

## Migration policy brief No. 2

### Human trafficking in Southern Africa

The present policy brief provides an outline of the modern slavery, smuggling and trafficking debate in the context of Southern Africa (see box below), in which the authors argue that, notwithstanding the considerable investment made by national and international actors, there is little evidence that cross-border human trafficking is a significant issue in the region.<sup>1</sup>

Box

#### Key issues

1. The extent and scale of trafficking, smuggling and modern slavery in Southern Africa is highly contested within the region.
2. Critics argue that the numbers cited in the region are based on little empirical evidence, flawed calculation methods and a concept whose very definition is ambiguous.
3. Southern Africa has men, women, and children working under exploitative labour resulting from a combination of legal status, poor regulatory and governance structures to protect workers and migrant rights, and generalized patterns of labour exploitation.
4. The focus on trafficking and smuggling brings to light unconscionable activities in human trade, but these instances are few in Southern Africa and may obscure a more concerted policy discussion on eliminating labour exploitation and improving safety and working conditions.
5. Establishing legal avenues of migration within Africa, and between Africa and Europe, would help to reduce illegal flows of migrants and incidences of smuggling.

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<sup>1</sup> See Christopher Changwe Nshimbi and Innocent Moyo, "Modern slavery, smuggling and trafficking legislation in the Southern African Development Community region: an overview", *Journal of Trafficking, Organized Crime and Security*, vol. 2, No. 2 (2016); Monique Emser, "Politics of human trafficking in South Africa: a case study of the KwaZulu-Natal intersectional task team and South African counter-Trafficking governance", PhD dissertation, University of KwaZulu-Natal, 2013; Hannah E. Britton and Laura A. Dean, "Responses to human trafficking in Southern Africa: domesticating international norms", *Human Rights Review*, vol. 15, No. 3 (2014), pp. 305-321.

## What is modern slavery?<sup>2</sup>

According to the Global Slavery Index, there were an estimated 45.8 million people around the world in conditions of modern slavery in 2016, more than 6.2 million (13.6 per cent) of whom were from sub-Saharan Africa<sup>3</sup>

Of the six thematic areas contained in the global compact for safe, orderly and regular migration, arguably one of the issues that draws the most impassioned response is the smuggling of migrants and the trafficking in persons and contemporary forms of slavery, including the appropriate identification and protection of and assistance to migrants and trafficking victims. Concern for what is termed “modern slavery” increased following the creation of the Global Slavery Index in 2013 by the Walk Free Foundation. The Index is the first global benchmarking tool that attempts to quantify and bring to light a phenomenon that had remained uncounted and underground.<sup>4</sup> This ability to globally assess and measure trafficking and smuggling propelled those issues from the margins to the centre of global and national policy and action.<sup>5</sup>

The Global Slavery Index is an all-encompassing measure of labour exploitation, forced marriages, child labour and smuggled and trafficked persons. In principle, it is remarkable that a concept can capture such a broad range of human suffering and abuse. This is, however, the Index’s Achilles’ heel. How do we separate widespread capitalist labour exploitation from slavery? How helpful is it for States and policymakers to merge such varied categories as labour exploitation and forced marriage, which require different policy interventions? Are traffickers and smugglers the same? It is the conflation of such varied phenomena into a single term, and questions about the actual numbers in modern slavery (see table 1), that has made this a highly contested issue in Southern Africa.

Table 1  
*Estimated prevalence of modern slavery in Southern Africa, 2016 (Thousands of individuals)*

Country	
Angola	159 700
Botswana	11 800
Lesotho	14 400
Malawi	116 100
Mauritius	2 100
Mozambique	145 600
Namibia	16 600

<sup>2</sup> The Walk Free Foundation defines modern slavery as “situations where one person has taken away another person’s freedom – their freedom to control their body, their freedom to choose to refuse certain work or to stop working – so that they can be exploited. Freedom is taken away by threats, violence, coercion, abuse of power and deception. The net result is that a person cannot refuse or leave the situation”.

<sup>3</sup> See Walk Free Foundation, “CITASaharan Africa”, Global Slavery Index 2016. Available from: [www.globallslaveryindex.org/region/sub-saharan-africa](http://www.globallslaveryindex.org/region/sub-saharan-africa). Accessed 28 November 2017.

<sup>4</sup> See Joel Quirk and André Broome, “The politics of numbers: the Global Slavery Index and the marketplace of activism”, openDemocracy, 10 March 2015. Available from: [www.opendemocracy.net/beyondslavery/joel-quirk-andr%C3%A9-broome/politics-of-numbers-global-slavery-index-and-marketplace-of-ac](http://www.opendemocracy.net/beyondslavery/joel-quirk-andr%C3%A9-broome/politics-of-numbers-global-slavery-index-and-marketplace-of-ac).

<sup>5</sup> See Anne Gallagher, allagherERO\_ITEM CSL\_CITATis based on flawed data: why does no one say so?", *The Guardian*, 28 November 2014. Available from: [www.theguardian.com/global-development/poverty-matters/2014/nov/28/global-slavery-index-walk-free-human-trafficking-anne-gallagher](http://www.theguardian.com/global-development/poverty-matters/2014/nov/28/global-slavery-index-walk-free-human-trafficking-anne-gallagher).

South Africa	248 700
Swaziland	8 700
Zambia	109 300
Zimbabwe	99 600

Source: Global Slavery Index.

## Contested numbers and polarized positions

Within Southern Africa, debates on human trafficking since the early 2000s have been dominated by two primary, highly politicized positions. The first is that human trafficking, especially that of women and children, is rife in the region, with tens of thousands (if not more) of people being entrapped in what amounts to modern-day slavery. The most powerful of these voices, supported by a range of organizations (e.g., Freedom Challenge, Molo Songololo, the Salvation Army, the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration (IOM)), have focused on women in the sex industry and on children trapped in various forms of illegal and exploitative work. IOM initiated a Southern African counter-trafficking assistance programme to assist those seeking to help trafficking victims, and, together with the Governments of the United States of America and other countries, pushed for tighter legislation and the passage of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.<sup>6</sup> That effort reached the peak of its influence in the run-up to the 2010 World Cup of football, held in South Africa, when advocates claimed that tens of thousands of women would be trafficked to satisfy fans' sexual demands. Fear of poor ratings in a report by the State Department of the United States, *Trafficking in Persons*, has helped ensure that this position has remained on the policy agenda across the region. (The report rates countries according to the enforcement of their anti-trafficking legislation. Accordingly, countries that want to get a good rating in the report need to show their compliance with anti-trafficking regulation.) Indeed, such external pressure has ensured the proliferation of anti-human trafficking legislation (see table 2).

A second position, based largely in civil society and the academy, has sought to counter the widespread publicity about the scourge of human trafficking. Its advocates argue that there is little evidence to support the widespread claims of trafficking in the region.<sup>7</sup> It has been argued that much of the problem has to do with the conflation of categories: that child and other forms of prostitution are counted simply as trafficking. It is also suggested that the desire to raise awareness has meant that organizations and individuals have essentially fabricated figures supported only by anecdotal illustration. Indeed, it has been suggested that human trafficking, in particular with regard to the sex industry, has few victims throughout the region.<sup>8</sup> Similarly, in the 2012 report by the United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons*, it was stated that, between 2010 and March 2011, South Africa's National Prosecuting Authority reported that 235 adults and 13 children had been victims of human trafficking. Of those victims, 132 had been trafficked for the purposes of

<sup>6</sup> See René Puzzo Moodley, "The influence of US hegemony on the South African anti-trafficking in persons movement", Master of Arts thesis, University of the Witwatersrand, 2016.

<sup>7</sup> See "Factsheet: understanding human trafficking," *Africa Check*, 28 February 2014, available from: <https://africacheck.org/factsheets/factsheet-understanding-human-trafficking/>; Kate Wilkinson and Sintha Chiumia, "Do children really get trafficked every year? The claim exaggerates the problem", *Africa Check*, 18 October 2013, available from: <https://africacheck.org/reports/are-30000-kids-trafficked-into-south-africas-sex-trade-every-year-the-claim-exaggerates-the-problem/>; Nshimbi and Moyo, "Human trafficking legislation in the Southern African Development Community region: an overview"; Monique Emser and Suzanne Francis, "Feminism and moral panicking: the case of the FIFA World Cup 2010", *Strategic Review for Southern Africa*, vol. 36, No. 2 (2014); Britton and Dean, "Southern responses to human trafficking in Southern Africa: domesticating international norms".

<sup>8</sup> See Chandré Gould, "Sex trafficking and prostitution in South Africa," *ANNALS of the American Academy of Political and Social Science*, vol. 653, No. 1, pp. 183–201; Chandré Gould and Nicole Fick, *Selling Sex in Cape Town: Sex Work and Human Trafficking in a South African City* (Pretoria: Institute for Security Studies, 2008); "Factsheet: understanding human trafficking".

sexual exploitation and 106 for use as forced labour. In 10 cases, the purpose of the trafficking was listed as “unknown”. These numbers reflect a problem, but nothing of the scope purported by IOM and others. There is little evidence that any women were trafficked for the 2010 World Cup.<sup>9</sup> There are undoubtedly forms of labour exploitation throughout the region, and international migrants are also particularly vulnerable to exploitative work. Nevertheless, the debate on trafficking appears to reflect a broader pattern of issues and policy agendas being shaped not by empirics but by political interests from beyond the region.<sup>6</sup>

Within the context of the global compact for safe, orderly and regular migration, many see the focus on modern slavery, in particular trafficking and smuggling, as feeding into the European migration crisis and supporting an agenda to stop African migration to Europe across the Mediterranean Sea. Conflating smugglers and traffickers, however, prevents more effective policy responses to two different problems. Trafficking is defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.

Importantly, traffickers use deception, coercion or fraud to lure unsuspecting women, men and children into conditions of bondage without their consent. Smugglers offer a service to consenting buyers; once they have reached their destination, the relationship between smuggler and the buyer ends. Indeed, smuggled persons can end up being trafficked, but they by and large consent to being smuggled across borders. In a highly publicized case in Libya, smugglers typically responded to demands for transport across the Mediterranean Sea to Europe. Is the service perfect? No. Does it have risks? Yes. Nevertheless, people make the choice to pay to go to Europe to seek work and a better life. Smugglers may be unscrupulous, exploitative and callous, but, unlike traffickers, they have the consent of those whom they ferry across borders. They are businesses made possible by the lack of legal and safe means for migrating to Europe. By having smugglers and traffickers placed on the same criminal level, exploitative and inhumane business practices are conflated in the global compact for safe, orderly and regular migration with traffickers in ways that remove the spotlight from the root causes of the smuggling trade, namely, the limited legal migration routes to Europe and across Africa and the drivers of migration (e.g., poor governance, civil unrest and limited economic opportunities). The smuggling would be significantly curtailed if Africans could move safely within the continent and to Europe.

Table 2  
**Legislative frameworks addressing human trafficking in Southern Africa**

Country	Legislation	Year
Angola	Anti-Terrorism and Money Laundering Law	2014
	Penal Code amendments	2014
	Law on Protection and Integral Development of Children	2012
Botswana	Anti-Human Trafficking Act	2014
Lesotho	Anti-Trafficking in Persons Act	2011
Malawi	Trafficking in Persons Act	2015
Mauritius	Combating of Trafficking in Persons Act	2009
Mozambique	Law on Preventing and Combating the Trafficking of People	2008
Namibia	Prevention of Organized Crime Act	2009

<sup>9</sup> See Wim Delva and others, *Work during the 2010 FIFA World Cup: results from a three-wave cross-sectional survey*, *PLoS One*, vol. 6, No. 12, e28363; Emser and Francis, *Swaves and moral panicking: the case of the FIFA World Cup 2010*”.

	Child Care and Protection Act	2015
South Africa	South Prevention and Combating of Trafficking in Persons Act	2013
Swaziland	People Trafficking and People Smuggling (Prohibition) Act	2009
Zambia	Anti-Human Trafficking Act	2008
Zimbabwe	Trafficking in Persons Act	2014

*Source:* Nshimbi and Moyo, yo, oyo, in Persons Act le Smuggling (Prohibition) Act ct rn Africas of the smuggling tradeans f.

## Recommendations

The authors recommend the following measures to address human trafficking in Southern Africa:

1. Countries should address the drivers of migration, including civil unrest, inequality, poverty and unemployment.
2. All countries should increase the legal avenues for men, women and children to move safely within African and to Europe.
3. Human rights, anti-corruption and criminal laws should be strengthened to ensure that smuggling and trafficking are reduced.
4. Education and awareness-raising campaigns should be undertaken to inform the public on issues of trafficking and smuggling.
5. Data collection and analysis on trafficking, smuggling and modern slavery should be improved.

Legislation on human trafficking and smuggling in various countries should be harmonized. Countries that have not yet enacted such laws should do so by reviewing what other countries have done. Each country should domesticate its relevant legislation.