

## **Problems surrounding the combating of women and child trafficking in Southern and South Africa**

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This article has its origin in local, national, regional and international problems surrounding human trafficking. It gives a global overview of some of the problems surrounding the trafficking in women and children in South Africa and its neighbouring states. Source material was obtained through local libraries and resource centres, international and South African internet search agencies and Molo Songololo's (a child rights organisation based in Cape Town) inhouse's collection of materials. Information was also obtained through personal correspondence with researchers attached to academic institutions and private organisations.

The results of the investigation clearly point out that South Africa is a source, transit and destination country for trafficked women and children. Women and children are trafficked from our neighbouring countries into South Africa. The problems surrounding the combating of women and child trafficking are in their nature short term and long term orientated. Aspects such as the paucity of data, absence of a legal framework and legislation, law enforcers' knowledge about legislation, a lack of urgency to finalise legislation on human trafficking and police corruption are problems which could be solved immediately. Poor socio-economic conditions and especially poverty and unemployment remains problematic and will still continue to make women and children at risk for human trafficking. Children's vulnerability to human trafficking is further increased by the HIV/AIDS pandemic.

### **INTRODUCTION**

The democratisation of the Republic of South Africa has provided opportunities not only for establishing a democratic system, but also for making children's and women's issues matters of concern. The Constitution of the Republic of South Africa of 1996 includes provisions that respect and protect the human rights of all citizens; including special provisions for children as reflected in Section 28 of the Bill of Rights.

The trafficking of women and children is one of the greatest violations of human rights in the world today. According to Justice Pias Langa (2008:1), human trafficking is an evil as terrible as the slave trade of the past. Although slavery has been abolished over a century ago, practices like human trafficking kept its legacy alive. South Africa, is a source, transit and destination country for trafficked men, women and children (Human Trafficking in South Africa 2009:1) and as such can be viewed as participating in modern day slavery. Thousands of women and children are trapped yearly in the web of child and women trafficking stemming from our neighbouring states like Mozambique, Angola, Zimbabwe and Lesotho.

The aim of this article is to highlight some of the problems surrounding the combating of human trafficking in the Southern African region with special reference to the South

African situation. The factors which will be addressed in the discussion are the paucity of data, absence of a legal framework and legislation, lack of law enforcers' knowledge about laws and criminal organisations and attitude to protect child and women from trafficking. A lack of urgency to finalise legislation with regard to human trafficking by government, police corruption and the abuse of women and girls, interrelated economical factors, porous borders and unsatisfactory border control have been addressed as well.

### **NATURE AND EXTENT OF HUMAN TRAFFICKING**

The real extent and nature of the phenomenon remain unknown due to the hidden nature of the phenomenon (US Department of State 2009:1). Although some figures are available, it represents only the tip of the iceberg. Langa (2008:1) indicates that at least 800,000 to 900,000 people were trafficked annually around the globe. There is no precise indication of the number of children and women trafficked each year to, through and from Southern Africa to South Africa and other countries. Langa (2008:1) estimates that about 28,000 children are being trafficked to South African cities for the purpose of sexual exploitation each year. He also indicates that about 1000 Mozambican girls and women are trafficked annually into

South Africa. An organisation called Concerned Young People indicates that about 30,000 children in South Africa are annually drawn into prostitution by means of human trafficking (Pople 2010:16). The majority of South African trafficking victims were refugees that were already in the country or came from the South Africa Developing Community (SADC) region, Thailand, China and Eastern Europe.

South African women and girls are trafficked within their country for the purposes of commercial sexual exploitation and domestic servitude. Child sex tourism is prevalent in a number of South Africa's cities. Experts in the field of human trafficking were concerned about the fact that the demand for child sex tourism would have blossom with the FIFA Soccer World Cup in 2010. It remains unclear how many of the expected 40,000 prostitutes which could have been trafficked to South Africa to meet the demand for sex during the World Cup 2010 have materialised. Statistics indicate that there were 222, 2010 related cases, but none of the 2010 related matters could be linked to human trafficking.

According to Mtyala (2008:1), 80 percent of those trafficked were women and children, and most were trafficked for sexual purposes. Adv. Thoko Majokweni of the National Prosecution Authority (NPA) indicates that 80 percent of people trafficked in South Africa were sexually exploited while internationally it was 60 percent.

## DEFINITION OF KEY CONCEPTS

### Trafficking

The term trafficking for the purpose of this discussion is similar to the one approved and recommended by the South African Law Reform Commission and adapted by the Department of Justice and Constitutional Development (Prevention and Combating of Trafficking in Persons Bill 2009:7):

"Trafficking includes the recruitment, sale supply, procurement, transportation, transfer, harbouring, disposal or receipt of persons for the adoption of a child facilitated or secured through legal or illegal means, within or across the borders of the Republic –

- a) By means of the use of threat, force, intimidation or other forms of coercion, abduction, kidnapping, fraud, deception, debt bondage, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control of authority over another person; or

- b) By abusing vulnerability".

In a broader sense a child or woman have been trafficked if they have been moved within a country, or across borders, whether by force or not, with the purpose of their exploitation.

## RESEARCH PROBLEM

The research on woman and child trafficking was impeded by the following aspects:

- Although incidents of human trafficking are discovered and reported regularly, no reliable statistics are available to indicate the real scope and nature of the phenomenon.
- With the exception of Mozambique, South Africa and the other neighbouring states included in the research, do not have legislation that would create a statutory offence of trafficking in persons. This makes it difficult to trace cases in human trafficking.
- It was difficult to obtain official information on human trafficking because not all neighbouring states respond on the request for information and some only supplied information on isolated cases which were reported.
- Information on the factors which effects human trafficking are fragmented and are influenced by several aspects.

## RESEARCH RATIONALE

Human trafficking is a complex, clandestine and sensitive matter and has a changing nature . It takes different forms and those in the trafficking chain employs different methods to recruit and to exploit victims. Information at hand indicates that the trafficking in women and children is a global phenomenon. Cross border trafficking is clearly part of the globalising world and trafficking networks span several countries and continents. It is mostly a hidden crime which is seldom reported and discovered by accident. Human trafficking is a well organised crime with national and international connections driven by crime syndicates or groups. These syndicates have been able to use well established routes and methods to traffic women and children worldwide.

Not much has been written about human trafficking in Southern Africa and no attention has been given to a collaborative approach in combating it. In order to create such a collaborative approach, it is necessary to have a

clear understanding of the factors that influence combating of human trafficking. The authors' intention to expose human trafficking as a contemporary crime issue was driven by the following facts:

- An eagerness as criminologist to gain more insight and knowledge of human trafficking with the aim to set a theoretical framework which could be helpful in preventing it.
- A denial by some politicians and government officials that human trafficking is a serious crime of social nature.
- Absence of a collaborative approach in approaching and preventing human trafficking
- Existence of fragmented information on factors effecting human trafficking.

### **RESEARCH METHODOLOGY**

Research involves the collection of data by means of various methods and techniques. The study was of an exploratory and descriptive nature, seeing that very few studies of this particular nature has been undertaken. The data-gathering methods used in this research were three-fold.

Firstly a multidisciplinary literature search was launched on different electronic data-bases like science direct ([www.sciencedirect.com](http://www.sciencedirect.com)), and Sabinet ([www.sabinet.co.za](http://www.sabinet.co.za)). Other electronic data-bases include Independent Online ([www.iol.co.za](http://www.iol.co.za)); South African Government Information ([www.info.gov.za](http://www.info.gov.za)); U.S. Department of State ([www.state.gov](http://www.state.gov)); news paper reports ([www.nes24.com](http://www.nes24.com)); South Africa info ([www.southafrica.info](http://www.southafrica.info)).

Secondly information was gathered by attending The South African Professional Society on the Abuse of Children (SAPSAC) 10<sup>th</sup> Annual National Conference on Child Abuse with its focus on trafficking held at the CSIR in Pretoria from 4-6 May 2009.

Thirdly information was obtained by contacting and corresponding with The United Nations Office on Drugs and Crime (UNODC); The International Organisation of Migration, Non Government Organisations (NGO's) like Molo Songololo, Government Organisations like the Department of Home Affairs of South Africa and its neighbouring states and several experts in the field of human trafficking like Prof Carol Allais, Research leader and Managing Editor of Project Tsireledzani: understanding the dimensions of human

trafficking in Southern Africa.

### **RESEARCH DELIMITATION**

Geographically, the research was confined to South Africa and its neighbouring states including Botswana, Zimbabwe, Angola, Mozambique, Lesotho and Swaziland.

### **PROBLEMS SURROUNDING THE COMBATING OF HUMAN AND CHILD TRAFFICKING IN SOUTHERN AND SOUTH AFRICA**

#### **The paucity of data on trafficking**

Like other criminal activity, trafficking is a clandestine and underground criminal activity that cannot be measured by traditional collection methods (South African Law Reform Commission 2009:1). Present statistics do not accurately reflect the real incidence of trafficking in persons as victims are unwilling or unable to report their experience to the authorities. Currently no statistics are available to accurately quantify the magnitude of trafficking in South and Southern Africa. The lack of systematic data collection on national level on the prevalence and trends of human trafficking in the region, hampers efforts to effectively address the problem in terms of prevention, protection and prosecution.

There are several reasons that could help explain the paucity of data on human trafficking. Human trafficking is an under-reported crime for which the majority of cases remain undiscovered. Lack of data on the scale of trafficking can be attributed to the low priority given to the combating of human trafficking by authorities in many countries. The reason for the low priority given to human trafficking, appears to be linked by two main factors: firstly - legislation is often lacking, inadequate or not implemented, making the prosecution of traffickers very difficult and often impossible; and, secondly - trafficking convictions are often based on witness and/or victim testimony. Such testimony is hard to obtain as trafficking victims are either deported as illegal immigrants or, if identified as trafficked persons, are too frightened to testify. Inadequate legislation, for both prosecution and for victims and witness protection, means that the police authorities often prefer not to prosecute traffickers at all, knowing that much effort only seldom results in a conviction (Laczko & Gramegna 2003:183).

Concrete, reliable data on human trafficking is an essential requirement for all effective programmes interventions, policy and legislation. Appropriate and effective response from practitioners and policy makers require an understanding of the extent and true nature of the problem and the complexity of the issues involved (ICMPD 2007:9).

### **Absence of a legal framework and legislation regarding human trafficking**

With the exception of Mozambique, none of the other Southern Africa countries have dedicated anti-trafficking legislation. Some countries in the region have a national policy but no comprehensive legislation in place to address human trafficking. There is no specific human trafficking legislation in Southern Africa to prevent, suppress or to punish human trafficking. None of the criminal laws in the Southern Africa region adequately address the essential elements of human trafficking as listed in Article 3 of the UN Trafficking Protocol (UNODC 2008:29).

In the absence of comprehensive legislation, all the countries in Southern Africa have laws in place that could be used to prosecute offenders for crimes commonly associated with human trafficking. The current situation in South Africa remains problematic due to several legal and socio-economic aspects which remain unsolved.

South Africa does not currently have a legal definition of human trafficking, either in the common law or in statute. Depending on the circumstances of a particular case, there are a number of offences in terms of which a person or persons suspected of being involved in the trafficking of persons may be charged (South African Government information 2008:2). Angola, Botswana, Lesotho, Swaziland and Namibia do not have a specific provision criminalising human trafficking (UNODC 2009 120-131).

The current law regarding trafficking in persons in the RSA is fragmented (Radebe 2010:1). The Sexual Offences Amendment Act 2007 (Act 32 of 2007) and the Children's Act 2005 (Act 38 of 2005) contain transitional provisions relating to the trafficking in persons. The Sexual Offences Amendment Act criminalises the act of trafficking in persons for sexual exploitation only, while the Children's Act addresses more comprehensively the trafficking of children. The provisions in the

abovementioned Acts relating to trafficking will be repealed after their incorporation into the proposed trafficking legislation.

In the absence of specific legislation, the National Prosecuting Authority has encountered unique problems in ensuring an adequate response to the occurrences of this phenomenon. Trafficking cases present as a whole host of other offences in the criminal justice system, e.g. sexual exploitation, farm labour, domestic labour and murder. Prosecutions have proceeded on an *ad hoc* basis overtly demonstrable to the facts, such as kidnapping, indecent assault and rape, which do not individually attract necessarily as heavy sentences as a specific trafficking in persons offence would impose (Qaba 2008:1).

Under the common law, depending on the circumstances of each case, persons suspected of trafficking could be charged with kidnapping, common assault, assault with intent to do grievous bodily harm, extortion, attempted murder and murder (South African Law Commission 2009:2).

The South African Law Reform Commission (SALRC) is of the opinion that legislation should be enacted to create a statutory offence of trafficking in persons, as well as other trafficking-related offences. The Prevention and Combating of Trafficking in Persons Bill 2010 also contains protective measures for victims of trafficking as well as measures to prevent trafficking in persons (SALRC 2009:2).

The Prevention and Combating of Trafficking in Persons Bill 2010 proposed by the SALRC has been adapted to bring it in line with prevailing drafting norms and standards. Changes were made to various clauses containing provisions regarding penalties and clauses dealing with the manner in which a court is designated to try an offence which was committed abroad, the manner in which accredited organisations can qualify for financial assistance, compensation orders, national directives and instructions, regulations, delegation of powers and duties and the Inter-Sectoral Committee (SALRC 2009:2).

The objectives of the Prevention and Combating of Trafficking in Persons Bill 2010 are to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the UN Convention against Transnational Organised Crime 2000; to combat the trafficking of persons within or

across the borders of the Republic; to prevent trafficking in persons; to provide for an offence of trafficking in persons and other offences associated with trafficking in persons, to provide for measures to protect and assist victims of trafficking in persons; and to provide for matters connected therewith (Prevention and Combating of Trafficking in Persons Bill Gazette No 32222/2009:2).

Legislation currently utilised in the prosecution of trafficking cases include the Sexual Offences Act 23 of 1957, the Child Care Act 74 of 1983, as amended, the Prevention of and combating of Corrupt Activities Act 12 of 2004, the Prevention of Organised Crime Act 21 of 1998, the Immigration Act 13 of 2002, as amended, the Films and Publication Act 65 of 1996, as amended, the Corruption Act 94 of 1992, the Intimidation Act 72 of 1982 and the Riotous Assemblies Act 17 of 1956 in framing conspiracy and incitement charges.

The absence of legislation specific to human trafficking limits prosecutor's capacity to deal with traffickers comprehensively. Due to the fact that trafficking is sometimes an organised crime activity, it's only the trafficker himself which is dealt with while others in the crime chain are excluded. The National Prosecution Service (NPS) is also not in a position to record statistics, due to a lack of definition in the current legal framework.

Skinner (2009: Keynote address) at the 10<sup>th</sup> Annual National Conference on Child Abuse also acknowledged the lack of legislation as part of the problems to combat human trafficking. South Africa still lacks the robust anti-trafficking laws needed to prosecute traffickers effectively. The prescriptions in existing statutes, such as the Sexual Offences and Children's Act, that do address trafficking make no provision for victim services. The government has been wholly negligent in combating child sex tourism. South Africa has a rights-based framework that protects both it's own and children from other countries from violations that can be perpetrated against them during the trafficking process. Giving effect to these provisions however remains challenging. These challenges relate to adult's knowledge of these laws (Molo Songololo 2005:38).

Lack of an effective and comprehensive framework to address trafficking not only limits the capacity of government officials to arrest offenders, identify and assist victims, but precludes the collection of data about all

forms of trafficking.

Actions to combat human trafficking cannot be limited to the enlargement of a one-side repressive legislative arsenal. The most appropriate approach to deal with the problem of human trafficking must be based on an interdisciplinary basis, whereby repression through criminal legislation must be reserved as a last resort.

### **A lack of urgency to finalise legislation with regard to human trafficking by the Government**

The government however acknowledges that the current legislation is inadequate to combat human trafficking. The lack of legislation and a coordinated data base is hampering government and civil societies' efforts to effectively address the problem in terms of prevention, prosecution and protection. The urge to get new legislation into place does not seem to be a priority. Draft legislation is in progress since 2003 and was submitted to parliament for approval this year. Even the 2010 FIFA World Cup and the speculation that trafficking in persons will increase could not speed up the urge to get legislation enacted.

Although South Africa is a signatory of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in persons, especially women and children, it still remains on the Tier 2 Watch List of the UN TIP Report (US Department of State 2009:1). Countries in the TIP Report are categorised into Tiers according to United States' Trafficking Victims Protection Act of 2000, as amended (TVPA). According to this Act the purpose of this Act should be to punish traffickers, to protect victims, and to prevent trafficking from occurring.

The TVPA lists three factors to be considered in determining whether a country should be in Tier 2 (or Tier 2 Watch List) or in Tier 3.

- 1) The extent to which the country is a country of origin, transit, or destination for severe forms of trafficking.
- 2) The extent to which the government of the country does not comply to the VPA's minimum standards including, in particular, the extent of the government's trafficking related corruption.
- 3) The resources and capabilities of the government to address and eliminate severe forms of trafficking.

The TIP Report (2008:3) focuses on concrete actions governments have taken to fight

trafficking, especially with regard to prosecution, convictions, and prison sentences for traffickers, victim protection measures, and prevention efforts. The report does not give great weight to laws that have not yet been enacted. Finally, the Report does not focus on government efforts that already contribute to reducing trafficking, such as education programmes, support for economic development, or programmes aimed at enhancing gender equality, etc.

South Africa and two of its neighbouring countries namely Mozambique and Zimbabwe are listed on the Tier 2 Watch List that means that they should receive special scrutiny. That means that:

- a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing
- b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complexity in severe forms of trafficking by government officials; or
- c) the determination that a country is making significant efforts to bring itself into compliance with the minimum standards was based on commitments by the country to take additional future steps over the next year (US Department of State 2008:3-4).

### **Police corruption and the abuse of women and girls**

It is clear that local and international activists, as well as some organisations like the Family Policy Institute in Cape Town and the Sex Worker Advocacy Taskforce (SWEAT) do not have much faith in the abilities of the SAPS to combat human and child trafficking.

The Sex Worker Advocacy Taskforce (SWEAT) wanted the South African Government to speed up the decriminalisation of sex work before the 2010 Soccer World Cup so that sex worker's rights are recognised and protected by law.

The police force's relationship with the sex work industry is turbulent and abusive. Policemen are free to abuse sex workers because their rights are not protected by law (Sutherland 2010:3). Research undertaken by SWEAT found that sex workers fear abuse by

police members. "Our experience indicates that the highest levels of violence against sex workers come from the police and law enforcement sectors" said one of the researchers, Niole Fick. Thirty percent of sex workers who have made statements to SWEAT have been forced to have sex with police officers ("Sex workers fear abuse from cops-survey", Independent Online). The possibility that women and child trafficking will increase with the 2010 World Cup, and the nature of legislation against or for sex workers, as well as the police's presence or absence and tendency to abuse sex workers, will all have an impact on vulnerable women and children (Sutherland 2010:3).

Research by the Family Policy Institute in Cape Town shows that countries who had sex work decriminalised are now trying to reverse their decisions. Child trafficking, prostitution and the drug industry have exploded in Australia, Germany and the Netherlands, where the industry was decriminalised more than 10 years ago. According to Naidoo (Sutherland 2010:3) the police and intelligence service in those countries are far more sophisticated than South Africa's and yet they can't control it. He wants to know how we will control it with corrupt police officials and with our political instability.

The relationship between police corruption and women and child trafficking was confirmed when Media 24 unveiled a syndicate who trafficked young girls between Mozambique and South Africa during March 2010. According to Nando Matsingi, head transporter of the syndicate, women are smuggled through the Lebombo border post by so called "friendly policemen". Matsingi stays in Rosentenville, Johannesburg and travels weekly from and to Maputo with his Isuzu bakkie to collect some women and girls (Rademeyer and Pauw 2010:8). Media 24 reports that about 40 girls are smuggled monthly into South Africa, some as young as 16 years of age. About roadblocks Matsingi comments "Don't worry. It is my job. I go through easily. I do this many times" (Rademeyer 2010:9).

Respondents involved in the Project Tsireledzani (a research project commissioned by the National Prosecuting Authority of South Africa and by the Human Sciences Research Council of South Africa on the dimensions of human trafficking in Southern Africa) also reported high levels of illegal entering and

trafficking into South Africa at the Lebombo border post with the help of corrupt police officials. One respondent indicated that a number of immigration officials have been suspended and arrested for facilitating drug and human trafficking at the Lebombo border post and that the problem still persists. Another respondent with knowledge of operations at the Bloemfontein/Maseru border post with Lesotho, reported that children are permitted to cross the border without proper documentation as long as they are accompanied by an adult. Respondents enquired by researchers of the Human Sciences Research Council of South Africa, have reported that it is not unusual for an adult to come into South Africa and register several children under his guardianship without documentation. These children are then brought into South Africa and are allegedly often not heard from again. Researchers of the Human Sciences Research Council of South Africa involved in project Tsireledzani, also observe on one occasion at this particular border post a SAPS officer escorting a women through the border post without going through the official immigration process. The respondent also confirmed that this sort of activity is a regular occurrence at the border post. At the Musina-Beitbrug border post a respondent highlighted that he was aware of human trafficking but was not sure on the appropriate measures to take when such an issue is suspected. The respondent indicated that suspected cases were handed over to the SAPS but the suspects were always set free. He believed that it may be due to the influence of high ranking corrupt police officials. The respondent also added that there is a poor level of cooperation between Department of Home Affairs (DHA) officials and the SAPS in this area. Several other incidents of collaboration between officials and traffickers were also reported.

The Project Tsireledzani (2010:220) expresses its deepest concern with the repeated reports of corruption by law enforcement officials: specifically the SAPS and DHA. SAPS members however did not get authorisation from the Department to participate in the study.

The real nature and extent of police corruption with regard to human trafficking in South Africa remains undiscovered. However it is clear that some local law enforcement officials are believed to be connected with organised criminal elements who are engaged in human trafficking.

### **Interrelated economical factors and human trafficking**

Generalisations about the causes of trafficking for Southern Africa could be misleading. It is important to understand that each country presents specific factors or different combinations of multiple factors that are unique to each situation (UNODC 2006:5). An analyses on different Southern African countries and information available on trafficking in human beings recognise poverty as the most visible cause for trafficking (Chumedza 2007:2). The socio-economic conditions in Zimbabwe, Mozambique, Angola and to a lesser extent South Africa is poor. Millions of people in these countries are unemployed and it is mostly the elderly, women and children who suffer the most. Information and statistics on unemployment are hard to obtain. According to Roestoff (2010:2) 4,3 million people in South Africa are unemployed. People under the age of 35 make up 27% of the total number of people unemployed. Resources aimed at the Prevention of Child Abuse and Neglect (RAPCAN) indicated that around 14 million children live in deep poverty with inadequate access to basic requirements for survival in South Africa. Under these circumstances, children are vulnerable to being "sold" and trafficked for purposes of sexual exploitation, or domestic and agricultural labour (Mbecke & Jahed 2009:1).

The disempowerment already experienced by the majority of Southern African populations through history is exacerbated by poverty, which denies opportunities to assume the social prescribed roles of breadwinner and head of the household. Most disadvantaged people reside in rural areas and the heads of households are likely to be woman, grandmothers and sometimes children. These households are likely to be dependent on social grants, if they are able to access them. The emerged of child-headed and skipped-generation households in South Africa has had an adverse effect on the emerging generation.

Research findings by Project Tsireledzani illustrate how severely the socio-economic situation in Southern Africa impacts on the vulnerability of women and children. Poverty and the lack of social and economic security are major factors that push people into migration and into situations of vulnerability in Southern Africa and within South Africa. The relevance of these factors to human trafficking is central

and inescapable. Economical disparities between countries in Southern African provinces and regions encouraged migration in search of survival or better opportunities make people at risk for trafficking.

The International Organisation of Migration (IOM) also states it clearly that human trafficking in Southern and South Africa is rooted in poverty, lack of opportunities, gender discrimination, social and political violence and a demand for service.

The South African Law Reform Committee (2009:2) also recognise that poverty, unemployment and the search for improved socio-economic opportunities are contributing to make persons vulnerable to become victims of trafficking.

Poverty alone, however, should not be regarded as the overriding factor for human trafficking. Although poverty could create conditions that may contribute to human trafficking, a variety of factors interplay with each other when it comes to human trafficking.

### **Porous borders and inadequate border control**

South Africa is surrounded by six independent neighbouring countries with extended land and maritime borders: Botswana (1,840 km); Lesotho (909 km); Mozambique (491 km); Namibia (967 km); Swaziland (430 km); Zimbabwe 252 km). Each of these six countries has a number of ports of entry. Botswana (16); Lesotho (18); Mozambique (3); Swaziland (11); Namibia (6) and Zimbabwe (2). Borders between these countries are described as porous with inadequate patrolling for example, the electric fences between South Africa and Zimbabwe have been switched off for over 10 years. Effective border control has been dealt a further blow by the withdrawal of the South African National Defence Force (SANDF), which patrolled the borders between South Africa and its neighbouring countries. Passport control is not on standard either and criminals and gangs can enter the country with valid passports. Corruption by police officers and border officials play a big role in the trafficking of women and children across borders.

Porous borders and inadequate border control open the way for illegal immigration and groups to trafficked women and children into South Africa. Information and statistics on the real extent of illegal immigration and cross-

border trafficking of women and children for some form of exploitation is difficult to obtain. Interviews with SAPS officers, members of community organisations and officials of certain embassies and news paper reports however give some indications of the problem.

With regard to trafficking from the rest of Africa, South Africa is regarded as a country of destination, especially for children from Mozambique and Angola. Zimbabwe is also reckoned as a source, transit and destination country for the trafficking of men, women and children, while Mozambique is a point of origin for trafficked women and children (US Department of State Trafficking in Persons Annual Report 2008:1). It is not known whether the same organised criminal groups involved in the trafficking of women are also involved in the trafficking of children (Molo Songololo 2000:40).

Mozambicans cross the fences illegally via Komatipoort in Mpumalanga. Girls and women are trafficked by minibus taxis either to Komatipoort or Ponta do Quero. Traffic women pay their traffickers ZAR500 to smuggle them across the borders. Mozambican women have been smuggled in by taxis because corruption in law enforcement (police) or judicial systems enable trafficking across borders. Other border posts that have been referred to are the Lembombo and Beitbridge border posts. According to the International Organization on Migration (IOM) an estimated 1000 Mozambican women are trafficked to South Africa each year while 200 Mozambican children were reportedly rescued by the Mozambican police force before being trafficked to South Africa. Women and children from the Democratic Republic of the Congo, Malawi and Zambia are trafficked through Zimbabwe into South Africa. It has been possible to establish that children are trafficked from Russia, Thailand and Taiwan. It is also clear that women and children are also trafficked into South Africa by air as well as by maritime resources. South African women are trafficked transnationally to Ireland, the Middle East and the United States. Women and girls from other African countries are also trafficked to South Africa for certain forms of exploitation.

It is clear that South Africa is a gateway for the trafficking of women and children from its neighbouring states as well as the African countries into South Africa and to countries

abroad. Africa is known for its exploitable border which add to the risk of human trafficking (Justice I ACTs) – Prostitution and Trafficking Research 2009:1).

### **Orphaned child vulnerability and human trafficking**

One of the most outstanding social problems is the growing number of orphaned children and child headed households, due to the death of parents (Dyantyi & Fritz 2009:1). Throughout the world the Human Immuno Deficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) pandemic are the leading causes of death for people between 15 and 49 years old. The pandemic has led to over 2,4 million deaths and over 15 million orphaned children worldwide (UNAIDS/WHO 2007:1-3). Of these orphans, 12 million live in Sub-Saharan Africa (UNAIDS/WHO 2007:3).

There are over 4 million new infections yearly, and 2,4 million new infections in sub-Saharan Africa (UNAIDS/WHO 2007:3). Deaths due to HIV and AIDS have resulted in an estimated 15 million orphans UNAIDS/WHO 2007:1-3). There is no cure for HIV/AIDS and the number of orphans is expected to reach over 25 million this year (2010), with 15 million of these in sub-Saharan Africa (Advertising HIV/AIDS Organisation 2007). Southern Africa remains the most heavily affected by the epidemic. South Africa is home to the world's largest population of people living with HIV (5,7 million) (UNAIDS 2008:21-37).

In most countries the government and non-government organisations provide care for orphans who do not have other adult care and support. In Africa, orphans used to be cared for by the extended family (Foster 2000:277). However, the ever increasing numbers of orphans have severely burdened the extended families and rendered them unable to provide the traditional level of protection and support. With the weakened extended family system, children are greatly affected when their parents become ill and die from HIV/AIDS-related illnesses (Foster 2000:278; UNAIDS/UNICEF/USAID 2004:1).

Research in Africa shows that there is a growing trend by children to form part of independent child-headed households in which children have no formal assistance in looking after one another (Loening Voysey 2002:109; Nzimande 1985:17). Children in this situation

witnessed their parents' or caregivers' health deterioration, and assisted in caring for them during the terminal stages of their disease, especially if they died of AIDS. Caring for the sick by the children comes at a cost of sacrificing childhood activities. It also puts these children at risk of exploitation, not only by strangers, but also by their extended families (Dyantyi & Fritz 2009:1).

The burden of child-headed households, together with socio-economical conditions like unemployment, poverty etc, make orphans and children at risk for several forms of exploitation, including trafficking.

### **CONCLUSION**

Child and women trafficking occur in virtually every country around the world including the Southern African countries, and is one of the most lucrative criminal enterprises globally. South Africa in particular is a destination and source country in international trafficking and the domestic trafficking in women and children within our own borders is even more prevalent. The paucity of data on women and child trafficking however makes it very difficult to discover the real extent and globe of the phenomenon. There is no gainsaying therefore that trafficking in women and children is on the rise and that it has already surpassed the illegal sale of arms and will surpass the illegal sale of drugs in the next ten years.

The combating of women and child trafficking in the Southern Africa region is hindered by several common shared factors or problems. With the exception of Mozambique none of the other Southern African countries have a legal framework and legislation to combat trafficking. It is further hampered by a lack of urge by government to get legislation into place and to furnish law enforcers with knowledge about laws and how to handle victims of trafficking. Porous borders and poor border control accompanied by corruption make it easy for traffickers to traffic women and children into and out of South Africa.

The economic inequalities in Southern and South Africa combined with particular patterns of labour, unemployment, poverty and geography create specific vulnerabilities to women and child trafficking. Poverty and economic inequalities are considered central contributors to woman and child trafficking. These problems are very grave in Southern Africa.

The question must be asked why this state of affair remains. After several urgent pleas to address problems related to human trafficking e.g. to tighten border controls, and to get effective legislation into place, little has been done to alleviate this social evil. Is a lack of attention to these pleas an indication of Government's and law enforcement agencies indifference to a crime that affects millions of women and children? The combat of violence against women and children is stipulated as one of the priorities of Government and law enforcement agencies. Yet, the apparent indifference is in direct contrast to this said priority. Poverty and inequalities also continue to impact on the lives of women and children in Southern Africa, despite many official efforts to combat it. Is the state of affairs portraying the picture of those in caring little about the plight of the helpless, and if so, what does it say about the moral state of a nation.

### RECOMMENDATIONS

The trafficking of woman and children is one of the fastest growing and most lucrative criminal activities today. To combat it, it is a necessity that:

- Legislation that would create a statutory offence of trafficking in person (The Prevention and Combating in Persons Bill) be enacted as soon as possible.
- Specialised police units be installed to discover human trafficking and to increase detection and prosecution.
- Data collection on human trafficking on a national level is essential in terms of prevention, protection and prosecution.
- Corruption by law enforcement officials and others should be investigated and offenders should be punished and discharged.
- Interrelated economical factors like poverty, unemployment and disempowerment should be addressed and eliminated.
- Border fences between South Africa and its neighbouring countries should be reinstalled and border control and the patrolling of borders must be sharpened up.
- The HIV/AIDS pandemic should be addressed with greater concern and effort to prevent the growing numbers of orphaned children and child headed households and their vulnerability to human trafficking.
- National Government Organisations and Private Organisations must inform the community about the prevalence and dangers of women and child trafficking.
- A National collaborative approach between Governments and Private Organisation in the field of women and child trafficking will be essential for preventing it.

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