



Several SADC countries have been identified as source, transit and/or destination countries for trafficked adults and children. *Photo courtesy of IOM*

HUMAN TRAFFICKING

Introduction

Human trafficking is an international problem that has region- and country-specific ramifications, including within the Southern African Development Community (SADC). Every day, criminals recruit and kidnap women, men and children and transport them across borders. The United Nations Office on Drugs and Crime (UNODC) notes that trafficking occurs in almost every country in the world.

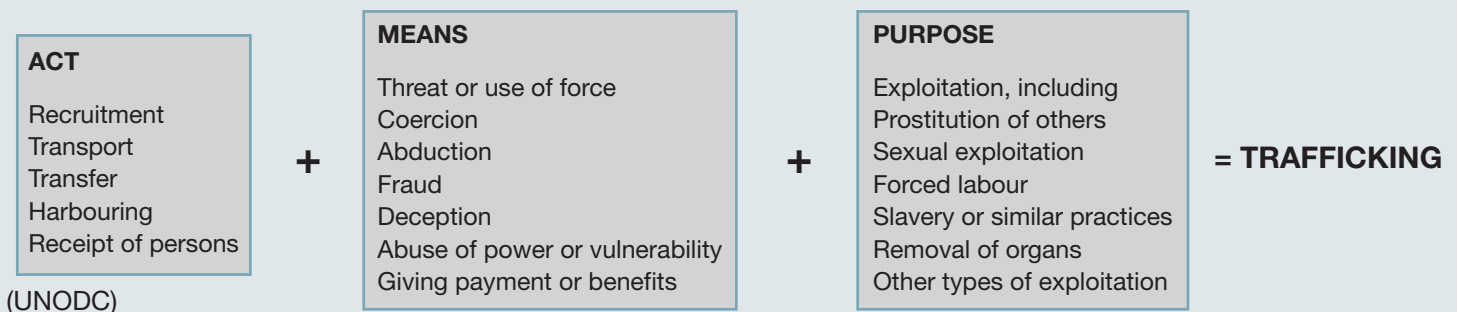
While many nations disagree on the definition and parameters of human trafficking, it is widely acknowledged that the illegal movement of people is harmful and exploitative. UNODC estimates that at any one time there are more than 2.5 million victims of human trafficking - bringing in billions of dollars for criminals every year. Sexual exploitation is the most common form of trafficking, affecting 79% of trafficking victims.¹

This policy brief will look at the issue of human trafficking from a global perspective as well as from a regional vantage point. The SADC Protocol on Gender and Development has specifically noted the problem of trafficking in Southern Africa, where it is closely linked to the sex industry. Due to its porous borders, persistent gender inequalities and large economy, most trafficked individuals end up in South Africa, where they are most often put to work in bonded labour or forced sex work. They work in squalid conditions with little or no pay.

QUICK FACTS

- There are more than 2.5 million global victims of human trafficking at any one time.
- 79% of trafficking victims are sexually exploited.
- South Africa is a major destination for trafficked individuals due to its porous borders, persistent gender inequalities and large economy.
- 11 SADC countries have ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (also known as the Palermo Protocol).
- Article 20 of the SADC Protocol on Gender and Development specifically notes the problem of trafficking in Southern Africa.
- Only eight SADC countries have specific legislation to prevent human trafficking; several have country-specific trafficking laws, including Mauritius, Mozambique, Swaziland, Tanzania and Zambia.
- 30% of cases handled by the Southern Africa Counter-Trafficking Assistance Programme (SACTAP) have involved SADC nationals.

Key terms and definitions



¹ http://www.unodc.org/unodc/en/human-trafficking/faqs.html#How_widespread_is_human_trafficking

Most definitions of adult trafficking have three basic elements in common:²

- a) The actions that make up trafficking (recruitment, transportation, transfer, harbouring and/or receipt of people);
- b) The means used to recruit victims and maintain their cooperation (e.g. threats, fraud, deception); and
- c) The purpose of the trafficking process: exploitation.

Global context

Human trafficking, also known as modern slavery, doesn't discriminate, affecting each and every country in some way. All nations have to co-operate to end this scourge. The United Nations General Assembly President noted this at a 2012 meeting that underscored the growing problem of trafficking. Nassir Abdulaziz Al-Nasser called for increased resources for the Global Plan of Action for human trafficking, noting that the criminal syndicates that perpetuate it make tens of billions of dollars each year.³

Several international and regional legal instruments recognise trafficking as a crime and violation of human rights in. The includes the United Nations Declaration of Human Rights Article 4, which states that "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms."

The 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (also known as the Palermo Protocol), provided the first internationally accepted definition of human trafficking.⁴ More than 130 countries have ratified it, including 11 from the SADC region. However, no single definition of human trafficking is used uniformly across the world.⁵



In addition, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) notes a series of actions to be undertaken by state parties to combat trafficking of women. Regionally, Article 4 of the African Charter on Human and Peoples' Rights and the Rights of Women in Africa mandates State Parties to "prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk."

Factors that help fuel trafficking include entrenched poverty and economic need, the lower status of women and girls

and economic and social discrimination against them. Traffickers lure women, recognising their desire to improve their economic situation or travel and see the world. Promised jobs or educational opportunities, they instead end up enslaved.

Trafficking and Southern Africa

Even countries that have ratified the UN Protocol have slightly different definitions within their national anti-trafficking legislation - including Mauritius, Mozambique, Swaziland, Tanzania and Zambia.

The SADC Gender Protocol refers to trafficking as "the recruitment, transportation, harbouring or receipt of persons, by means of threat, abuse of power, position of vulnerability, force or other forms of coercion, abduction, fraud or deception to achieve the consent of a person having control over another person for the purpose of amongst other things, sexual and financial exploitation."

SADC governments recognise human trafficking as a significant concern. The UN has identified many SADC countries as source, transit and/or destination countries for trafficked adults and children. Adults and children are trafficked into, within, and from, SADC countries, for a range of exploitative purposes including sexual exploitation, forced labour and forced marriage.

Gender Links coordinates the Southern Africa Gender Protocol Alliance, a network of 40 national and regional gender nongovernmental organisations that monitor the implementation of the SADC Protocol by 15 member states. The Protocol has 28 targets for reaching gender equality by 2015, including a target related to human trafficking: "To enact and adopt specific legislative provisions to prevent human trafficking and provide holistic services to survivors, with the aim of reintegrating them into society."

Some regional issues:

- **South Africa** hosted the 2010 Soccer World Cup, which saw an influx of trafficking of women and girls linked to sex work and forced prostitution. An ESPN investigation into trafficking in South Africa around the time of the World Cup found the international soccer tournament had contributed to an increase of young people trafficked into the region.
- **Mozambique** is seen as one of the SADC region's trafficking hubs. In 2011, police uncovered a trafficking ring that moved as many as 40 women and girls monthly between Mozambique and South Africa - each allegedly sold for R9000. While the government has historically failed to fulfil its basic international and regional commitments to eliminate human trafficking, the UN

² Ibid.
³ <http://www.humantrafficking.org/updates/892>
⁴ Botswana, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zambia. Swaziland has only signed the protocol.
⁵ Pharoah, 2004.

reports that in recent years it has increased efforts in anti-trafficking law enforcement.⁶

- **Angola** made headlines in 2012 after police busted an international trafficking ring involving Chinese women, highlighting the global networks involved in human trafficking. Chinese officials worked with the Angolan government to break up a network that saw Chinese women kidnapped and forced into prostitution in Angola.⁷
- The problem of human trafficking in **Madagascar** increased in recent years due the country's ongoing political and economic instability. Thousands of Malagasy women have been trafficked to the Middle East with some who return reporting instances of rape, torture and harsh living conditions.⁸

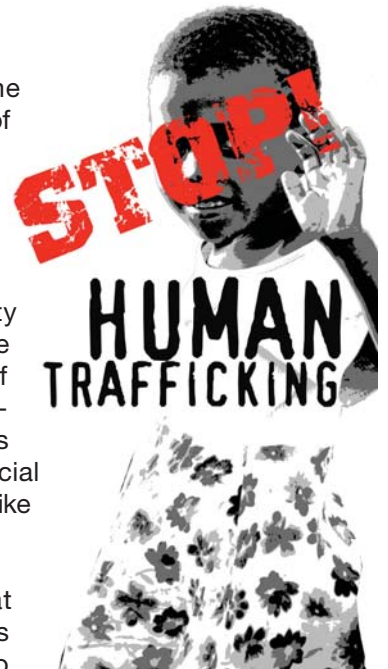
Trafficking and Gender-Based Violence

Any form of trafficking perpetrated against adults and children based on their sex amounts to gender-based violence. Trafficking is a crime that thrives and capitalises on vulnerability. Patriarchal structures in Southern Africa exacerbate and contribute to social, economic and political discrimination, making women and girls especially vulnerable.

Further, certain forms of trafficking (e.g. sex trafficking and domestic service) explicitly recruit women and girls and

subject them to extreme exploitation at the hands of traffickers, including sexual abuse.⁹ While the trafficking of men and boys within is also a violation of human rights and an important priority for SADC leaders, the particular vulnerability of women and girls to gender-based violence makes this form of trafficking a special concern for organisations like Gender Links.

Another concern is that women are not only victims of traffickers, but also traffickers themselves as reflected at the international level and within Southern Africa, including in Mozambique and Malawi.¹⁰ Women recruit other women into commercial sexual exploitation in South Africa as often as men.¹¹ This has implications for those organisations working to prevent human trafficking, as well as for government policymakers tackling the problem with legislation and law enforcement.



Case study: Rehabilitating trafficking victims in South Africa

By Otilia Anna Maunganidze



Volunteers help out at the Tshwane Home of Hope, a safe haven for former sex workers and victims of human trafficking.

Photo courtesy of Tshwane Home of Hope

At Pretoria-based Tshwane Home of Hope, the jubilant young faces of the girls who live there hide the truth of the horrors they have encountered. On the premises is a trauma centre - aptly dubbed by one of the residents as “the hope sanctuary” - here the girls meet with a resident social worker and psychologist to share their stories, stories that will never leave the four walls of the room.

The Home receives new girls often - most are walk-ins, while the police bring others in from the street corners on which they would have been working. The youngest girl is seven and the oldest is 21; they hail from South Africa, as well as places further afield like Zimbabwe, Burundi, and Democratic Republic of the Congo. Their reasons for coming to the centre are as diverse as their backgrounds. However, they all have one thing in common - they want to be safe.

While not all these girls have been trafficked or once worked in the sex industry, they are all at the Home because they have run away from violence.

Tendai Joe, director of the centre and also a former street child, works tirelessly to ensure the girls receive adequate protection, go to school and live a life they deserve.

Human trafficking by its very nature is a form of gender-based violence, not least because the majority of those trafficked are female, but also because physical and sexual violence are its bedfellows. Though some of the women trafficked willingly participate in sex work to escape poverty, a 2005 International Organisation for Migration (IOM) study found that most are led into sex work because they are lied to, told they will be able to pursue an education, get married or get the job that will help them out of poverty.

⁶ <http://www.unhcr.org/refworld/topic,4565c22541,4565c25f527,4fe30ca9c,0,,,html>

⁷ <http://edition.cnn.com/2012/08/26/world/africa/angola-chinese-deported/>

⁸ <http://www.unhcr.org/refworld/publisher,USDOS,,MDG,4e12ee6437,0.html>

⁹ See case profiles in IOM (2008) 'No experience necessary': The internal trafficking of persons in South Africa

¹⁰ IOM (2003) Seduction, sale & slavery: Trafficking in women & children for sexual exploitation in Southern Africa, p127

¹¹ IOM (2008) No Experience Necessary: The Internal Trafficking of Persons in South Africa, p8

In the sub-region, South Africa is the main destination for trafficking victims, with women and children coming from neighbouring countries and conflict zones further afield. Poverty and desperation coupled with a culture of patriarchy means that women are doubly vulnerable not only to trafficking, but to the violence that comes with it.

Most disconcerting are the findings of a 2008/9 Wits University Law Clinic study on access to gender-based violence services in South Africa by migrant women. It found that two thirds of South African organisations that provide services to gender-based violence survivors offer their services exclusively to South African citizens. Therefore the plight of immigrants is compounded by the institutionalised xenophobia they face. Yet, reports abound of rapes and other forms of gender-based violence, especially at the country's borders.

Organisations like the Sex Worker Education and Advisory Taskforce (SWEAT), which advocate for the decriminalisation of sex work, contend that until sex work is decriminalised it is unlikely that efforts to counter human trafficking will yield results. The victimisation of sex workers stems primarily from the fact that their profession is not afforded any protection.

In February 2010, sex workers from ten African countries assembled in Hillbrow, Johannesburg to share their experiences and discuss their needs. This was the first ever meeting of this kind on the African continent. At the conference a Ugandan sex worker voiced her concern over the way in which sex workers are treated "like dogs" by the police.

Many indicated that the abuse did not only come from police, but also from health service providers, clients and the pimps they work for.

According to Cape Town based NGO Anex-CDW, which works closely with the IOM in its human trafficking project, most of the cases are reported by third parties and often the victims deny the allegation or refuse to talk about it. The wall of silence is almost impenetrable.

While the girls of Tshwane Home of Hope did not share the horrors of their lives, their presence at the Home speaks of an untold story of violence and fear. The Home is one of several sanctuaries for girls scattered across South Africa. In an ideal world homes such as this would not have to exist, everyone would be free from fear and want; everyone would be safe. The reality is we are not.

Prevalence - one trafficked woman is one too many

It is impossible to know the extent of trafficking within Southern Africa because of the hidden nature of the crime and the difficulty accessing trafficked women (some of whom would not recognise that they have been trafficked). Police in many SADC countries lack specific anti-trafficking legislation and training and therefore do not collect specific statistics on human trafficking. Cases tend to be subsumed in data collected for a range of other similar crimes including abduction, assault, kidnapping, rape and immigration-related offences.¹²

A handful of research studies and anecdotal testimonies provide the main sources for information on trafficking in the SADC region. These studies identify every SADC country as a source, transit and/or destination country for the trafficking of women. The International Organisation for Migration (IOM) provides direct assistance to trafficked people (male and female) in six SADC countries through its Southern Africa Counter-Trafficking Assistance Programme (SACTAP). It has assisted in

more than 300 cases since 2004,¹³ almost 30% of which involved SADC nationals - the others involved people from Asia, Eastern Europe and other African countries.¹⁴

The annual US Trafficking in Persons (TIP) report rates countries using a three tier system according to how well governments act to fight human trafficking.¹⁵ In 2009, TIP gave two SADC countries (Swaziland and Zimbabwe) its worst Tier 3 rating and put three others on its Tier 2 watch list.¹⁶



Some worry too much emphasis is put on the trafficking of women and girls at the expense of men and male children who are trafficked for labour or organ removal. Photo by Gender Links

There is robust debate within the region about the validity of data on human trafficking. Some have criticised poor research methodology in the area of trafficking and "overinflated" estimates based on anecdotal data.¹⁷ Others have argued there is too much emphasis on the forced trafficking of women and girls for sex work at the expense of men and boys trafficked for labour or organ removal.¹⁸ Additionally, there is a concern that more accurate research is needed to determine how much of a country's scarce resources should be dedicated to combating trafficking.¹⁹

¹² Pharoah (2006) Getting to grips with trafficking, p23

¹³ Statistics provided by SACTAP staff, Pretoria IOM office, South Africa, 25/1/10

¹⁴ Statistics provided by SACTAP staff, Pretoria IOM office, South Africa, 25/1/10

¹⁵ US Trafficking in persons report (2009), US Department of State

¹⁶ Tier 2 watch list: Angola, DRC, Lesotho.

¹⁷ CORMSA (2009) Protecting refugees, asylum seekers and immigrants in South Africa, p75

¹⁸ Pharoah (2006) Getting to grips with trafficking, p31

¹⁹ Pharoah (2006) Getting to grips with trafficking, p61

While it is clear there is a need for further research, it is also apparent from the regional and international data which does exist that so long as even a handful of people continue to be illegally bought and sold, human trafficking remains a problem in the SADC region. It is increasingly necessary for SADC decision-makers to implement Article 20 of the SADC Gender Protocol and follow the lead of other countries by putting in place harmonised data collection mechanisms and ensuring effective programming and monitoring on the issue of human trafficking.

Legislation

The fight against trafficking has three core components, referred to as the “3Ps”:

- the **prevention** of trafficking;
- the **protection** of trafficked persons;
- and the **prosecution** of traffickers.²⁰

An effective national or regional response to trafficking requires all three components to address the “demand” and “supply” side of trafficking (e.g. where traffickers recruit women to be exploited to meet a need for free or cheap labour or sexual services), to interrupt the process of trafficking (e.g. across borders) and to penalise those involved. The protection of trafficked women is also critical to redress the abuse of human rights that trafficking involves. Protection includes provision of specialist shelters for trafficked women and counselling and health services.



Swaziland youth take part in a Gender Links cyber dialogue on the topic of human trafficking. Photo by Gender Links

Article 20 of the SADC protocol requires governments to:

- establish bilateral and multilateral agreements to run joint actions against human trafficking among countries of origin, transit and destination countries; and
- ensure capacity building, awareness raising and sensitisation campaigns on human trafficking are put in place for law enforcement officials.

Only eight SADC countries have specific legislation to prevent human trafficking: DRC, Lesotho, Madagascar, Mozambique, Tanzania, Mauritius, Swaziland and Zambia. South Africa tabled a draft bill in March 2012 but it has yet to pass into law.

There has been strong debate in South Africa about introducing specific anti-trafficking legislation. Supporters of such legislation have argued that it is necessary to assist police and prosecutors; to create provisions for the funding of counter-trafficking interventions; to assist with national and regional collection and collation of statistics related to trafficking; and for symbolic value in order to illustrate the government is serious about tackling this problem.²¹

Those opposed to specific anti-trafficking legislation in South Africa claim trafficking is already covered in criminal law (e.g. smuggling, kidnapping, rape, etc.) and the problem is a lack of enforcement. It has also been argued that specialised anti-trafficking legislation is expensive and could be used by poorly trained or corrupt officials to abuse migrant women at border crossings. Finally, opponents of new legislation believe the government needs more information on trafficking before it can implement effective legislation and policy.²²

At the moment, most anti-trafficking measures in SADC involve prosecution of traffickers, while most measures for the protection of trafficked women and the prevention of trafficking are non-obligatory. Factors that fuel demand for trafficked sexual services and cheap labour can include the unregulated nature of certain labour markets (e.g. domestic service and the sex industry), an abundant supply of exploitable labour, sex tourism, misogynistic attitudes towards women and other social and cultural norms (e.g. the legacy of apartheid means certain ethnic groups are seen as inferior).²³

It is important to promote a rights-based approach to all 3P measures for combating internal and cross-border trafficking, with particular attention to the rescue, recovery and rehabilitation of victims (as outlined in the UN Recommended Principles and Guidelines on Human Rights and Human Trafficking). A rights-based approach includes incorporating the perspectives of trafficked women in anti-trafficking strategies. The use of trafficking raids to “rescue”

²⁰ Friesendorf, C (2009) Strategies against human trafficking: the role of the security sector (p17)

²¹ Leggett, T (2004) Hidden Agendas? The risks of human trafficking legislation

²² Ibid.

²³ IOM 2008 “No Experience Necessary”: The Internal Trafficking of Persons in South Africa, p17-18

women trafficked into the sex industry in the US, for example, has left some women feeling abused, confused and resentful.²⁴

The language of trafficking

In research and anti-trafficking law, the word “victim” is often used to describe women who have been trafficked, instead of referring to these people as adults who have a degree of agency and ability to make choices about their lives. This is partly because the term is used in the UN Protocol to describe people who have been trafficked, and governments who have ratified the protocol tend to adopt its language. The shift to seeing trafficked people as victims rather than illegal immigrants was a hard-won victory in negotiations for the UN Trafficking Protocol.²⁵

The term recognises the violation of rights often suffered by trafficked women. When organisations like the IOM use these terms it entitles trafficked women a certain degree of protection and assistance under international legal instruments. For example, the Southern African Counter-Trafficking Assistance Programme (SAPTAP) of the IOM has assisted more than 300 trafficked people since 2004 by providing safe accommodation, medical assistance and a plane ticket home.²⁶ In ratifying this Protocol, 11 SADC governments agree where possible to protect and support victims by providing measures such as safe houses. This is a critical first step in assisting trafficked women to start the rehabilitation process.

While women are commonly recruited via deceptive means, denial of a trafficked woman's agency in her experience is seen as problematic by some who view most migration experiences as a grey area between completely voluntary migration and entirely forced trafficking. Most trafficked people exercise some degree of choice, albeit at times in a context of limited options. Even if they've been deceived, most people enter the trafficking chain with a very specific project in mind, for example to marry “well,” see the world, or find new ways of supporting their family.²⁷

One shelter in South Africa, for example, cares for a large number of Thai women who agreed to come to the country to work as hair dressers or masseurs. Instead, traffickers forced the women into sex work after they arrived.²⁸ Most of these women left Thailand hoping to make more money, find a better life and travel. It is common for women seeking improved educational, economic or marriage opportunities to be recruited (and then trafficked) into South Africa from

other SADC countries, China and Eastern Europe.²⁹

A potential risk of oversimplifying the process of trafficking, and women's roles within it, is the failure to understand its complexities and how best to help those caught up in it. This particularly applies to efforts around prevention (e.g. awareness raising campaigns in local communities) and to address demand (e.g. educating male sports fans about sex trafficking ahead of the 2010 World Cup). The assumption that sees trafficked women as powerless victims is tied to the idea that these women need “rescuing.” This is sometimes done in ways that replicate or repeat the abuse of power trafficked women have already faced (e.g. police raids on brothels). Sex worker advocates have argued that the term “victim” has been used by the anti-trafficking lobby in a moralistic way to delegitimise sex work as a whole.³⁰



The term trafficking “survivor” or “victim/survivor” has been used instead of “victim” to describe women currently in, or who have escaped from, trafficking situations.³¹ The National Prosecuting Authority of South Africa considers that a victim-survivor continuum can be applied to trafficked people, and that a trafficked woman cannot be called a survivor unless she has been rehabilitated and reintegrated.³²

Next steps

- Ensuring country-specific protections for victims/survivors of human trafficking is critical to tackling the international problem at the regional level.
- Lobbying for all SADC countries to implement anti-trafficking legislation in line with the SADC Protocol on Gender and Development and international legal instruments, including the Palermo Protocols.
- Coordinate better regional reporting mechanisms to ensure the collection of more accurate data on the issue of human trafficking.
- Mobilising governments and civil society to push for accountability and training within the justice system.

²⁴ Sex Workers Project (2009) Kicking down the door.

²⁵ Pharoah (2006) Getting to grips with trafficking, p5

²⁶ IOM SAPTAP programme brochure.

²⁷ Pharoah (2006) Getting to grips with trafficking, p47

²⁸ Discussion with trafficking shelter coordinator, South Africa, 25/1/10. The shelter has assisted over 200 trafficked women since 2004.

²⁹ IOM (2003) Seduction, sale & slavery: Trafficking in women & children for sexual exploitation in Southern Africa, p127

³⁰ http://www.sweat.org.za/index.php?option=com_k2&view=itemlist&layout=category&task=category&id=23&Itemid=50

³¹ ICF International (2008) Trafficking of U.S. Citizens and Legal Permanent Residents: The Forgotten Victims and Survivors, p1

³² Discussion with the National Prosecuting Authority (NPA), South Africa, 25/1/10