This response therefore correlates with the internal law that prohibits such acts which are regarded as threatening the lives and futures of women around the world through taking away their agency and making them more vulnerable to violence (UNHRC, 2017). Moreover, this shows the continued commitment by the government from the joint agreement of the African Commission on Human and People’s Rights and African

Committee of Experts on the Rights and Welfare of the Child on ending forced marriages (United Nations, 2017).

Furthermore, the website provides information on ways to identify trafficked victims stating that since trafficking in persons is often a crime that is hidden in plain sight, it is important to be aware of its warning signs (South African Police Service, 2014). Some indicators include, appearing malnourished, showing signs of physical injuries, and seeming to adhere to scripted or rehearsed responses in social interaction (SAPS, 2014).

Fig 13 below demonstrates those key indicators for a trafficking victim.



Fig 13, A representation of key elements of identifying a victim of trafficking. (Source: SAPS Website, 2023)

The SAPS department on organised crime and human trafficking centred its strategy on the international trafficking in person's concept that aims to protect, prevent, and prosecute perpetrators of human trafficking.

The researcher comments that this is a proven record of efforts by the institution to raise awareness that helps protect a victim and help every citizen become aware of the possible danger and identify the crime. The researcher believes that in addition to these efforts to

close the gaps, it is essential to have multi-dimensional initiatives that include training and accountability in the criminal justice system.

4.7.4. National Inter-Sectoral Task Team

After Identifying Special Forces that could be needed to promote cooperation, the government introduced a special task team. It comprises of Sexual Offences and Community Affairs Unit (SOCA), Department of Justice and Constitutional Development, Social Development, SAPS organised Crime Unit, Border Police, International Organisation for Migration, *Molo Songolo* and the United Nations Office on Drugs and Crime to address human trafficking in South Africa (Government Gazette, 2021). The South African government's official website further provides information that the task team was mandated to formulate and implement a national strategy that deals with human trafficking (SALRC 2008:24). An informant knowledgeable with parliamentary official documents provided information that the special team has since been given the responsibility to ensure that all other sectors working on human trafficking are working cooperatively for this cause and that includes the input of civil societies (Interview, KZN, 2023) It is further shown that the national strategy focuses on five key areas which state:

It identified the need to focus on increasing knowledge and understanding of human trafficking in South Africa (Smith 2008:170). This entails that it seeks to open room for improvement by allowing broad research. The researcher asserts that such a focus also creates a conducive environment for a multi-disciplinary research study. Also, it aims to develop a coordinated cross-sectoral response to human trafficking and in honour of this a Programme Coordinating Unit was introduced in 2008 to support this cause together with the inclusion of a victim assistance and response team to assess effectiveness (Oswald 2019:30). The government in all its efforts it shows the consistency in aligning their efforts with the three international objectives that is seeking to protect, prosecute and prevent the crime.

Thirdly, it is also evident by the existence of and the development of a training program within the South African Qualification Authority that includes a module with a curriculum used in the multi-disciplinary training focusing on key government departments that are working on human trafficking (Rodrick, 2020). Prioritising the aspect of teaching and training its personnel is a plausible step forward which has allowed an improved understanding of the crime. Lastly, the fourth key result area investigates the importance of ensuring the delivery of public awareness programs including the low-cost high impact regional prevention and awareness strategies (Hunt 1970:560). Regarding this, awareness campaigns are being done not only on social media and other media outlets but through community outreach in most peripheral areas of South Africa. The A21 campaigns and other collaborated movements with institutions like University of Johannesburg have so far aided in ensuring the delivery of public awareness. Every policy has two sides of the coin of strength and weakness, the researcher believes from the available information that South Africa in terms of policy implementation is pushing positively despite evidence that there have been shortfalls in implementation.

4.7.5. The A21 Campaign.

In line with the above discussion, this has been one of the most reckoned campaigns in South Africa on anti-trafficking with its three elemental frameworks combined with the provisions of international standards on human trafficking. Altogether this has ensured the delivery of requirements from the global commitments made by South Africa in combatting the crime.



Fig 14. A representation of the three pillars of A21. (Source: www.A21.org, 2023)

The campaign's three elements seek to educate the public about vulnerability to human trafficking, exploitation, and possibilities of re-victimisation. It has taken a unique approach to focus on raising awareness for both the victims and potential victims of the crime. Moreover, it has raised awareness using a three child-centred play-based sessions, designed to empower children from being preyed on by traffickers (A21 website, *n.d*). This campaign represents the major shift and seriousness of the matter, thereby treating with high regard the need to focus more on the aspect of awareness as the lack of knowledge on the schemes used by traffickers is what creates more proneness. Human traffickers capitalise on the lack of knowledge of their target victims by presenting information that seems legitimate and promises good outcomes and this has been their best manipulation tool to drive their victims (Interview, Sunnyside, 2023). Additionally, there is more evidence that not only is the government seeking to meet the demands in the commitments but altogether with non-state actors are actively assisting in ensuring that the international standards are met.

4.7.6. Salvation Army Organisation.

As a faith-based organisation, it has assisted in achieving the goal to have victim protection, as required, and recommended by the global standards on combatting human trafficking. The researcher identified that the efforts of the Salvation Army has enabled the delivery of improved victim protection services. This has been through the provision of rehabilitation centres, accommodation and healthcare facilities which could have otherwise burdened the government. Furthermore, organisations are becoming important parties in ensuring that South Africa as a country stays on board with the requirements from the international community to combat human trafficking. The government on its own can be overwhelmed in ensuring that all demands are met to effectively curb the crime, hence and the contribution of the non-state actors are playing a crucial role.

4.7.7 Molo Songolo

More to the non-state bodies contributing to ensuring that South Africa adheres to the global commitments is the work of the *Molo Songolo* in combatting human trafficking. Like the aim of the Salvation Army, the *Molo Songolo* seeks to help the trafficked victims. Another focus area is the provision of education on child rights and responsibilities with an objective to curb child Labour and their sexual exploitation (*Molo Songolo*, 2017). Not only has it aligned its aims with the commitments made to counter human trafficking on the global level, but it has also provided consecutive statistics on the crime. According to the *Molo Songolo 2022* report, it identified several child rights violations with 22% of it allocated to child sexual exploitation and 26% more at risk of this crime (*Molo Songolo*, 2022).

The information gathered therefore has been made use of in compiling national statistics on the crime. One informant from a civil society gave a different perspective about these statistics saying that “I would say the non-governmental actors on this matter are doing way more effort than our government because of their narrowed focus on the matter to achieve the results, the government law agencies seem to be overwhelmed with other duties, that is why you see differential statistical outcomes between the two, and that gap is what we need to close for progress sake” (Interview, Limpopo:2023). However, with

substantial evidence from literature it shows the collaboration between government, civil society and other parties as successful in providing an average official statistical figure on the crime occurrence. These statistical provisions have been used in official statistics to gauge the progress of South Africa in fulfilling the commitments to curb the crime.

4.7.8. International Organisation for Migration (IOM)

In cooperation with the department of Justice, National Prosecuting Authority and the Hawks, the International Organisation for Migration led campaigns in which it collaborated with the University of Johannesburg. They introduced a campaign message *#trapped*, which intended to ignite more curiosity about the campaign at the same time highlighting the bondage and traumas experienced by the victims of human trafficking (IOM, 2016). The South African government has made it flexible for interested parties to assist in combating human trafficking. This has allowed for a multi-disciplinary input as varied departments are cooperating in employing tools that have enabled South Africa to attend to the crime.

This Organisation's input further assisted the government to understand the gaps in migration policies which the traffickers are capitalising on. Adding from the insights shared by another informant, it was relayed that "The IOM actually has a big role to play in this human trafficking crisis, mostly in the damage control phase of protecting the victims, but also they can help stop the crime by making more stringent rules that regulate migration and identify the victims in transit from one place to another (Interview, Pretoria, 2023). It is their responsibility to ensure protection of victims and assistance through provision of accommodation, food, health care and even counselling services for the victims.

4.8. South African Human Rights Commission and the Commission for Gender Equality

South Africa has made use of this institution, which is human rights-based, it has capitalised on the institution's capacity to raise awareness through their campaigns. The

human rights commission has helped in educating the public through publishing educational material aimed at empowering them with their basic rights. It is stated that the commission provides support to individuals that report offences that are related to human trafficking and by so doing works closely with the South African Police Service to relay the information that potentially leads to the prosecution of offenders (Human Rights Commission, 2010). The institution's assistance of victims, at no cost, has therefore contributed to a better turnout of victims reporting their traffickers. Moreover, the presence of this as a human rights watch continues to enable the security of victims and limits the possibilities of re-victimisation.

In addition, it has been discussed in the literature review that human trafficking is a gender-based crime and South Africa being an unequal society with gender inequalities that are consistently entrenched, human trafficking finds more room to breed in the land. As the commission seeks to promote gender equality, it has been instrumental in ensuring that gender inequality as one of the root causes is dealt with to eliminate vulnerability of women to human trafficking. It acknowledges that the primary factors facilitating human trafficking in South Africa include gender discrimination and therefore seeks the decriminalisation of sex work (Commission for Gender Equality, *n.d.*). Some of its contributions in dealing with human trafficking include submissions on the Prevention and Combatting of Trafficking in Persons Bill to the Department of Justice and Constitutional Development. A police officer from a station in Johannesburg revealed a case they managed on reported trafficking which came from the Commission for Gender Equality. After the scenario, they formed a partnership with the Johannesburg migration desk on raising awareness on the crime (Interview, Johannesburg, 2023). The flexibility of the government in working with interested parties for the cause has made it feasible for the government to advance in meeting the global anti-trafficking standards.

4.9. Chapter Summary

Evidence from literature, document analysis and key informant interviews provided positive information on South Africa's active role on the global platform to fight against human trafficking. The commitments it has made are not only recent, but history has

proven its past ratifications in the early 20s when it started committing to the protection of human rights. Human trafficking as a borderless crime has prompted South Africa to cooperate internationally and regionally giving contributions and commitments required in the fight against the crime. Also considering that the country within its region and continent at large has become one of the targeted immigrant destinations. It has also meant an increase in the human trafficking cases having it involved either as a source, transit or destination owing to its attractive economy which is a major pull factor for victims of trafficking. South Africa has signed and committed to several protocols including the protocol against smuggling of women as well as the protocol to suppress trafficking in women and children among others as discussed in the chapter.

It has been demonstrated that the aims and objectives of the global commitments entered by South Africa have been made use of in structuring and guiding the country's domestic policies on counter-trafficking. Most protocols and conventions proved that their key strategy in fighting the crime is through the three pillars of prevention, prosecution, and victim protection. These have also been adopted by South Africa as a foundation of its domestic policies on anti-trafficking. A gradual change is noticeable in South Africa's efforts to meet the international standards to curb the crime. Of importance is the shift from generalised laws used in combatting human trafficking to the introduction of the Trafficking in Persons Act of 2013. This, with the efforts of other non-state members like the Salvation Army, have all contributed to putting South Africa on the global map of cooperation and steps forward to meet the global requirements in fighting human trafficking.

CHAPTER FIVE

SUCCESSES AND CHALLENGES ENCOUNTERED IN SOUTH AFRICA'S DOMESTICATION OF THE HUMAN TRAFFICKING LAW.

5.1. Introduction

As discussed in the previous chapter on the commitments that South Africa has entered, it adopted these to demonstrate its concerns on fighting the crime through domesticating them. A proven record is present of progressive change in developing an effective framework and guide in fighting the crime of human trafficking. The policy adjustments and initiatives introduced made over time have resulted in an increase in number of prosecutions and convictions for human trafficking offenders. Moreover, in its efforts to meet the standards globally on combatting the crime it has introduced a more specific act of 2013 which addresses human trafficking. However, despite the efforts to meet the commitments it still shows that there are lacking areas in combatting the crime. The weaknesses in structure and policy implementation are immensely delaying its upgrade from tier 2 ranking on the global level of competence in fighting the crime. This chapter discusses both the challenges and successes encountered in South Africa's progress to combat the crime.

5.2 Successes

The nature of the crime does not give will to simple solutions and cannot be dealt with in isolation. Cooperation of countries for this cause is therefore vital in preventing the crime as globalisation has intensified the crime (Dunkerley, 2018). In this context, South Africa ought to be recognised for its efforts in global commitments flowing through regional and continental cooperation to curb the crime. To understand the extent to which South Africa has committed to the global standards on anti-trafficking, one must look at the domestic laws. South Africa's efforts and success in combatting human trafficking can be traced back to a period before the introduction of the comprehensive law to counter trafficking.

5.2.1. Introduction of a comprehensive law, the Trafficking in Persons Act of 2013

During the interviews, all key informants applauded the introduction of the 2013 Prevention and Combating of Trafficking in Persons Act. To start with, the Act has managed to give effect to the Republic's obligations on trafficking in persons, aligning with the international agreements it has entered. More so, it has been applauded for being the first of South Africa's most appropriate and comprehensive law specifically addressing the crimes of human trafficking. It further caught the attention of the international community which commended this step as amassing the potential for strengthening law enforcement capacity in combat human trafficking (U.S Department of State, 2017). Ever since the act was introduced there has been a positive increase in the number of prosecutions with a 20% increase between 2015 - 2022 in the number of offenders that went through the courts and had convictions (Statistics SA, 2022). As a comprehensive law, the Trafficking in Persons Act of 2013 gave more opportunities to the government to prosecute human trafficking intensively.

Noteworthy, are the adjustments that South Africa has made in its Trafficking in Person Act of 2013 that expanded terms and concepts of human trafficking to suit its context. While the Palermo Protocol incorporates the expression, "at a minimum", to cover any future forms and means of exploitation, the Trafficking in Person Act provides an extensive list of diverse types of exploitation and the list is open-ended (Molema, 2014). With its list of definitions that are more expanded, one can support that it has helped in ensuring that all human trafficking elements are grasped and dealt with. Another key informant commented that "the act gives attention to other dimensions that could have otherwise been ignored such as prosecution of individuals involved in acts like leasing a house or publishing information that facilitates trafficking" (Interview, Durban, 2023).

With regards to matters connected to the facilitation or use of services provided by exploited persons, the government assisted by the Love Justice Organisation, managed to identify 108 offenders. These were persons of interest who played both direct and indirect role in facilitating trafficking in persons crimes (Laser Pulse, 2021). Previously these were not prosecuted, the law was binding on the illegal owners of the trafficked

persons and that had a negative impact in disrupting the chain of human trafficking. The acknowledgement on need to prosecute those promoting the growth of the web ought to be applauded for it is an effective way to cut down on the market demand as the crime of trafficking, especially for sex exploitation. If the market is there the web will continue to grow, especially the need for cheap labour, however South Africa's new 2013 Act brought with it polices that deter the market.

This adds more validation to the claims that the South African legal response to human trafficking is comprehensive as well as in alignment with international standards. Since the new act's introduction, there has been an increase in prosecutions as the refined definitions and new policies allowed for the classification of other crimes that were previously left out. According to Advocate Rasigie Bhika from the National Prosecuting Authority, the act has ensured an increase in number of human trafficking cases that enter the criminal justice system and stringent sentences are imposed on those convicted (Watt & Burger 2018). The Trafficking in Persons report stated that between 2017 and 2019, 142 potential trafficking cases were identified, 50 cases were prosecuted between 2017 and 2018, 7 arrests were made in 2019 and 42 traffickers were convicted (U.S Department of State, 2021). This has been a positive outcome showing that the efforts in place are producing successful results and assisting in ensuring that the commitments are effectively met.

In reference to information given by a key informant, they provided that in the year 2023 on their South African Police Service station, they recorded 3 arrested offenders and rescued 1 victim that had been trafficked (Interview, Brooklyn, 2023). This is a positive outcome considering that these were records for just one station. Such evidence that there are statistics being recorded helps policy makers get a close approximate description and a better understanding of the crime magnitude based on statistics (Maligalig, 1994). Another official during our interviews commented that, "we are convinced that this new law and its structure will deter existing and potential criminals from engaging in the illicit trade." (Interview, Pretoria, 2023).

The pre-existing common law crimes continue to help even today as a significant tool to prosecute crimes committed during the trafficking process. An example of a successful prosecution through common law is the case of Andrews who was sentenced to 17 years imprisonment for keeping a brothel in terms of the Sexual Offences Act 23 of 1957 (Kruger & Oosthuizen 2012:299). The fragmented law that has been criticised has however led to progress in deterring offenders. The researcher recalls another successful case of Aldina dos Santos, who got a life sentence for trafficking three girls from Mozambique to Zimbabwe (Sowetan Live, 2008). This crime was prosecuted under the violation of the Immigration Act of 2002. Therefore, the existence of these laws although fragmented have assisted in strengthening the Trafficking in Persons that was enacted later in 2013.

5.2.2. Addressing corruption

Moving on to chapter 2 of this study. It pointed out the issue of corruption as one other aspect that has been reducing the number of convictions. However, it has been proven recently that efforts are being made to correct such shortfalls. In a case in 2021, it has been reported that the government charged three South African Police officials for the extortion of potential trafficking victims (U.S Department of State, 2023). Corruption indeed undermines efforts in place to counter trafficking as the offenders seek links to work illegally with the frontline actors. Without denying the existence of such links, the government has also successfully demonstrated the law against corruption.

In 2012 two high ranking police officers in Gauteng were arrested in connection with human trafficking. Sonjica reports that a 57-year-old brigadier and a captain were prosecuted for forcefully raping a victim of trafficking in Vereeniging and paid money to the brothel owner (Sonjica, 2021). This matter was also confirmed in the interviews by most participants and one of them particularly commented, "it is frustrating that the supposedly protectors and law enforcers that the society has put trust in is constantly proving to be in the frontline of violating those rights" (Interview, KZN,2023). Although this might be discouraging of such corruption by trusted law enforcers, it is credible that the government is making efforts not to turn a blind eye on such acts of corruption.

Corruption draws back the efforts and takes away the civilians' confidence in the system, however the steps being taken prove to be in the right direction of discouraging the rotting of the justice system.

5.2.3. Protection of human rights.

Furthermore, looking at the Bill of Rights that has been present since 1996, the government's official legislation document points out that the enactment of the Bill of Rights into the Constitution has helped to enshrine the rights of human dignity, equality, and security of the person (Government Gazette, 2013). The presence of the legislation has helped to achieve the objectives of the United Nations' three pillars to prosecute, prevent and protect victims of human trafficking (Bello and Olutola, 2022:200). In human trafficking the rights of individual victims are infringed by the traffickers, and with South Africa's policies on victims they seek to ensure that victims are at all costs protected. It therefore succeeded in coordinating with the Office for Witness Protection which it tasked with the duty of ensuring safety of witnesses,

Adding on, it has assisted in achieving victim assistance and protection. 33 victims of human trafficking by an Ethiopian male were rescued in Glen Austin Midrand where they were being exploited on the farms (Tshikalange, 2022). Having spent time in bad living conditions it was organised by the government that they were to be kept in safety by the Department of Social Development (Tshikalange, 2022). It has succeeded in ensuring the protection of victims with 8% of the victims in the year 2019 who were assisted through the efforts of the government and involved civil societies (UNODC, 2020). Furthermore, the South Africa has stepped up in its protection strategy for immigrant victims following criticism on their selective protection of victim rights. Recently, it has improved through the works of the UNICEF and South Africa's Red Cross, who have made noticeable changes in assisting especially migrant children exposed to human trafficking (UNICEF, 2020). As has been discussed under the human rights approach in chapter 2, South Africa seems to be implementing it as a pillar that gives strength to its policies on human rights protection for victims.

Furthermore, the government is working collaboratively with other actors for a greater cause in achieving its objectives on combatting the crime. The International Organisation on Migration, in South Africa adds that their victim assistance program has assisted more than 180 trafficked people through medical support and psycho-social counselling (IOM, 2008). This is a positive progression in the efforts to give attention to the victims of the crime, limiting possibilities of them being trafficked. Furthermore, the Department of Justice and Constitutional Development has collaborated with the Southern Africa Migration Management Project which donated personal protective equipment to various shelters for Victims of Human Trafficking (UNODC, 2021). Such collaborations have made successful advancements in improving the living conditions of the victims and protecting their rights. To add on, victim protection and the legal responses' guiding principles have helped to procure the best protection possible for trafficked victims (Department of Justice and Constitutional Development, *n.d*). According to a key informant knowledgeable with migration work, they commented that, "We know well that victims before they risked being arrested and deported without being heard, because the laws did not protect victims, however, the present laws have allowed for assisted voluntary return and provided reintegration support for the victims." (Interview, Mpumalanga, 2023).

Provisions are given under the new law to allow victims of trafficking to have a recovery or reflection period which does not exceed three months. In that period, a victim is allowed to apply for a permanent residence according to section 31(2) (b) (Molema, 2013). The Trafficking in Person report provides that 74 victims were taken into victim care in the year 2022 which was an increase from the 16 victims that had been protected in the previous year (U.S. Department of State, 2022). Given these statistics one can calculate that, between 2021 and 2022, there was a 58% increase in number of victims protected within South Africa. Although it might be inaccurate, it is positive that South Africa is advancing in its efforts to protect the victims of human trafficking as required by the international community.

5.2.4. New efforts on formal database.

Early literature raised concerns about the lack of sufficient data reported on human trafficking. However, with newfound literature, it is being proven that South Africa is working on improving record keeping of data on human trafficking. Against the assertion that South Africa lacks substantial data on the crime, there have been improvements that came with the Trafficking in Person Act. With recent statistics provided, Police Minister Bheki Cele told the parliament that between 2018 and 2021, 781 South African children were recorded as victims of child trafficking (Stoltz, 2022). The informant also gave a reference saying, “You should consider looking into the Trafficking in Person Report of 2021, and it gives you the statistical readings range with regards to human trafficking convictions in South Africa. (Interview, Durban, 2023). The researcher believes that such availability of statistics is good progression in improved data collection and database storage.

The researcher adds that, these statistics have assisted in measuring the magnitude of a crime, identifying the most affected groups, hotspots as well as nature and form of crime. Even non-state actors have been actively prioritising the collection of data to cover that gap. Statistics given by Lumka Cebo of the A21 campaign revealed that, together forced labour (41%) and sexual exploitation (39%) summed up most human trafficking cases dealt with by the Organisation (Watt & Burger 2018:19). Scholars attest that for an effective response to preventing human trafficking, protecting victims and prosecuting traffickers heavily, concrete and reliable data is key.(HSRC 2010:155). Irrespective of criticism on data inadequacies statistics from the state and its non-state actors has helped South Africa to have some achievements in combatting human trafficking.

5.2.5. Dealing with factors of vulnerability

Overall, although it is not yet at the stage of success, South Africa has made some achievements in combatting trafficking through attending to the root causes. Information

published by the Fair Observer state that human trafficking is a multi-faceted economic phenomenon that is intensified by poverty, racial, political and gender inequality (Fair Observer, 2022). The country's employment rate, at 34% and having been worsened by the COVID-19 era, have intensified vulnerability of the unemployed to human trafficking through false advertisements of job prospects online (Synergia, 2018). However, Cyril Ramaphosa's address to the trade unionists and government technocrats at a jobs summit, states that the cooperation between government and private sectors is slowly creating 275,000 jobs in the country to counter unemployment (Synergia, 2018). Such collaborations have helped in ensuring that human trafficking is left with little to non-breeding ground. South Africa is ought to be applauded for these efforts which, if they are consistently pursued, will lead successfully fulfilling her global commitments.

Furthermore, a gender perspective on human trafficking points out that an estimated 70% of the trafficked victims are women and most are trafficked for sex Labour which in all attribute it to gender imbalances in communities (UNODC,2004).The Chairperson for women empowerment, Ms. Ramodibe, remarked in a speech that, "South African government successfully introduced the gender equality bill which has become an instrumental vehicle in addressing gender-based crimes inclusive of human trafficking forms that target women mostly" (Parliamentary monitoring group, 2014). An official in the interviews said that, South Africa to date has made some significant strides to deal with gender inequality and empowerment of women (Interview, Arcadia, 2023).

Despite the continued reports on gender-based crimes, we see that the rate at which they are occurring is lower as compared to the past talking of the years around 2003 and back. It is essential to come to terms with practical reality that, dealing with embedded cultures does not guarantee success overnight. Therefore, any step made with assessment amidst will improve in a positive position. Therefore, South Africa's efforts to address this root cause has contributed to limiting the potential of women falling victim due to the empowerment and addressing factors that make them vulnerable to human trafficking. In 2022 a 'Women's Socio-Economic Rights and Empowerment' theme was introduced as a tool to drive empowerment and addressing issues linked to gender (Dube, 2022). In

strengthening women socially and economically, the government has stirred an advancement of their human rights and promotion of gender equality. It is provided that there has been a 42% increase in women's economic access in comparison to the 2.7% in 1994 where women barely had access to employment (Government Communication and Information System, 2021). South Africa has shown a record of steady progress in achieving the vision for gender equality which is an essential part in combatting the crime.

5.2.. Improved coordination

To add on, the government has managed to maintain efforts aimed at preventing human trafficking, and this has been coordinated through a National Intersectoral Committee on Trafficking in Persons. According to the trafficking report of 2023 there was successful coordination of provincial policies and the rapid response teams enabled the facilitation of local response to the trafficking cases and victim identification (U.S. Department of State, 2023). As reliably informed by an official within a human trafficking prevention department, they said that there were 48 inspectors that were trained recently on human trafficking and child exploitation (Interview, Cape Town, 2023).

These efforts for training to have expertise in prevention and victim identification has resulted in a 5% increase in efficiency of victim identification and prevention of the crime (Statistics South Africa, 2019). The report also confirms that this initiative has enabled the successful removal of 50 victims from exploitation and 391 potential victims were also identified (U.S. Department of State, 2023). The committee has succeeded in monitoring the departments on human trafficking, although there are noticeable shortfalls, it has made improvements which would otherwise have been overlooked.

5.3. Challenges.

On the contrary, the government has had challenges in implementing the laws on combatting human trafficking. Despite the commitments it has made, challenges have

been encountered in the implementation process. The institutional and structural inadequacies have delayed the progress. The section below discusses the challenges encountered in implementing the global commitments in its domestic policies.

5.3.1. Challenges in prosecution

Although it has been noted under success that there has been an improved number of prosecutions over the years, it is still critiqued that it has been relatively low. With the efforts in place, one would expect a positive increase in numbers of offenders going through the system however it has not been the case with South Africa. The country's remain in tier 2 is one clear indication that the country has not yet met the global requirements' minimum standards to curb the crime. According to an informant, "we are doing our level best to ensure that all prosecutions are handled well and that justice is served altogether with proper sentencing" (Interview, CapeTown,2023). However, another informant shared an opinion that, "the challenge we are facing at hand is corruption within the system and that is one thing that is mostly defeating the ends of justice despite all the efforts in place. If we do not address this moral decadency we are still going to have just a few prosecutions for public show yet the actual work is left unattended to" (Interview, Mpumalanga, 2023).

Scholars state that the potency and credibility of any legislation are determined by the level of its enforcement and in the case of South Africa despite its recorded success in commitments its laws have been labelled as problematic (Farrell, McDevitt and Fahy, 2008). Bello also argues that, despite the 2013 introduction of a backing law for institutions to use in combatting human trafficking, there has been relatively few arrests made (U.S. Department of State report, 2016). Victim identification has been more unbalanced in ratio to the number of convictions between the periods of 2008 to 2014 as illustrated in Fig 15 below.

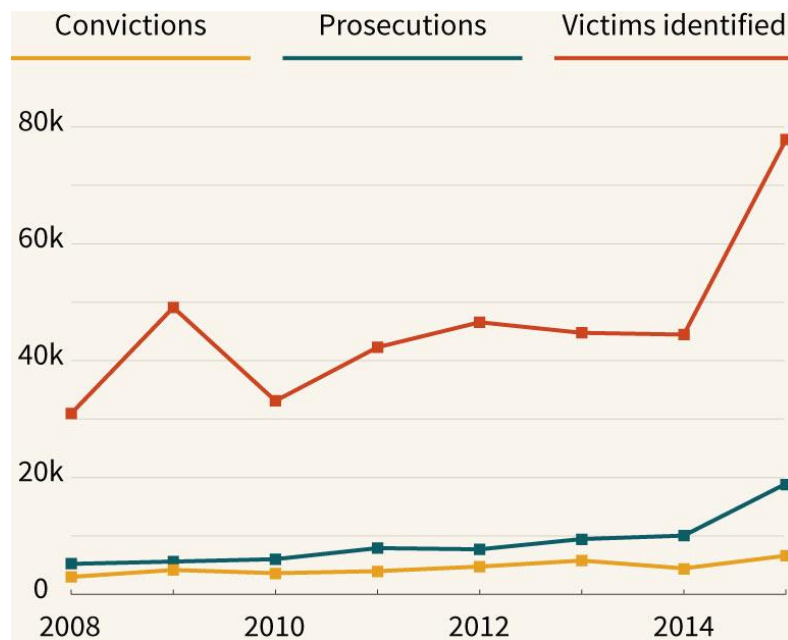


Fig 15: A line chart showing variations in prosecution, conviction, and victim identification over the stated years. (Source: UNODC, 2015)

Masson in his report confirms that human trafficking victims have doubled between the years 2021-2022 basing with the latest Trafficking in Persons annual report (Masson, 2022). The increase in number of victims identified is worrying and given the few convictions the crime is continuing. One can argue that victims continue to increase whilst the number of prosecutions is low and by so doing it incentivises the offenders to continue with the crime. The laws in place are not enough to deter the criminal activities which then requires the government to strategize in the implementation of the global commitments. It has been argued that the problem with South Africa's law on prosecution is that, it has only been prevalent in public discussions yet with a low turnout in courts (UNODC, 2022). Despite the characterisation of the crime as lowly prosecuted, the South African government has more work to do in ensuring that they meet minimum requirements to curb it.

5.3.2. Failure to identify trafficking patterns.

Furthermore, prosecutors seemingly have challenges in prosecuting the crime because of the failure to break into and understand the chain of the organised crime. Scholars add that the trafficking web consisting of a series of people and the government, or their law enforcers, should be identified, and the perpetrators identified. (Eyewitness news, 2011). In most cases the government has proven its incompetency in identifying the trafficking cycle, characteristics, and the acts of offenders. A key informant referred to the Cape Town strikes on a case that the government was not giving attention to. They said that it went on for a while as people protested the plain sight of trafficking of women working in the strip clubs within that area, and were allegedly with false passports as immigrants.” (Interview, Cape Town, 2023). This is an example of human trafficking happening in public areas, yet undetected by the police and responsible authorities thereof. The researcher comments that the government need to pay attention to such potential places of crime and impose stricter laws that help deter the activities.

In the case study of the reported gross human rights violation of fishermen working in Cape Town at the Sea Point, the researcher points out that the government has failed in identifying human trafficking that is continuously carried openly in its land. One representative from a civil society expressed frustration in the interviews saying, “we have tried to call the attention of the police and responsible authorities to address victims of abuse from Southeast Asia that are subjected to abuse and forced labour, but it has not resulted in any change because the fishermen are still there living in unpleasant conditions” (Interview, Johannesburg, 2023). It has been shown that the South African respective government departments have made little efforts to investigate into the case, quoting the words of a spokesman for South Africa’s Department of Home Affairs.

The spokesperson failed to respond to the quest for answers on the situation by saying, “Every single ship that comes to the port is inspected (Brown, 2022). This statement was disputed by Alan Goldberg, a maritime attorney who stated that for the 20 years he worked there, he never saw the home affairs department searching the ships (Brown,

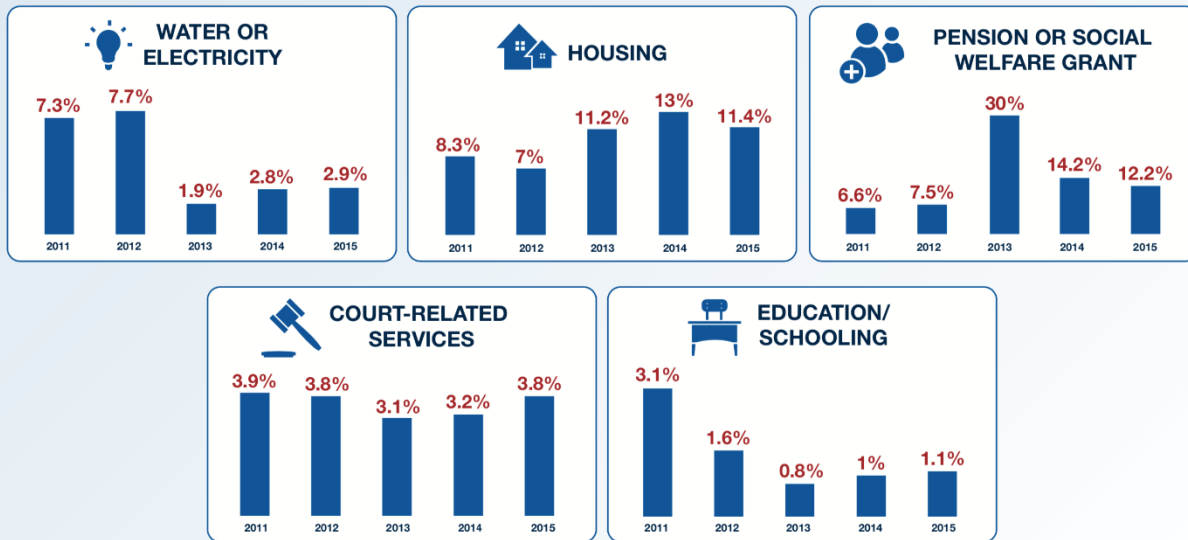
2016). One can question the government's response to the situation if there is overwhelming evidence by the charity organisation that has reportedly helped some slaves from these vessels. This could be a case yielding to corruption, or the government could be turning a blind eye to these activities with potential stereotype that the victims are criminals and illegal residents. It is such gaps that have contributed to South Africa's global ranking of Tier 2 in countering human trafficking which is an indicator of its failures to meet the global commitments.

5.3.3. Corruption

In the above paragraph, the researcher raised concerns about corruption as a factor creating a barrier to South Africa's achievement in curbing crime. 60% of the informants pointed out on corruption as an obstacle in achieving the goals to counter human trafficking. Pillay puts forward that in general, corruption has proliferated in all segments of the South African National Public Service (Pillay, 2004). Fig 16 below shows patterns of human trafficking in South Africa, and of much importance is the one representing corruption within the justice system.

SOUTH AFRICANS EXPERIENCES OF CORRUPTION IN THE PUBLIC SECTOR

TYPES OF SERVICE WHERE CORRUPTION WAS EXPERIENCED (2011 - 2015)*



*National Victims of Crime Survey Data (no data is available after 2015)



Fig 16: A diagram with bar charts showing levels in percentages of corruption in different departments (Source: National Victims of Crime Survey, 2015)

The researcher deduces that consistency in corruption levels threatens the possibility of increased prosecution and administration of justice for the victims of human trafficking. A key informant from Human Trafficking Civil Society pointed out that “a corrupted justice system is playing a role in defeating the ends of justice and perpetrators of the human trafficking are feeding off it.” (Interview, Mpumalanga, 2023). It is further argued that there has been an increase in prosecution of perpetrators of this crime. Crime combating is an impossible mandate of the police, and the way that the South African Police Service is structured cannot combat the crime (Bello & Olutola, 2022: 202). There is still a wide gap between prosecution and conviction, and perpetrators are still finding their way out due to corruption. Each one of the participants shared knowledge of at least one of the factors as key contributors with three-quarters of them stressing corruption as a huge barrier that needs to be dealt with. Corruption is evidently drowning South Africa in its consequences

and that is largely defeating the ends of justice. In 2004 the US Trafficking Report pointed out that there is evidence proving existence of corruption among government and police officials working with the syndicates (Van & Watt, 2019). Such elements constrain the anti-trafficking law and the enforcement efforts, more over it creates more impunity for the human trafficking crime.

5.3.4 Inadequate victim protection

With regards to victim protection, biases have been reported that grants for victims are compensated unfairly, not only based on citizenship but also on gender terms. To start with, there has been little information provided to the victims about grants they can benefit from (Cave, 2016). The Social Relief of Distress Grant has been put in place to meet the needs of the impoverished victims. The researcher is of the idea that the grants could have been used for the benefit of prosecutors as an incentive for the victims to cooperate and provide information that can help in prosecutions. However, data shows that there are approximately 10 victims in a year who obtain grants in comparison to the 43,195 reported cases of human trafficking between 2012 and 2014 showing that there is a misappropriation of funds (Cave, 2016). It is seen that the available resources for trafficked victims are not delivered to the intended beneficiaries due to incompetence by front line players responsible with the delivery. It also shows that the victims are uninformed of the processes, which one can strongly argue that these are a result of negligence from the responsible authorities.

The efforts to protect victims seem to decrease after victim identification and in such instances, victims become less likely to report trafficking with fear of being re-trafficked due to lack of protection. (Bello & Olutola 2022: 300), point out that victims rescued by law enforcement agencies are not given the needed support due to insufficient knowledge and understanding of the exigencies. Moreover, the victim protection laws seem to be fragmented despite the three policy documents designed and approved by the South African cabinet display varied kinds of efforts to protect the rights of a crime victim. The provisions have ambiguities that limit the delivery of the rights stipulated. The 2004 Victim

Charter is criticised for containing rights that cannot be recognised in terms of section 234 of the constitution without parliamentary approval (Frank, 2007). One can then argue that as there has been no approval of the charter its proceeds cannot be implemented to protect victims and that leaves the victim protection department to rely on fragmented laws.

Lack of an appropriate legislation creates more vulnerability of the victims which limits the efforts of South Africa to curb human trafficking. In another interview with an informant working with shelters for human trafficking, they provided information that during the peak period of COVID-19 the government was overwhelmed with the need to deal with the global disaster and for such, about 4% of the victims in our shelters resorted to drug abuse to sustain themselves (Interview, Durban, 2023). In addition, Oluwatosin analyses that South Africa has indeed criminalised human trafficking by enacting laws to curb it, but the regulations have not been adequate to stem the tides of the crime because of the laws that are selective and not all-inclusive (Oluwatosin, 2019).

One other official in policymaking during the interviews pointed out that policymakers are implementing the laws on an experimental basis in which they make half-baked adjustment strategies that later prove their inefficiency (Interview, Pretoria, 2023). Hudson argues also that the failure to produce a common ground for public problem-solving defeats policy implementation (Hudson et al 2018). One can comment that the failure to have coordinated laws and inconsistency in the laws leads to ineffectiveness in implementation and aligning with universal standards.

5.3.5. Partial attention on root causes.

South Africa has entrenched inequalities inherited from apartheid. These have continued and allowed human traffickers to capitalise on and prey on their victims. Factors including poverty, unemployment and gender inequality in the country are partially addressed and the policies in place to alleviate them have not had much success. As of 15 August 2023, statistics proved that South Africa's unemployment rate increased by 0, 2% to 32,9% in

the first quarter of 2023 (IOL, 2023). The government is battling with addressing unemployment, one of the factors that offenders rely on in selecting their victims. A failure in addressing the root causes of the crime indefinitely defeats the laws in place to counter the crime as the gap provides a pool of resources for the traffickers.

Instead of the government giving more attention to the development of mechanisms to address the root cause, it has rather resorted to the use of restrictive regulatory migration laws and employment of an aggressive criminal justice system (Bello & Olutola, 2022: 268). One can argue that for the government to have effective criminal justice, it requires an understanding of the connectedness of the crime to the root causes to develop solutions that are relevant to address the actual problem. A key informant stated that, "human trafficking cannot be totally won through legislation only. There is a need for supportive measures to make it efficient and with that, it is necessary if we want to move from Tier 2 to have our socio-economic inadequacies paid attention to" (Interview, Brooklyn, 2023).

5.3.6. Lack of training of front-line workers

Most of the frontline workers in human trafficking are uninformed about the crime and by so doing it has had detrimental effects in policy implementation. One of the participants posed an interesting question about the nature of human trafficking as a cross-border crime especially since the South African ones are porous, "can we say the South African Police Service well trained and equipped to match the nature of the crime?" (Interview, Limpopo, 2023). There is not much confidence in the frontline workers on eligibility to deal with the crime due to poor training. Scholars also argue that a strain in border control provisions is that the front-line officials are ill-equipped to identify and assist victims, and this is tied in part to the linkages and overlaps of trafficking and smuggling (Miller & Baumeister, 2013). The outcomes from Salem's research provided that the poor training quality has negatively impacted South African police officers' performance resulting in inferior quality of police investigations (Salem, 2019). According to an official working with the Hawks, "another element we have noticed is that the frontline workers involved in

combatting human trafficking are not eager to show up for the trainings because there is no incentive for them to do so” (Interview, Johannesburg, 2023). The U.S. Department of State (2019) also added that the reason for continued trafficking in most countries is due to inefficient training and knowledge on the crime. Due to inadequate training, there has been low engagement by the appointed frontline workers, as they lack interest and are unequipped to confront the ills of the crime.

5.4. Chapter summary

The government has made plausible achievements that are remarkable in curbing the crime. Its efforts have been successful in introducing a comprehensive law influenced by the global commitments entered by the government. It has further had several prosecutions and convictions altogether with victim protection that the international community has applauded. The efforts, though partial in success, have allowed for South Africa to be recognised on the list of states fighting the crime both internationally and in its homeland. Awareness campaigns are still being run and the state has collaborated well with other non- state actors. However, it is still on Tier 2, internationally, which is an indication that it does not yet fully meet the requirements to fully curb the crime. In this chapter, issues of corruption, poor victim protection, and low training of front-line workers have been discussed as contributing to the failure in effectively combatting the crime. Despite demonstrating compliance with the global requirements domestically, efforts have been defeated. Traffickers are also law sensitive and conscious; they keep on introducing new modus operandi in carrying out the crime making the legislative outdated from time to time. It therefore requires the state to have timely reviews of the policies to match the criminal developments, and to have well equipped institutions and initiatives that can counter the crime.

CHAPTER SIX

DISCUSSION AND CONCLUSION ON SOUTH AFRICA'S EFFORTS TO MEET GLOBAL COMMITMENTS IN COMBATING HUMAN TRAFFICKING

6.1 Introduction

South Africa has a proven record of global commitments that it has entered in cooperation with other member states to curb the borderless crime. In implementing its own domestic policies to curb the crime, it has made use of the aims and objectives of the protocols, initiatives, and ratifications. These have created a foundation and guideline in structuring its human trafficking laws. In doing so, it has made progressive success that is worthy of merit in its progress. However, the researcher also identified that despite the positive outcomes, South Africa can do better if it manages to address the gaps leading to failure in some policy implementations. This chapter gives an overall discussion of South Africa's efforts and the gaps identified in meeting the global commitments and a conclusion of the study.

6.2 Discussion

It is seen that human trafficking has longstanding global problems which states need to pay attention to. Understanding the nature of the borderless crime, South Africa has not been an exception, traffickers have taken advantage of the social stratifications and economic fractures to expand their illicit chain of trade. South Africa has therefore taken steps to fight against the crime and this has been seen through committing to global objectives on a cooperated fight against human trafficking. As a human rights promoter in the continent, South Africa has since been involved in global efforts through cooperating in early and present ratifications that focused on protection of human rights. With an increase in the crime rate, the government continues working with international and regional member states in curbing the crime.

6.2.1. Attending to vulnerability factors.

South Africa also used these to structure its domestic laws, however the increase in human trafficking cases in South Africa raises questions about what needs to be done to attend to the crime more efficiently. The researcher argues that the government needs to understand the main vulnerability factors. This means that there is need for special attention to the root cause of the crime which are incentivising the criminals. As has been discussed, South Africa is battling with the crime that is feeding on the multi-faceted socio-economic phenomenon fuelled by issues of poverty, inequality, and political instability (Fair Observer, 2022). Considering that the government has consecutively remained on Tier 2 of the watch list, it is arguable that this is a result of failure to address the pull and push factors creating more vulnerability. The Trafficking in persons report produced in the report that the number trafficking victims doubled in the 2021-2022 financial year (Trafficking in Persons Report, 2022).

6.2.2. Increased cooperation among stakeholders.

The low data for human trafficking, form part of the indications that the government's efforts have a gap that is delaying progress in combatting the crime. The researcher further suggests that there is more power in collaboration. The government and other interested parties need to cooperate to produce airtight solutions for the crime. The identified shortfalls by the study indicate that the government and non-state actors are having challenges in progressive collaborations, and with the complexity of the crime it becomes more difficult to deal with the crime due to lack of a mutual strategies. Chances are high that if all the departments collaborate on a common ground, it allows for a multi-disciplinary approach in combatting the crime.

The National Freedom Network should step up in engineering for actors to interact and allow the flow of communication, sharing ideas on potential ways to deal with the crime. Through working together, they can learn from each other, and they gain more leverage in informing the policies. In addition, the state budget on crime is already stretched,

therefore it is important to look for donations which can help in equipping relevant actors with skills to tackle the crime. It has been highlighted specifically that there are elements of poor coordination between the provincial task teams on human trafficking and the NICTIP, whereby they barely meet for communication as required by the government (Good Man, 2023). This poor coordination is also resultant of absence of accountability for these groups to carry on with their tasks as well as having standard functionality. Moreover, complains have been raised also on lack of coordination between the non-governmental organisations and the South African Police Service, as the non-state actors have reportedly been receiving more calls from community members who were unable to get help from police stations on trafficking cases (Good Man, 2023). It is possible that with the presence of more cooperation between actors there will be increased positive outcomes in combatting human trafficking in South Africa.

Moreover, as the crime is borderless, it demands for responses that cross national borders. Although South Africa has had several engagements with regional and continental member states the crime continues to thrive in the presence of such cooperation. One can therefore point that there is potential slacking from other member states in putting consistent efforts to curb the crime in collaboration with other members. Article 9(3) of the Palermo Protocol recognises the need for trafficking agencies, states, and governments to collaborate as an important element in curbing the crime (UNODC, 2019). The positioning of South Africa in the continent attracts high volumes of about immigrants and currently about 2.9 million migrants reside in South Africa (Stats SA, 2022). With this migration status it is essential for South Africa to collaborate with its regional members to regulate the migration flows that influence human trafficking.

6.2.3. Broad research and policy evaluation.

In addition, although South Africa has employed identifiable solutions for the crime, it is possible that some of the policies and initiatives are misfiring the target problem. This therefore requires more research and data collection that is proactive and interdisciplinary to unearth shortfalls in policies that are implemented yet irrelevant. This also

extends to the failure in understanding the human trafficking dynamics that is ways it is carried out, forms of it and the targeted victims. This has been witnessed through limited research on adult trafficked males. The absence of adequate data on their cases invalidates the current efforts to curb the crime. It is argued that the trafficking of men is a less considered case that has contributed to policy inadequacies as the present ones might not potentially cover and meet the needs of the male victims (UN, 2000). The absence of data and acknowledgment of it feeds the web outside the public knowledge owing to patriarchal mind-set that victims of the crime are only women. The UN Women Organisation placed a complaint forward that the policies in place and media coverage have made human trafficking a gendered crime (UN Women, 2011). These are some partialities in understanding the crime which widen the gap in combatting the crime, and for that the government should allow for more research on these aspects using a multidisciplinary approach that is well encompassing of issues that are often left out of the bracket.

Moreover, outside the partialities in gender allocation, research should be carried out to establish key differences in legal migration, smuggling and human trafficking. These have interchangeably been used without clear distinctions which has created difficulties for migration officers to tear the three apart (UNODC, 2013). More research is required in this aspect to understand the differences on the three like terms, and with that it brings ease in understanding the concepts as well as establishment of key solutions and training on the relevant aspect that leads to combatting of the crime. In addition, the research that has been done is mostly scholarly which limits provisions of in-depth findings, and to that the researcher proposes for more specialised research within the human trafficking departments. This shift will allow the development of deep root inquiries on the matter and it will not be limited for academic purposes, rather it will be research pursued to achieve the intended outcomes.

6.2.4. Community engagement in formulating policies.

Poor implementation of the legislation is crippling South Africa's efforts in curbing the crime in the presence of its newly introduced comprehensive law. The researcher suggests that the government needs to introduce a system on community engagement which will enable the accumulation of relevant information based on local experiences, as well as high level consultation. These carry the potential of creating multi-dimensional policies which will further create more buy in within policy implementation as well as formulation. It is also suggested that the policies require a strategy that is linked to an integrated Development Plan which will ensure that the inputs on policy formulation will be transformed into essential deliverable areas (UNHRC, 2009). One can further add that the policies should also be realistic corresponding to the actual core issues that need the government's attention.

6.2.5. Integration with other departments and institutions.

Additionally, sectors like health care should improve and have more specialised crime identification departments which enable them to identify potential victims that come for emergency health services. All these will help in upgrading the South African international bar on competence in meeting the requirements to curb human trafficking. One cannot downplay the efforts made so far, as evidently has been seen through discussed case studies of successful victim identification and the number of prosecutions. South Africa is indeed thriving in combatting the crime and for continued progress, it must assess and re-align its institutions, front-line workers, and policies to meet the global standard on countering human trafficking. A multi-dimensional approach and cooperation among the responsible authorities will allow South Africa the ability to eliminate the crime.

The challenges South Africa is encountering have possible solutions, this then requires the government to consistently re-evaluate the policies, structures, and initiatives on human trafficking. The timeously evaluations hold the potential of driving South Africa upwards from the Tier 2 watch list on human trafficking. The approach it has taken is worthy of applause as it has produced results that are an attempt to align with the commitments. However, the current position requires it to upskill and revise the policies

and structures in place to ensure that they are consistent with the global benchmark in countering human trafficking.

6.3. Policy Recommendations

6.3.1. Need for a formal database.

The South African government has made many efforts so far to ensure its efficiency in combating human trafficking as well as to meet its global commitments. However, there are still some areas that need improvement. Despite the data in the literature on human trafficking, it is argued that it is still unreliable due to the lack of a formal database on human trafficking in South Africa (Simpson, 2023). One other key informant pointed out that the poor record-keeping by the government is weakening the ability of policy makers to analyse efficiently their information. Masson adds in the USAID report that there is a mismatch in data between the government statistics and those from the civil society (Masson, 2023). The disconnect in coordination of statistics is a highlight that both the government and non-state actors on human trafficking need to cooperate in collecting data that can be used for the official statistics. One can also argue that even if the data might be inaccurate, homogenous statistics will help and give confidence to the public and the international community in trusting the information on the crime overall. According to the recommendations by the UN Network on Migration, there is a need to present detailed information concerning the measures that they have taken to prevent and combat trafficking in their periodic reports to the global monitoring bodies (United Nations Network on Migration, 2010). Therefore, with the absence of coordinated data, it has proven difficulty to provide the required detailed reports for South Africa on the crime.

Additionally, the statistics lack proper aggregation, which is an area of improvement that the South African government and its parties need to work on. It is essential for South Africa to provide distinctive readings according to gender, age, economic status *et cetera*, as a channel that allows more understanding of the crime. In chapter 4 of the study, it was discussed that South Africa's government allows the input of non-state actors in

handling human trafficking concerns. However, there are existing gaps that require the need of more cooperation. This can be achieved by consulting with other departments including the legislative bodies, human rights institutions as well as civil societies in adopting, implementing, and reviewing anti-trafficking laws and programs. It is also added that there is need for national plans and action developments to end the crime. This is of crucial use in building links and partnerships between the government and relevant sectors involved in anti-trafficking initiatives (United Nations Network on Migration, 2010).

6.3.2. Need for increased awareness.

It has been proven that most victims are those people that lack knowledge on the crime and are easily preyed on by traffickers. For such, some key informants acknowledged that 75% of the victims are uninformed about the crime and have little or no access to sources of information used for awareness raising. The South African government needs to re-strategize on the awareness plan and add empowerment programs as a package targeting vulnerable societies (United Nations Office on Drugs and Crime, n.d). It should be noted that the South African government has awareness programs in place, but these have not borne much fruition as some parts of the communities are still left behind in accessing the information. A recommendation from one of the informants was that the South African government needs to increase outreach strategies and most especially reaching vulnerable populations that are into commercial sex, foreign migrants, and areas of exploitation like farming communities where people are exposed to forced labour.” (Interview, Arcadia, 2023).

Some of the people in these communities get exploited in the eyes of the local people and such continues because both the victims and the surrounding community people are unaware of their rights nor are they informed on identifying the crime. Also, as identified in chapter 2, children are easily preyed on because they lack agency and are misinformed about the crime. The A21 and Salvation Army however have made attempts to educate children on this to lessen vulnerability, despite challenges encountered. However, the researcher noticed the misrepresentation of information, which has displayed the crime of trafficking as only manifesting through or for the purposes of sex labour. These have

brought challenges in understanding the whole concept in South Africa, and for that the crime continues to flourish in plain sight as the people are misinformed on other potential forms of trafficking. Also as identified, the lack of awareness has created more room for child victims to be exposed to labour intensive sectors. One can explain that the history of South Africa’s migrant farmers has not subsided, to date its patterns are still felt with an increase in child labour employment.

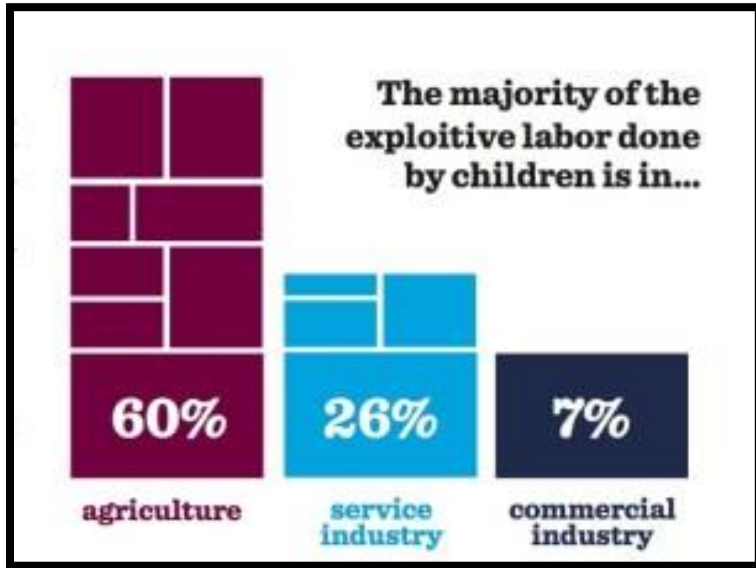


Fig 17. A bar chart showing sectors in which children are exploited due to lack of awareness on human trafficking forms. (Source: UNICEF, 2015).

Fig 17 proves the existence of child exploitation in South African farmers, as discussed in chapter 4, children in rural areas are exposed to this form of labour. Such practices continue to thrive due to lack of knowledge on child rights and forms of human trafficking and often describes as family workers that are unable to attend school.

Therefore, for South Africa to manage the full implementation of the global laws, it is required to manage these lacking yet crucial areas to reduce vulnerability. Efficient packages on awareness are a contributing factor necessary in combating human trafficking in South Africa and assist in reaching global commitments.

6.3.3. Training of law enforcement agents

In chapter 4, it has been discussed that South Africa has considered the need to train the individuals dealing with human trafficking which is a remarkable move. In this regard, an informant in our interviews commented that, “although there is the presence of a select trained task team to deal with human trafficking and ensuring coordination from departments and actors working on the crime, there is still a need for more training of front-line workers (Interview, Mpumalanga, 2023). The researcher is of the idea that training on victim protection, identification, and prevention of the crime needs more expertise that can match up with the dynamic crime. To add on, Molema writes that several stakeholders in the fight against this menace lack an in-depth understanding of the concept of the crime, which weakens the law's effectiveness (Molema, 2013).

It is therefore ideal for a special selection of representatives as mentioned above to focus only on issues of human trafficking without divided attention. These require training that will upskill them in identifying the modus operandi, victims and ensuring their protection. Moreover, the researcher discovered that the government commissioned varied departments that have workload already. Taking on another responsibility has led to partial attention to the crime because of the overwhelming duties. On another note, there is a possibility that the government's budget is overstretched to have new recruitment of more specialised frontline workers that they can train to tackle the crime. Hence in recommendation, the government can make efforts to seek donations that can support financially in equipping relevant actors to upskill and possess the ability to identify, prosecute and protect the survivors (Rybarczyk, 2022).

Moreover, there has not been much mention of the contribution of the healthcare system in combatting human trafficking. Considering that at some point the traffickers take their victims to the hospitals in emergency cases, those in healthcare thus require training and awareness. This equips them with the ability to identify a trafficked person when they visit medical centres for medical assistance, and more so, it promotes increased care and human rights protection for the victims. Fig 18 shows estimated statistics in percentage of victims that pass through the healthcare system unidentified.

IDENTIFYING HUMAN TRAFFICKING IN HEALTHCARE SETTINGS



87.8%

of human trafficking survivors reported having contact with a healthcare provider while they were being trafficked.



63.3%

of those who had contact in healthcare settings were treated in an emergency room.

Lederer, L., Wetzel, C. (2014). The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities. *Annals of Health Law*, 23, 61-91.

Fig 18. The diagram shows the percentage of victims who get medical help whilst trafficked. (Source: UN 2018).

6.3.4. Victim centred approach.

It is also essential that the legislation becomes premised on the victim-focused approach in its criminal justice response to human trafficking. As stated in the United Nations Protocol, articles 6 to 8 gave more emphasis on the need to protect and support trafficked victims as an essential aspect in curbing human trafficking (OHCHR, *n.d*). Gallagher and associates point out that trafficked victims should have access to information and legal advice on options available to them, including their rights as witnesses under the criminal justice system (Gallagher & Holmes, 2008:330). In putting the victims first in addressing human trafficking, it ensures that their safety and well-being are prioritised regardless of their affiliation to the perpetrator. One can add that in identifying the needs of a victim, it informs the risk management strategy that the responsible authorities ought to take, which can be a key strategy in meeting the commitments entered. In its policies, South Africa does give preference to victims, but it has been identified that there is a loophole in the victim protection where most are given a brief period of protection and risk being re-trafficked.

The South African government has made efforts to strike a balance to protect victims despite of nationality or legal residence and employing stringent immigration laws to assist in identifying victims. However, it is crucial to ensure that anti-trafficking laws, policies, programs, and interventions are not infringing on any persons and that the immigrants benefit as asylum seekers when they fall victim (UN, 2010). In Chapter 4, a case study highlighted the ill-treatment of a sex-trafficked victim by a police official. This is one of the examples in which of human rights are infringed. It further proves that victims often go through secondary trauma from rejection based on generalisation that they are voluntarily trafficked, especially sex workers, It is then important for organisations working with trafficked persons to participate in programs that enhance their knowledge of prioritising human rights.

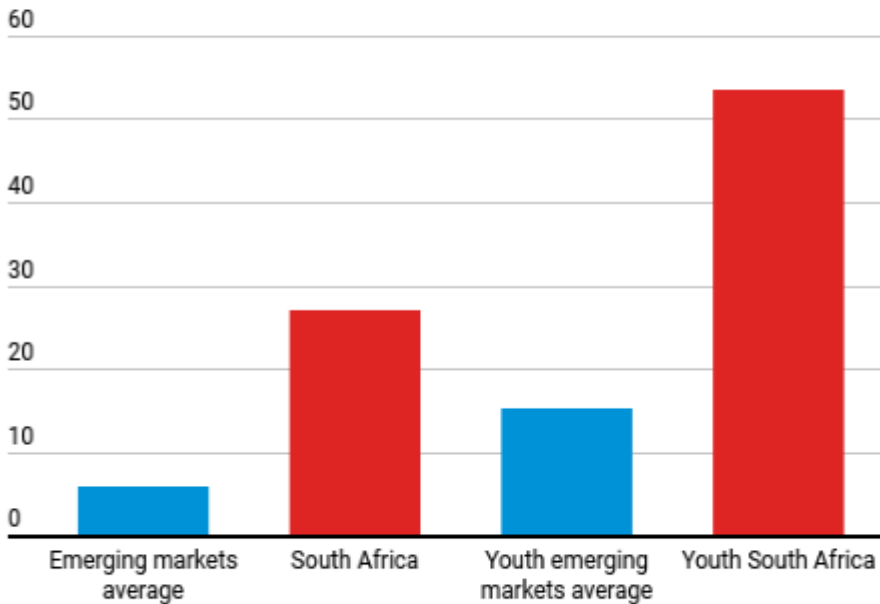
6.3.5. Need for a bottom approach in addressing factors contributing to the crime.

Bello and Olutola express that governments can be strained by many factors and forces that can lead to a low commitment to fighting human trafficking. There is the possibility of winning when they address the root of the problem, then impossibility becomes secondary (Bello and Olutola 2022:219). Molema also argues that trafficking cannot solely be solved by legislation alone, the nature of the crime feeds on pre-existing conditions inclusive of social and economic problems which cannot be removed by criminalisation of conduct (Molema, 2014). In this instance, unemployment, high levels of inequality, high volumes of illegal migration into the country, porous borders, corruption, and poor service delivery, given attention and addressed, will help in eradicating the triggers of human trafficking (Stamenkovska, 2019). Fig 19 below represents the constant increase in unemployment rate for the year 2018 in South Africa.

Out of a job

South Africa's overall and youth unemployment is significantly higher than the average for emerging markets.

(percent of labor force, 2018, or earlier)



Sources: World Bank World Development Indicators and IMF staff calculations.

Note: Youth unemployment is defined as percent of total labor force aged 15-24.

Fig 19: A bar chart describing the high unemployment rate in South Africa (Source: IMF & World bank, 2018).

The increase in unemployment is alarming, considering that traffickers target the most deprived and income desperate groups. The government needs to devise new methods and initiatives centred on reducing the disparities. The embedded socio-economic problems within the country have a contributory role in crippling a formal legislation, and without such being addressed it creates more gaps in countering the crime. These elements are delaying South Africa's progress in countering human trafficking, both globally and within its borders. Policy adjustment is required to suit the current situation of the contesting crime. The policies in place are failing to address the root of the problem,

solutions are just immediate and mainly on the surface which weighs down the intended progress. It is such inadequacies that have contributed to South Africa's constant allocation hold in Tier 2 watch list for global anti-trafficking, a clear indication that there is still a huge gap in need of South African government's attention.

REFERENCES

- Adepoju, A. (2005). *Review of research and data on human trafficking in sub-Saharan Africa*. *International Migration* [online], *Library Journal*. Available at: [https://scholar.google.co.za/scholar?q=Adepoju,+A.+\(2005\).+Review+of+research+and+data+on+human+trafficking+in+sub-Saharan+Africa.+International+Migration,&hl=en&as_sdt=0&as_vis=1&oi=scholart](https://scholar.google.co.za/scholar?q=Adepoju,+A.+(2005).+Review+of+research+and+data+on+human+trafficking+in+sub-Saharan+Africa.+International+Migration,&hl=en&as_sdt=0&as_vis=1&oi=scholart). [Access date 15 June 2023].
- Allais, (2013). The profile less considered: The trafficking of men in South Africa. *South African Review of Sociology*, 44(1), pp 40-54.
- Allen, K. (2021). 'Prostitution vs. Human Trafficking: Understanding Exploitation'. *HUMAN TRAFFICKING SEARCH.*, [online]. viewed 11 June 2023, Available from <https://humantraffickingsearch.org/resource/prostitution-vs-human-trafficking-understanding-exploitation/>. [Accessed 11 June 2023]
- Bello, P.O. & Olutola, A.A. (2022). *Effective Response to Human Trafficking in South Africa: Law as a Toothless Bulldog*, viewed on 2 June 2023, [online]. Available from: <https://doi.org/10.1177/21582440211069379>. [Accessed 2 June 2023]
- Bonthuys, E. & Domingo, W (2007). *Constitutional and International Law Context. In Gender, Law and Justice*. edited by E Bonthuys, E, and C Albertyn, C., eds. Cape Town: Juta & Co., Ltd.
- Brownlie, I. & Goodwin-Gill. G.S. (2006). *Basic Documents on Human Rights*. New York: Oxford University Press.
- Cameron, S. and Newman, E. (2007). *Trafficking in Humans: Social, Cultural and Political Dimensions*, Tokyo: UNU Press. [online]. viewed on 11 July 2023, Available from: <https://collections.unu.edu/view/UNU:2486>. [Accessed 11 July 2023].
- Chung, J. (2006). Beyond a snapshot: preventing human trafficking in the global economy. *Indiana Journal of Global Legal Studies.*, 13(1), pp 137-163.

Check, A. (2013). *Human trafficking: sensationalist and unsubstantiated reporting*. [online].viewed on 1 July 2023, Available from <https://www.dailymaverick.co.za/article/2013-10-18-human-trafficking-sensationalist-and-unsubstantiated-reporting/>. [Accesses 1 July 2023].

Child Welfare South Africa. (2022). *Child Welfare South*. [online], viewed on 7 July 2023, Available at from: <https://childwelfare.org.za/>. [Accessed 7 July 2023].

Chivasa, N. (n.d.). *Kuripa Ngozi as a conflict resolution model in Shona communities of Zimbabwe: a conceptual analysis.*, [online]. viewed on 14 July 2023, Available from: https://www.researchgate.net/publication/335453907_Kuripa_Ngozi_as_a_conflict_resolution_model_in_Shona_communities_of_Zimbabwe_a_conceptual_analysis#:~:text=The%20practice%20of%20kuripa%20ngozi%20%28the%20customary%20practice,family%20level%20in%20contemporary%20Shona%20communities%20in%20Zimbabwe. [Accessed 14 July 2023].

Community Action Against Rape DBA Signs of Hope. (n.d.). *Addressing Poverty Is Human Trafficking Prevention – Signs of Hope.*, viewed on 3 July 2023, [online]. Available from: <https://sohiv.org/addressing-poverty-is-human-trafficking-prevention/#:~:text=If%20we%20want%20to%20prevent%20the%20exploitation.> [Accessed 3 July 2023].

Corte. & Aspers, P. (2019). *What is qualitative in qualitative research. Research? Qualitative Sociology*. [online]. , viewed on 22 July 2023, Available from: <https://www.cfr.org/human-rights/human-trafficking>. [Accessed 23 July 2023]. <https://doi.org/10.1007/s111133-019-9413-7>. Accessed 13 April 2021

Denscombe, M. (2010). *The Good Research Guide for small-scale social research projects*. Open University Press, England.

Department of Statistics South Africa (2023). *Five facts about poverty in South Africa*, [online]. viewed on 3 July 2023. Available from: <https://www.statssa.gov.za/?p=12075#:~:text=Approximately%20half%20%2849%2C2%25%29%20of%20the%20adult%20population%20were.> [Accessed 3 July 2023]

Dewhurst, J. (2017). The Reality of Human trafficking in South Africa. *The Southern Cross*. [online]., viewed on 17 July 2023, Available from: <https://www.scross.co.za/2017/08/reality-human-trafficking-south-africa/>. [Accessed 17 July 2023].

Dugard, J., , et Al Bethlehem, D.L., Plessis, M.D. and Katz, A. (2005). *International Law: A South African Perspective*. Juta. [online]. Available, viewed on 4 July 2023 from: https://books.google.co.za/books/about/International_Law.html?id=e9PFcizhFcYC&redir_esc=y. [Accessed 4 July 2023].

Duong, K.A. (2019). Human Trafficking and Migration: Examining the Issues from Gender and Policy Perspectives. *The Palgrave International Handbook of Human Trafficking*, pp.1819–1833. [online]. Available , viewed on 20 June 2023, from: https://doi.org/10.1007/978-3-319-63058-8_131. [Accessed 20 June 2023]. .

ECPAT UK. (2021). *United Nations Convention against Transnational Organised Crime and the Protocols Thereto (including the Palermo Protocol)*, viewed on 3 July 2023. [online]. Available, from: <https://www.ecpat.org.uk/united-nations-convention-against-transnational-organisedOrganised-crime#:~:text=The%20United%20Nations%20Convention%20against%20Transnational%20OrganisedOrganised%20Crime>. [Accessed 3 July 2023].

Falconer, C. (2021). Taking a ‘Gender Perspective’ on Human Trafficking Means Investing in Women’s Leadership. *HUMAN TRAFFICKING SEARCH*. [online]. Available , viewed on 30 June 2023, from: <https://humantraffickingsearch.org/resource/taking-a-gender-perspective-on-human-trafficking-means-investing-in-womens-leadership/>. [Accessed 30 June 2023]. .

Farrell, A. and McDevitt, J. (2008). Understanding and Improving Law Enforcement Responses to Human Trafficking., *Final Report*. [online]. Available, viewed on 27 June 2023, from: https://www.researchgate.net/publication/47463666_Understanding_and_Improving_La

w Enforcement Responses to Human Trafficking Final Report. [Accessed 27 June 2023]. .

Feingold, D.A. 2005. Human trafficking. *Foreign policy*, 150(32), pp 26-30.

Frankel, P. (2016). *Long Walk to Nowhere. Human Trafficking in Post-Mandela South Africa*. New Jersey: Transaction Publishers.

Frankel, P. (2016). *Long Walk to Nowhere: Human Trafficking in Post-Mandela South Africa*. Routledge 1st Edition.

Gajic-Veljanoski & Stewart, E. (2007). *Women trafficked into prostitution: Determinants, human rights, and health needs. Transcultural psychiatry* 44(3), pp 338-358.

Gallagher, A. T. (2001). The International law of human trafficking. *Cambridge University Press*. [online]. Available , viewed on 18 July 2023, from: <https://asset-pdf.scinapse.io/prod/90904495/90904495.pdf>. [Accessed 18 July 2023].

Gallagher, A.T. and Holmes, P. (2008). *Developing an Effective Criminal Justice Response to Trafficking in Persons: Lessons from the Front Line*, viewed on 3 July 2023,. [online]. Available from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1292563. [Accessed 3 July 2023].

Georgina. Alfonso (2019). *South Africa launches Prevention and Combating of Trafficking in Persons National Policy Framework*. [online]. Available , viewed on 27 July 2023, from: <https://www.unodc.org/unodc/en/human-trafficking/glo-act/south-africa-launches-prevention-and-combating-of-trafficking-in-persons-national-policy-framework.html>. [Accessed 27 July 2023]. .

Global Action against trafficking in persons and the smuggling of migrants, (2021). [online]. Available Viewed on 1 August 2023, from: <https://www.unodc.org/documents/human-trafficking/GLO-ACT11/GLO.ACT-Asia-and-the-Middle-East-Flyer-18-April-2019.pd>. [Accessed 1 August 2023]. .

Godzaik, E.M. (2021). *Human Trafficking as a New (In)Security Threat*. doi: [online]. Available at: <https://doi.org/10.1007/978-3-030-62873-4>. [Accessed 22 December]

Government Gazette Republic Of South Africa. (2013). [online]. Available at: https://www.gov.za/sites/default/files/gcis_document/201409/36715gon544.pdf.

[Accessed 10 July]

GSP. (2021). *A Gender Security Approach to Human Trafficking*. [online]. Available , viewed on 6 June 2023, from: <https://www.gendersecurityproject.com/post/a-gender-security-approach-to-human-trafficking/>. [Accessed 6 June 2023]

Hall, S. (2022). *Modern slavery is increasing – 1 in every 150 people are victims*. [online]. Available. viewed on 15 July 2023, from: <https://www.weforum.org/agenda/2022/09/global-modern-slavery-trafficking/>. [Accessed 15 July 2023]. .

Hartmann, M. (2021). Causes & Effects of Human Trafficking. *The Exodus Road*. [online]. Available , viewed on 19 July 2023, from: <https://theexodusroad.com/causes-effects-of-human-trafficking/>. [Accessed 19 July 2023]..

Huntley, S. (2017). *The Phenomenon of ‘Baby Factories’ in Nigeria as a New Trend in*. [online]. Available , viewed on 3 July 2023, from: <https://humantraffickingsearch.org/resource/the-phenomenon-of-baby-factories-in-nigeria-as-a-new-trend-in-human-trafficking/>. [Accessed 3 July 2023]

ILO (1930). *Convention C029 - Forced Labour Convention, 1930 (No. 29)*. [online]. Available), viewed on 6 July 2023, from: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CO DE:C029. [Accessed 6 July 2023]. .

International Labour Organisation (2021). *Forced labour, Modern Slavery and Human Trafficking (Forced labour, Modern Slavery and Human* . [online]. Available trafficking, viewed on 9 July 2023, at from: <https://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>. [Accessed 9 July 2023]. .

International Organisation for Migration. (2003). *Trafficking*, viewed on 4 July 2023. [online]. Available at, from: <https://www.iom.int/resources/2003-trafficking>. [Accessed 4 July 2023]

Kinsella, N. & Rankin, G. (2011). *Human trafficking-The importance of knowledge information exchange. Intelligence management*. [online]. Available , viewed on 11 July 2023 from: <https://link.springer.com/chapter/10.1007/978-1-4471-2140-4-11>. [Accessed 11 July 2023]. .

Kruger, H. B. & Oosthuizen, H. (2012). South Africa-safe haven for human traffickers? Employing the arsenal of existing law to combat human trafficking. Potchefstroom Electronic Law. [online]. Available at: <https://www.ajol.info/index.php/pej/article/view/75706>. [Accessed 11 December] ...,

Kruger, H.B. (2010). *Combatting human trafficking: A South African Legal Perspective*. University of Free State, South Africa.

Kruger, T. et al. , Lancaster, L., Landman, K., Liebermann, S., Louw, A. & Robertshaw, R. (2016). *South Africa safe. Manual for community-based crime prevention*. Pretoria, The Council for Scientific and Industrial Research.

Labuschagne, G. (2004). *Negative Implications of Muti Murder in South Africa*.

Lange, J.-M.V. and J. de (2019). 'Rising crime, low prosecution rates: How Law Enforcement in South Africa has all but Collapsed.' *News24*. [online]. Available, from: <https://www.news24.com/citypress/News/rising-crime-low-prosecution-rates-how-law-enforcement-in-sa-has-all-but-collapsed-20191021>. [Accessed 25 November]...

Magesa, R. & Kitula, M. (2020). Moral and Social Effects of Human Trafficking on Young Female Victims. *International Journal of Academic Research and Reflection*. [online]. Available, from: <https://idpublications.org/wp-content/uploads/2020/09/Full-Paper-MORAL-AND-SOCIAL-EFFECTS-OF-HUMAN-TRAFFICKING-ON-YOUNG-FEMALE-VICTIMS.pdf>. [Accessed 30 June]

Marcin, S. (2013). *Prostitution and Human Trafficking: A Paradigm Shift*. [online]. Available , viewed on 20 July 2023, from: <https://leb.fbi.gov/articles/featured-articles/prostitution-and-human-trafficking-a-paradigm-shift>. [Accessed 20 July 2023]. .

Martnac, E. (2021). *Title of your essay Sex Trafficking*. [online]. Available , viewed on 3 July 2023, from: <https://www.morningside.edu/assets/uploads/news/2021/december/dei-human-rights-essay-winners/martinac-human-rights-essay-2021.pdf>. [Accessed 3 July 2013].

Masweneng. K. (2023). 'South Africa fertile ground for human trafficking, especially girls.' *Sowetan LIVE*. [online]. Available , viewed on 3 July 2023, from: <https://www.sowetanlive.co.za/news/south-africa/2023-01-24-south-africa-fertile-ground-for-human-trafficking-especially-girls/> [Accessed 3 July 2023].

Miller, R. & Baumeister, S. (2013). Managing Migration: Is border control fundamental to anti-trafficking and anti- smuggling interventions? *Anti-Trafficking Review*. [online]. Available Viewed on 7 July 2023, from: <https://doi.org/10.14197/atr.20121321>. [Accessed 7 July 2023].

Minaar, A. (2001). *Witch purging and muti murder in South Africa: The legislative and legal challenges to combating these practices with specific reference to the Witchcraft Suppression Act (No. 3 of 1957, amended by Act No. 50 of 1970)*. African Legal Studies, 2, pp1-21.

Molema, N. (2013). *Combatting human trafficking in South Africa: A comparative legal study*. [online]. Available , viewed on 9 July 2023, from: https://uir.unisa.ac.za/bitstream/handle/10500/10189/thesis_mollema_n.pdf. [Accessed 9 July 2023]

Motseki, M. & Mofokeng, J. (2019). *Human Trafficking: 'Hidden in Plain Sight.'* viewed on 11 July 2023, from <https://www.ojp.gov/archives/ojp-blogs/2019/human-trafficking-hidden-plain-sight#:~:text=Although%20victims%20may%20not%20wear%20shack>. [Accessed

Motseki, M.M. & Mofokeng, J.T. (2022). *An analysis of the causes and contributing factors to human trafficking: A South African perspective*. [online]. Available , viewed on 11 July 2023, from: <https://doi.org/10.1080/23311886.2022.2047259>. [Accessed 11 July 2023]. .

Najemy, L. (2010). *South Africa's Approach to the Global Human Trafficking Crisis: An Analysis of the Proposed Legislation and the Prospects of Implementation*.

Newbury, S. (2019). *Human Trafficking: The Untold Effects on the Economy*. [online]. Available , viewed on 15 July 2023, from: <https://medium.com/@snewbury1/human-trafficking-the-untold-effects-on-the-economy-c914549ff8fa>. [Accessed 15 July 2023].

News24 (2021). *News24*. [online]. News24. Available at: <https://www.news24.com/Tags/Topics/human%20trafficking>. [Accessed 18 July 2023 ...]

Nkosi, N (2023). 'Weak governance, police and rule of law in SA – Pityana.' *Sowetan Live*. [online]. Available , viewed on 3 July 2023, from: <https://www.sowetanlive.co.za/news/south-africa/2023-03-22-weak-governance-police-and-rule-of-law-in-sa-pityana/#:~:text=Barney%20Pityana%2C%20chair%20of%20the%20National%20Lotteries%20Commission%2C> [Accessed 3 July 2023].

Nkosi, N. 2023. Weak Governance and police rule of law in SA - Pityana. *Sowetan LIVE*. Available from <https://www.sowetanlive.co.za/news/south-africa/2023-03-22-weak-governance-police-and-rule-of-law-in-sa-pityana/#:~:text=Barney%20Pityana%2C%20chair%20of%20the%20National%20Lotteries%20Commission%2C>. [Accessed 3 June 2023]

Novotney, A. (2023). 7 in 10 human trafficking victims are woman and girls. What are the psychological effects? *American psychology Association. Women and girls. What are the psychological effects?*[online]. Available viewed on 3 July 2023, from: <https://www.apa.org/topics/women-girls/trafficking-women-girls#:~:text=While%20boys%20and%20men%20are%20victims%20as%20well%2C>. [Accessed 3 July 2023].

Office of Justice Programs. (2019). *Human Trafficking: 'Hidden in Plain Sight.'* viewed on 3 July 2023 [online]. Available, from: <https://www.ojp.gov/archives/ojp-blogs/2019/human-trafficking-hidden-plain-sight#:~:text=Although%20victims%20may%20not%20wear%20shackl.> [Accessed 3 July 2023].

OHCHR. (n.d.). *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime.* [online]. Available, viewed on 17 July 2023, from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons#:~:text=Declaring%20that%20effective%20action%20to%20prevent%20and%20combat.> [Accessed 17 July 2023].

Ondieki, J. (2017). *Human trafficking and its impact on national security in East Africa.* [online]. Available, viewed on 3 July 2023, from: [http://erepository.uonbi.ac.ke/bitstream/handle/11295/103132/Ondieki Human%20Trafficking%20and%20Its%20Impact%20on%20National%20Security%20in%20East%20Africa-%20a%20Case%20Study%20of%20the%20Vice%20in%20Kenya.pdf?sequence=1&isAllowed=y.](http://erepository.uonbi.ac.ke/bitstream/handle/11295/103132/Ondieki%20Human%20Trafficking%20and%20Its%20Impact%20on%20National%20Security%20in%20East%20Africa-%20a%20Case%20Study%20of%20the%20Vice%20in%20Kenya.pdf?sequence=1&isAllowed=y) [Accessed 3 July 2023].

Onuoha, B. (2011). The state human trafficking and human rights issues in Africa. *Contemporary Justice Review*, 14(2), 149-166.

Oosthuizen, H.& Kruger, H.B. (2012). *South Africa- safe haven for human traffickers? Employing the Arsenal of Existing Law to Combat Human Trafficking.* Potchefstroom Electronic Law Journal, 15(1), pp 1-62. Organisation for Security and Co-operation in Europe, (2021). *Applying Gender-Sensitive Approaches in Combating Trafficking in Human Beings.* [online]. viewed on 18 June 2023, Available from: <https://www.osce.org/cthb/486700#:~:text=By%20bringing%20together%20the%20voices%20of%20survivors%2C%20anti-trafficking.> [Accessed 18 June 2023]

OVC TTAC. (2018). *Human trafficking grantee spotlight: Office for victims of crime training and technical assistance centre.*

Patel, L. (2018). *Social security is the bedrock of South Africa's human rights protection, but there are gaps.* University of Johannesburg.

PMC, E. (n.d.). *Europe PMC.* [online]. Available. viewed on 3 July 2023, from: <https://europepmc.org/article/NBK/nbk430910?report=printable>. [Accessed 3 July 2023].

Polaris (2019). Understanding Human Trafficking. *How Human Trafficking Happens | Polaris.* [online], viewed on 7 June 2023, Available from: <https://polarisproject.org/understanding-human-trafficking/>. [Accessed 7 June 2023].

Qukula. Q. (2022). *Human trafficking on the rise globally and Gauteng is the main hotspot in SA.* [online]. Available , viewed on 3 July 2023, from: <https://www.702.co.za/articles/443941/human-trafficking-on-the-rise-globally-and-gauteng-is-the-main-hotspot-in-sa>. [Accessed 3 July 2023].

Respect International. (2019). *The Security Implications of Human Trafficking.* [online]. Available , viewed on 3 July 2023, from: <https://respect.international/the-security-implications-of-human-trafficking/#:~:text=Council%20on%20Foreign%20Relations%2C%202019%20A%20new%20report%20from%20the,prevent%20human%20trafficking%20and%20advance%20U.S.%20security%20interests>. [Accessed 3 July 2023].

SABC News (2020). *HUMAN TRAFFICKING | Q & A with SAPS on job scams linked to the scourge,* viewed on 4 July 2023. [online]. Available, from: <https://www.sabcnews.com/sabcnews/human-trafficking-q-a-with-saps-on-job-scams-linked-to-the-scourge/>. [Accessed 4 July 2023].

SADC (2021). *Migration Data in the Southern African Development Community (SADC).* [online]. Available viewed on 9 July 2023, from: <https://www.migrationdataportal.org/regional-data-overview/southern-africa>. [Accessed 9 July 2023].

SEXUAL EXPLOITATION AND CHILD TRAFFICKING IN SOUTH AFRICA: Recommendations for the way forward. (n.d.) viewed on 3 July 2023. [online]., Available from: <https://www.ezrah.co.za/wp-content/uploads/2020/08/Child-Trafficking-in-SA-Recommendations.pdf>. [Accessed 3 July 2023]

Simpson, S. (2023). 'New report reveals South Africa as a hub for human trafficking.' *The South African*. [online]. Available, from: <https://www.thesouthafrican.com/news/breaking-south-africa-human-trafficking-source-transit-destination-report-29-january>. [Accessed 22 October]

Stamenkovska, M. (2019). *Top 10 Solutions to Human Trafficking*. [online]. Available , viewed on 16 July, from: <https://borgenproject.org/top-10-solutions-to-human-trafficking/>. [Accessed 16 July 2023].

Steytler, N.C. (1998). Constitutional Criminal Procedure: A Commentary on the Constitution of the Republic of South Africa, 1996. *Google Books*. Butterworths. [online]. Available viewed on 4 July 2023 from: [https://books.google.co.za/books/about/Constitutional Criminal Procedure.html?id=9G8_AQAAIAAJ&redir_esc=y](https://books.google.co.za/books/about/Constitutional+Criminal+Procedure.html?id=9G8_AQAAIAAJ&redir_esc=y). [Accessed 4 July 2023].

Stoltz, E. (2022). 'Rise in number of human trafficking victims in South Africa.' *The Mail & Guardian*. [online]. Available, from: <https://mg.co.za/news/2022-07-20-rise-in-number-of-human-trafficking-victims-in-south-africa/>. [Accessed 25 October]

Stoltz, E. (2023). 'South Africa struggles to limit human trafficking – USAID report.' *The Mail & Guardian*. [online]. Available from: <https://mg.co.za/news/2023-02-02-south-africa-struggles-to-limit-human-trafficking-usaid-report/#:~:text=The%20report%20says%20evidence%20from%20all%20data%20sources>. [Accessed 18 September 2023]

Tsiriledzani, B (2010). *Understanding the dimensions of human trafficking in South Africa*. [online]. Available , viewed on 4 July 2023, from: <https://repository.hsrb.ac.za/bitstream/handle/20.500.11910/4323/6289.pdf?sequence=1> . [Accessed 4 July 2023].

Turner, B. D.M. (2018). *Informing a priori sample size estimation in qualitative concept elicitation interview studies for clinical outcome assessment instrument development*. National Library of Health.

UNHRC. (2014). *Human Rights and Human Trafficking. Fact sheet No. 36*. [online]. Available , viewed on 4 July 2023, from: <https://www.ohchr.org/documents/publications/fs36-en.pdf>. [Accessed 4 July 2023].

United Nations General Assembly (1979). *Convention on the Elimination of All Forms of Discrimination against Women*. [online]. Available , viewed on 7 July 2023, from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>. [Accessed 7 July 2023].

United Nations Network on Migration. (2010). *Recommended Principles and Guidelines on Human Rights and Human Trafficking*. [online]. Available at, viewed on 3 July 2023, from: <https://migrationnetwork.un.org/resources/recommended-principles-and-guidelines-human-rights-and-human-trafficking#:~:text=The%20Recommended%20Principles%20and%20Guidelines%20on%20Human%20Rights>. [Accessed 3 July 2023].

United Nations Office on Drugs and Crime. (2008). *An introduction to human trafficking: Vulnerability, Impact and Action*. [online]. Available, viewed on 3 July 2023, from: <https://www.undoc.org/documents/human-trafficking/An-Introduction-to-Human-Trafficking-Background-Paper.pdf>. [Accessed 3 July 2023].

United Nations: Office on Drugs and Crime. (2015). *UNODC launches strategy against human trafficking and migrant smuggling in West and Central Africa*. [online]. Available , viewed on 5 July 2023, from: <https://www.unodc.org/unodc/en/frontpage/2015/September/unodc-launches-strategy-against-human-trafficking-and-migrant-smuggling-in-west-and-central-africa.html>. [Accessed 5 July 2023].

United States Department of State, (2018). *Trafficking in Persons Report - South Africa*, viewed on 3 July 2023. [online]. Available, from: <https://www.refworld.org/docid/5b3e0a7fa.html>. [Accessed 3 July 2023].

UNODC. (2011). *Trafficking in persons in Africa*. [online]. Available, viewed on 4 July 2023, from: <https://www.unodoc.org/documents/southernafrica/press/Media-Advisory-AU-COMMIT-29-30-November-2011.pdf>. [Accessed 4 July 2023].

UNODC. (2020). *Global report on trafficking in persons*. [online]. Available f, viewed on 3 July 2023, from: <https://books.google.co.za.zw/books?id=gGxczEACCAJ&dq=unodc+on+human+trafficking+trafficking&hl=en&sa=X&ved=2ahUKEwJm-Lt-rv5AhVbiP0HHVTHD9YQ6AF6BAgFEAM>. [Accessed 3 July 2023].

Van der Watt, M. (2015). Human trafficking in South Africa: An elusive statistical nightmare. *The conversation*, 16.

Van Der Watt, M. (2018). *The Nature and Future of Human Trafficking in South Africa*. Research Gate.

Van der Watt, M. (2020). *Response to the Centre for Child Law Child Trafficking (in South Africa) Report*.

Vandana, D & Potter, R. B. (2016). *Doing Development Research*. Sage publications: New Delhi

Virtual Knowledge Centre to End Violence against Women and Girls, (2011). *Sex Trafficking Acts, Means and Purpose*. [online]. Available, viewed on 22 June 2023, at from: <https://www.endvawnow.org/en/articles/548-sex-trafficking-acts-means-and-purpose.html>. [Accessed 22 June 2023].

Watt, M. and Burger, J. (2018). *The perplexities of human trafficking in South Africa - ISS Africa November 2018*.

Wilkinson, K. and Chiumia, S. (2013). *Are 30,000 children 'trafficked' in South Africa every year? The claim exaggerates the problem.* [online]. Available , viewed on 3 July 2023, from: <https://africacheck.org/fact-checks/reports/are-30000-children-really-trafficked-south-africa-every-year-claim-exaggerates>. [Accessed 3 July 2023].

Wwomenshealth.gov. (2017). *Human trafficking | womenshealth.gov.*, viewed on 7 July 2023 [online]., Available from <https://www.womenshealth.gov/relationships-and-safety/other-types/human-trafficking>. [Accessed 7 July 2023].

Wright, E. (2015). *Poverty and It's Contribution to Human Trafficking- Borgen.* [online]. Available, viewed on 3 July 2023, from: <https://borgenproject.org/poverty-contribution-human-trafficking/#:~:text=Those%20suffering%20from%20poverty%20are%20purposely%20targeted%20by>. [Accessed 3 July 2023].

www.easylama.com. (n.d.). *How Does Human Trafficking Affect the Economy? EasyLlama* [online] Available from: <https://www.easylama.com/blog/how-does-human-trafficking-affect-the-economy/>. [Accessed 11 September 2023]]

www.gov.za. (2018). *Government welcomes sentencing on human trafficking case | South African Government.* [online] Available from: <https://www.gov.za/speeches/government-welcomes-sentencing-human-trafficking-case-20-sep-2018-0000>. [Accessed 4 Jul. 2023].

www.gov.za. (2020). *Department of Justice and Constitutional Development Annual Report 2020/2021.1 | South African Government.* [online] Available from: <https://www.gov.za/documents/department-justice-and-constitutional-development-annual-report-20202021-30-sep-2021-0000>. [Accessed 4 Jul. 2023].

www.gov.za. (n.d.). *Parliamentary documents. | South African Government.* [online] Available at: <https://www.gov.za/documents/parliamentary-documents>. [Accessed 3 Jul. 2023].

www.iol.co.za. (2020). *The truth about human trafficking in South Africa*. [online]. Available at: <https://www.iol.co.za/the-star/opinion-analysis/the-truth-about-human-trafficking-in-south-africa-43f8bcf0-35c2-4374-95be-50ff4b274466>. [Accessed 19 July 2023]

Zimmerman, C. 2017. Human trafficking and exploitation: A global health concern. [online]. Available at: [https://core.ac.uk/pdf/Zimmerman, C; Kiss, L \(2017\) Human-trafficking-and-exploitation](https://core.ac.uk/pdf/Zimmerman, C; Kiss, L (2017) Human-trafficking-and-exploitation). [Accessed 17 July 2023]

APPENDIX 1



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Consent Form: Key Informants

TITLE OF STUDY

South Africa's counter human trafficking approach: global commitments, domestication, progress and challenges

PRINCIPAL INVESTIGATOR

Tabitha Sagandira

Department of Anthropology, Archaeology and Development Studies

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0636685818

U17086532@tuks.co.za

PURPOSE OF STUDY

You are being asked to take part in a research study by Tabitha Sagandira. Before you decide whether to participate in this study, it is important that you understand the purpose of the study and what it will involve. Please read the following information carefully and seek clarification if you have questions and queries.

The purpose of this study is to understand South Africa's counter human trafficking approach: global commitments, domestication, progress and challenges.

What will happen in the study?

The study will involve interviews with you on information and views on aspects that the study seek to understand. The interviews will take about an hour of your time, and with your permission, may be voice recorded so that I do not miss any important information that you may share. You may choose to have the interview in English or in a language that you are comfortable with.

Risks and discomforts

- There will be no danger/harm to you for participating.
- It may however be difficult for you to share some information, and you will be free not to answer any questions that may make you uncomfortable.

- If you experience some level of discomfort after joining the study, and you would like to stop participation, please be free to let me know.
- You will be allowed to stop participation without any prejudice and the data already collected will be discarded.
- Every effort will be made to adhere to COVID-19 protocols.

Are there any benefits for joining the study?

- Participation is voluntary.
- You will not receive any money or gifts for your participation.
- Your contributions will assist me in developing a dissertation for my qualification.

Confidentiality

- Apart from me as the researcher, the data will be shared with my supervisor, Prof. Vusi Thebe of the University of Pretoria.
- You may choose to remain anonymous, and every effort will be made to ensure that the information you share is not linked to you, although in some cases it may be difficult due to the position you hold in the Organisation.
- In case you choose to remain anonymous, your identity will not be revealed, and you will be identified through a pseudonym.
- The data gathered will be stored in a password protected computer during fieldwork, and archived for a period of 15 years in line with the University of Pretoria's archiving regulations. If the data is used during this period, it will only be for research purposes.
- The results will be produced in the form of a dissertation and scientific paper or may be presented at both local and international forums like workshops and conferences.
- The voice recordings of the interviews will not be broadcasted on radio, television, internet or on social media but will be utilised to make findings for the study.

Any questions?

If you have any questions during or afterwards about this research, feel free to contact me @u17086532@tuks.co.za

CONSENT

[Please Tick & sign]

- I have read and understood the information provided and have had the opportunity to ask questions.
- I understand that my participation is voluntary and that I am free to withdraw at any time, without giving a reason and without cost.
- I understand that I will be given a copy of this consent form.
- I voluntarily agree to take part in this study.

Participant's signature _____ Date _____

Investigator's signature _____ Date _____

Guardian's signature _____ Date _____

APPENDIX 2



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INTERVIEW SCHEDULE

1. Opening

- Introduce myself to the research participants.
- Thank the interviewee for agreeing to participate in the study.
- Inform the participant of the title of the study and its objectives.
- State benefits of the study or information obtained.
- Outline the interview timeframe.
- Outline the use of the results of the research.
- Explain ethical issue.

2. Interview Questions

TOPIC: SOUTH AFRICA'S COUNTER HUMAN TRAFFICKING APPROACH: GLOBAL COMMITMENTS, DOMESTICATION, PROGRESS AND CHALLENGES.

1. What are South Africa's global commitments in the fight against the problem of human trafficking?

- i. Are there any international commitments that South Africa has engaged with on human trafficking?
- ii. How have these commitments influenced the domestic policy formulation on anti-trafficking in South Africa?

2. What measures have been implemented to domesticate global trends in counter-human trafficking?

- i. What are the current policy and legislative responses to the illicit crime of human trafficking in South Africa?
- ii. Are there any specific policies that aim to raise awareness?
- iii. Which departments, ministries or other Organisations that are working on the human trafficking crimes?

3. What are the challenges encountered in fighting human trafficking in the country?

- i. Do you think the current responses are adequate? Do they address the root causes of the crimes of human trafficking.
- ii. What are the competing interests or challenges that hinder the ability of yourself and other policy implementers in addressing human trafficking.
- iii. What do you think needs to be done from a policy perspective to improve the response to human trafficking in South Africa?

- iv. Many policies are designed to identify victims of trafficking, but what do you think is needed to try and reduce the prevalence as well as identifying the circle of the traffickers?

3. Closing Summaries:

- Appreciate the respondents for participating in the study.
- Inform the participant that it has been a pleasure finding out more from them.
- Briefly summarise the information that you have gathered from the interview
Maintain Rapport
- Appreciate the time they took for this interview.
- Ask if there is anyone else, they would recommend interviewing Action to be taken
- The researcher informs the participant that she has gathered the information that she needs for now.
- Ask for permission to call them at home if she has more questions.
- Inform the participant that there would be communication to give feedback and any follow up

APPENDIX 3



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RESEARCH STUDY INFORMATION SHEET

Good day, my name is Tabitha Sagandira a student at the University of Pretoria, doing my Masters in Development Studies within the Department of Anthropology and Archaeology. I am carrying out/undertaking research on South Africa counter human trafficking approach: global commitments, domestication, progress, and challenges.

I would like to invite you to participate in this project. I have specifically chosen you to participate in this study because of the experience and close exposure you have to the field of human trafficking within South Africa. If you agree to take part, each interview will take about 30 minutes, and if need be, there will be follow up interviews depending on your availability. I am undertaking this study/project because I hope it will provide useful information to identify policy gaps in countering human trafficking within South Africa and come up with recommendations.

Records from your participation will be kept confidential will be stored in all published and written data from the study. The objectives of my study are:

- To analyse the South African government's international commitments in the fight against the challenge of human trafficking.
- To explore measures adopted by the South African government to domesticate international trends in countering human trafficking.
- To investigate the challenges encountered by the country in fighting the crime of human trafficking.

If you consent to participate, please kindly sign the consent form and thereafter we will agree on the time that we will meet. Our interviews will be virtual for convenience's sake. When I have completed the study, I will produce a summary of the findings which

I will be glad to send you copies if you are interested. Participation in this study is purely voluntary. You are not obliged or coerced to participate if you are not comfortable. If you choose not to participate, I assure you there will be no consequences and you can withdraw at any time.

Even if you agree now and decide to withdraw later, you are free to do so. If you agree to take part, I will not be recording our interviews and when noting my records, I will make use of pseudonyms (a fictitious or false name). Your responses to the questions will solely be used for the purposes of this project. You can be assured that if you take part in the project, you will remain anonymous. All the other records and information you provide will be kept confidential and may only be reviewed by the University. Please note that there are no risks foreseen in this study. The study has been approved by the University department and by the Ethics Committee. If you have any questions concerning the ethical aspects, or if you feel that I am subjecting you to uncomfortable conditions, do not hesitate to contact the Department on the above number or my supervisor.

For further information concerning the study, clarity, or progress on the study you can communicate with me.

Researcher: Email Address: u17086532@tuks.co.za

Cell phone: 0636685818

Supervisor: Name: Professor Vusi Thebe

Telephone Number: 012 4204661

Thanking you in advance

Tabitha Sagandira

