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Prevalence Index Rank

# SOUTH AFRICA

"There is, however, no sector and no region that is not affected. We have seen fishermen from the Far East arrive in Cape Town after years at sea without breaks or remuneration. We have seen girls come in to work as waitresses but end up in prostitution, and little boys as young as seven years being trafficked from West Africa to South Africa, having been told that they will become famous soccer players here."

Richard Ots, Chief of Mission for IOM South Africa, 9 October 2015.<sup>[1]</sup>



Estimated Number Living in Modern Slavery

248,700



Vulnerability to Modern Slavery

45.87/100



Government Response Rating

B



Population

54,954,000



GDP (PPP)

\$13,046



South Africa cont.

## PREVALENCE

The 2016 Global Slavery Index estimates 248,700 people or 0.45 percent of the total population live in conditions of modern slavery in South Africa. This is based on a random-sample, nationally-representative survey undertaken in 2015, that sought to identify instances of both forced marriage and forced labour within the general population (survey conducted in Afrikaans, English, Sotho, Zulu, Xhosa languages).

### Commercial sexual exploitation

Forty-three percent of victims in modern slavery in South Africa identified in the 2015 Walk Free survey were/are subjected to commercial sexual exploitation. Though the purchasing of sex is criminalised,<sup>[2]</sup> the sex industry thrives on the street and in brothels and private residences. South African women, women from neighbouring states and Thai, Chinese, Russian and Brazilian women have been identified as victims of commercial sexual exploitation in South Africa.<sup>[3]</sup> South African women have also been trafficked abroad, predominantly to Europe.<sup>[4]</sup> Throughout 2015, the Directorate for Priority Crime Investigation (DPCI), known as the Hawks, continued to identify Nigerian sex trafficking syndicates operating between the North West, Gauteng and KwaZulu-Natal provinces.<sup>[5]</sup>

### Forced marriage

Walk Free survey results reveal an estimated 10,600 women are victims of forced marriage. Although UNICEF data from 2015 reveals that South Africa has one of the lowest rates of child marriage in Sub-Saharan Africa,<sup>[6]</sup> the persistence of some traditional practices have been noted by academics as fuelling early and forced marriages. *Ukuthwala*, meaning 'to carry' in *isiXhosa* and *isiZulu*, is a customary practice used to bypass extensive and lengthy marriage rituals.<sup>[7]</sup> It often involves the kidnapping and rape of a girl or young woman by a man or group of men with the intention of compelling the girl or young woman's family to endorse marriage negotiations.<sup>[8]</sup> Traditionally, *ukuthwala* was an accepted path to marriage, however, it did not involve rape or consensual sex until the marriage negotiations concluded. Today, girls as young as 12 are abducted and raped, often by significantly older men, and routinely exposed to HIV/AIDS transmission. One study on HIV/AIDS-positive young girls aged 12–19 found 56 percent were forcibly married through *ukuthwala*.<sup>[9]</sup> The financial burden of daughters, coupled with the continuing tradition of grooms providing a *lobola* payment (dowry), reportedly incentivises some parents to force their daughters into early marriage. The continued existence of *ukuthwala*, coupled with Walk Free estimates of more than 10,000 victims of forced marriage, necessitates further studies of marriage practices in South Africa.

### Forced labour

The Walk Free Foundation survey suggests that more than 200,000 workers are subject to forced labour in South Africa. Both women and children are employed as domestic workers in South Africa. The legacy of apartheid, leaving many African and coloured women without education, has created a labour pool of unskilled workers who are funnelled into low-paying domestic work.<sup>[10]</sup> Economic necessity is the key driver of women accepting work in the domestic service sector.<sup>[11]</sup> On 1 December 2015, new minimum wage rates came into effect for domestic workers,<sup>[12]</sup> however, critics have slammed the rise for not ensuring a living wage.<sup>[13]</sup> Domestic workers in South Africa have reported withholding of wages and unpaid overtime, and physical, sexual and psychological abuse.

Walk Free survey results revealed an estimated 11 percent of victims are exploited in construction, five percent in farming, and eight percent in drug production. This reflects existing research which notes that foreign and domestic modern slavery victims have been exploited in agriculture,<sup>[14]</sup> mining,<sup>[15]</sup> construction, street work and hospitality industries.<sup>[16]</sup>

### Child labour

Though the *Basic Conditions of Employment Act* sets the minimum age for employment at 15 years,<sup>[17]</sup> young children labouring in the agricultural and domestic service sectors persists, as well as in food services, street vending and forced begging.<sup>[18]</sup> Children in South Africa are trafficked from rural to urban areas, including to Bloemfontein, Cape Town, Durban and Johannesburg.<sup>[19]</sup>

### Walk Free Foundation 2015 survey data

	Number	%	% male victims	% female victims
Forced labour	238,000	96	46	54
Forced marriage	10,600	4	0	100
Modern slavery total	248,700	100	44	56

Forced labour by sector of exploitation	%
Domestic work	4
Construction	11
Manufacturing	0
Other manufacturing	6
Farming	5
Sex industry	43
Drug production	8
Retail sector	4
Other	19
DK	0
Refused	0
Total	100

VULNERABILITY

Country	Civil & political protections	Social, health, & economic rights	Personal security	Refugees & conflict	Mean
South Africa	40.27	43.06	58.30	41.84	45.87

The legacy of apartheid, perpetuating beliefs about racial superiority and inferiority,<sup>[20]</sup> coupled with concerning economic disparity, rising violence against minorities, and widespread discrimination and brutality against women increased people's vulnerability to exploitation.<sup>[21]</sup>

In 2015, the violent crime rate in South Africa increased for the third consecutive year.<sup>[22]</sup> Statistics from 2014 show increases in the rate of homicide, attempted homicide, aggravated burglary, carjacking and robbery at private residences and businesses.<sup>[23]</sup> There was a small reduction in sexual offences, kidnapping and grievous bodily harm, however, in reality, this amounted to 62,649 reported sexual offences. South Africa does not separate 'sexual offences' into specific categories i.e. 'rape', 'sexual assault' or 'trafficking in persons for sexual offences' which obscures understanding of the prevalence of each distinct crime.<sup>[24]</sup>

South Africa's unemployment rates increased to an 11-year high in 2015.<sup>[25]</sup> This was attributable to a combination of power outages which obstructed economic activity in mines and factories, a persistent drought, and widespread pessimism among local youth regarding the bleak economic outlook across the country.<sup>[26]</sup> By the third quarter of the 2015 financial year, 5.4 million people in the labour force were unemployed, and 14.9 million were not economically active—resulting in an unemployment rate of 25.5 percent.<sup>[27]</sup> The World Bank forecasts South Africa risks entering a recession unless bold economic policy is undertaken.<sup>[28]</sup>

Immigrants, particularly those from Zimbabwe, Ethiopia and Somalia, are at risk of violent economic attacks. In 2015, rising xenophobia resulted in the street attack and murder of migrants from Durban to Johannesburg,<sup>[29]</sup> sparking protests in Cape Town.<sup>[30]</sup> Reports suggest that the catalyst fuelling the violence is rooted in the South African economy's systemic inequality<sup>[31]</sup> and a perception among unemployed youth that the few job opportunities available had been taken by African immigrants. In response, the government deployed troops to stem further attacks.<sup>[32]</sup> Despite 22 arrests following the violence in February 2016, no investigations or prosecutions had occurred.<sup>[33]</sup>

Women and children are the primary targets of many violent crimes. In 2012, it was estimated that every eight hours a woman is killed by her intimate partner in South Africa.<sup>[34]</sup>

GOVERNMENT RESPONSE

On 9 August 2015, President Zuma officially proclaimed entry into force of the *Prevention and Combating of Trafficking in Persons Act (7/2013)*.<sup>[44]</sup> This Act rectifies significant previous gaps in legislation that largely prevented prosecutors bringing forward cases of trafficking for forced labour,<sup>[45]</sup> provides for the payment of compensation to victims<sup>[46]</sup> and requires internet service providers to take all reasonable steps to prevent and report trafficking.<sup>[47]</sup> Chapter 3 of the Act attaches positive duties on the State to provide support to foreign victims including a rest and recovery period and accompanying visitor's visa. Though it is important to note that, at the time of writing, the sections

**Sexual abuse is endemic—in the Gauteng province, 25.3 percent of women self-identified as victims of at least one instance of rape and 37.4 percent of men in the province admitted to having committed rape at least once in their lifetime.**<sup>[35]</sup>

Media analysis of high-profile cases such as the gang-rape and murder of teenager Anene Booysen in 2013<sup>[36]</sup> and of a national football star Eudy Simelane in 2009<sup>[37]</sup> indicate that the hyper-masculinity and 'macho' demeanour of some men in South Africa is a contributing factor to the high rate of sexual assault cases.<sup>[38]</sup> This also impacts women from the LGBTBQI community who are at risk of 'corrective rape'—one recent case in 2014 involved a teenager who was gang-raped and murdered.<sup>[39]</sup> Unlike the majority of cases, particularly those related to the Lesbian Gay Bisexual Transgender Queer (LGBTQ)-identified community, one perpetrator was sentenced to two terms of life imprisonment for the murder of the victim, Gift Makau.<sup>[40]</sup> Children are also at high risk of sexual assault in South Africa. In 2014, there were 51 daily cases of child rape reported to police, equating to 18,524 cases over the year.<sup>[41]</sup> Domestic violence and abuse in the home are often precursors to women and children fleeing home and accepting jobs in the informal economy where they may suffer exploitation.

In 2015, according to the 2015 Edelman Trust Barometer, only 16 percent of South African respondents reported trusting their government—making the country one of the least-trusted governments globally, including developing nations.<sup>[42]</sup> Corruption and mistrust of public authorities heighten vulnerability for victims—they are less likely to report abuse, risk being returned to situations of abuse by complicit authorities, and risk being criminalised for conduct that occurred to them while in the trafficking situation. One expert described a lack of specialised skills and knowledge by police officers in responding to large-scale organised crime, as well as poor collaboration between NGOs and authorities in the handling of cases.<sup>[43]</sup>

concerning the protection of and services to foreign victims have not yet become operational.<sup>[48]</sup>

The enactment of this legislation will arguably provide clearer data on the prevalence of modern slavery, particularly efforts to prosecute and punishment perpetrators. Until August 2015, cases of trafficking have been brought under other acts, such as the *Sexual Offences Amendment Act or the Children's Amendment Act*, where traffickers were charged for trafficking in persons, but were often also charged with kidnapping and rape.<sup>[49]</sup> This creates what one expert has dubbed "an elusive statistical nightmare" for understanding the extent of modern slavery in South Africa.<sup>[50]</sup>

a situation exacerbated by the continuing lack of an official government database on modern slavery. Under section 42 of the new Act, Ministries responsible for combating trafficking are required to submit annual reports on the implementation of the Act.<sup>[51]</sup>

As of January 2016, no cases had been tried under the new trafficking act. However, some recent prominent cases indicate the government are making concerted efforts to prosecute offenders of modern slavery.

**In 2015, the government welcomed the Western Cape High Court's rejection of an appeal by Mvumeleni Jezile (aged 33) who was sentenced to 22 years imprisonment after forcibly marrying a 14-year-old girl.**<sup>[52]</sup>

This high-profile *ukuthwala* case was used as evidence by the Minister in the Presidency responsible for Women, Susan Shabangu, that the government is continuing endeavours to ensure the rights of women, emphasising that cultural practices must not violate rights and reminding perpetrators that time will not erase crimes committed.<sup>[53]</sup> This followed the well-documented 2014 conviction of 62-year-old businessman Nyambi Mabuza who was handed down eight life sentences for the trafficking of Mozambican girls, between the ages of 11 and 17 for sexual exploitation.<sup>[54]</sup> Despite these positive developments, to date, none of the international syndicates facilitating the commercial sexual exploitation of women have been successfully prosecuted.<sup>[55]</sup>

Also in 2015, in an effort to curb illegal movement of children across borders, the government enacted new immigration regulations requiring all minors under the age of 18 years to produce, in addition to their passport, an Unabridged Birth Certificate (showing the particulars of both parents) when exiting and entering South African ports of entry.<sup>[56]</sup> For children

travelling with only one parent or unaccompanied, an affidavit providing consent must also be carried. While admirable in its attempts to address the ongoing exploitation of children, experts have questioned whether such onerous requirements will curb trafficking considering the frequently illegal and clandestine border movements that traffickers use and the inability of immigration guards to verify the authenticity of birth certificates at borders.<sup>[57]</sup> However, one expert noted that in the week preceding the implementation of the regulations, immigration authorities discovered three incidences of children travelling abroad in suspicious circumstances. One of these cases involved authorities preventing the travel of a 7-year-old girl to Pakistan to visit her father - authorities subsequently established the girl had no father in Pakistan and was a victim of child sexual abuse.<sup>[58]</sup>

International and local organisations working with victims continued to express concerns of victims being criminalised for illegal conduct, such as prostitution, instead of being identified as victims of trafficking.<sup>[59]</sup> Studies have also highlighted the unwillingness of women to turn to the police for support because of stigmatisation and fear that police would inform others in the community about the victim's involvement in the sex industry.<sup>[60]</sup> There are also concerns that victims and authorities alike are unable to correctly identify victims despite ongoing awareness programs and training being conducted throughout 2015.<sup>[61]</sup> Local groups are concerned that there is no formal strategy to address the abuse, both physical and sexual, of sex workers by authorities.<sup>[62]</sup>

During 2015, key government and civil society stakeholders met to improve the coordination and integration of services to better support victims of trafficking.<sup>[63]</sup> The multi-sectoral national task team, comprised of the Departments of Justice and Constitutional Development, Home Affairs and Social Development, as well as the National Prosecuting Authority, South African Police Service, civil society representatives and international organisations, are tasked with implementing the National Action Plan to Fight Human Trafficking in South Africa. The Child Protection and International Social Services directorates in the Department of Social Development continue to implement a strategy for the prevention of child trafficking. The Child Protection Directorate also ensures the safe return of South African child victims and unaccompanied South African minors to their families and legal guardians in South Africa.<sup>[64]</sup>

RECOMMENDATIONS

Government

- Implement a wide-scale awareness campaign to educate South Africans about the new *Prevention and Combating of Trafficking in Persons Act*.
- Establish a national database on modern slavery cases and convictions.
- Initiate a comprehensive counter-corruption strategy.
- Conduct targeted educational programs in schools and rural communities about the dangers of *ukuthwala* and the physical and psychological damage caused by early marriage.
- Consult with NGOs and victims to ensure policies and services match the needs of victims.
- Review and increase the minimum wage rate for domestic workers to ensure a living wage.
- Investigate, prosecute and imprison members of known criminal syndicates sexually exploiting and trafficking people for commercial gain, especially young women and children.