



**NEAR EAST UNIVERSITY  
INSTITUTE OF GRADUATE STUDIES  
DEPARTMENT OF INTERNATIONAL LAW**

**THE ROLE OF THE JUDICIARY IN  
COMBATting HUMAN TRAFFICKING;  
A CASE OF ZIMBABWE**

**M.Sc. THESIS**

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**Nicosia**

**September, 2022**

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COMBATting  
HUMAN**

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## DECLARATION

I REJOICE MBERIKWAZVO hereby declare that this thesis entitled  
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## **DEDICATION**

I dedicate this thesis to my father my real (MVP) and my late mother, Dad this is for you. Ever since I was a child I wanted to make you proud.

## ACKNOWLEDGEMENTS

I want to acknowledge and extend my sincere gratitude to the following people without whose input, this thesis would not have been successful:

Firstly the Almighty God, the Alpha and the Omega for the strength, love, guidance and above all wisdom for without God I would not have made it this far. I saw the hand of God throughout.

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Special appreciation to my Father the push from him kept me going as he kept on saying faith keeps us going and hope is our strength, his prayers and unconditional love brought me this far. To my beloved sisters Tariro and Sandra you kept on telling me that we are almost there keep on keeping on the love I cannot explain but you literally stood by me through thick and thin. They got tired of me telling them my stories on how this thesis was going.

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## **ABSTRACT**

*Human trafficking has been characterised as the trade of humans for purpose of forced labour, sexual slavery, criminal activities and removal of organs, to mention just a few. It is a complicated social phenomenon, a criminal, and a violation of fundamental human rights. Human trafficking has prompted a wide-ranging reaction, including through human rights law. Nevertheless, despite improvements in combating trafficking in accordance with a human rights perspective, its requirements frequently remain unclear, resulting in inaction or the wrong kind of response. In Africa, human trafficking is a major issue. Victims who are trafficked into other parts of the world, like Western Europe and the Middle East, typically originate in this continent. On the other hand, the Judiciary is tasked and trusted to guarantee legal certainty among other things and to administer justice in the name of the state. It is the custodian of all human rights. It is against this background that the current research seeks to analyse if the Zimbabwean judiciary system is exercising its duty in combating human trafficking. The position of international law will be analysed with a view to establish whether or not international law takes heed of human trafficking. This is because under national law, nations have a responsibility to respect, uphold, and fulfil human rights in order to prevent human rights violations.*

## **Key words**

Exploitation; forced labour; victim or survivor; prostitution; slavery; sex trafficking.

## ABBREVIATIONS

ATIMC	Anti Trafficking Inter Ministerial Committee
BEAM	Basic Education Assistance Module
CIO	Central Intelligence Organisation
CSO	Community Share Ownership
DOEL	Department of Employment and Labour
ICCPR	International Covenant on Civil and Political Rights
INTERPOL	International Police
ILO	International Labour Organisation
IOM	International Organisation for Migration
NAPLAC	National Action Plan on Trafficking in Persons
NIEE	National Indigenization and Economic Empowerment
NGO	Non-Governmental Organisation
MWF	Mandela Washington Fellows
PACOTIP	Prevention and Combating of Trafficking in Person
SADC	Southern Africa Development Community
SADCTIPNET	Southern Africa Development Community Trafficking in Persons Network
UN	United Nations
UNDOC	United Nations Office on Drugs and Crime
UNICEF	United Nations International Children's Fund
UNHCR	United Nations High Commissioner for Refugees



YALI	Young African Leaders International
YWCA	Young Women's Christian Association
ZBC	Zimbabwe Broadcasting Cooperation
ZCDA	Zimbabwe Community Development Association

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## **1. CHAPTER ONE: DETAILED PROPOSAL**

### **1.1 GENERAL INTRODUCTION**

Human trafficking is a rising issue that has become a major concern for most human rights organizations and governments in Zimbabwe and around the world. This must be made clear from the outset. To counteract this major problem, new policies are being devised and implemented. The 2003 Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children of the United Nations (UN) is the guiding standard for these measures, which established a specific definition of human trafficking.<sup>1</sup> While the UN Protocol was an important step in the battle against human trafficking, its framework, which places a heavy emphasis on prosecution and punishment of traffickers, limits its effectiveness. Ochab further reports that human trafficking, particularly involves women and girls, is not a new problem.<sup>2</sup> This phenomenon can be traced back since time immemorial. Most reputable scholars have argued that although it has existed for a long time in a variety form, the globalization setting has given it startling new dimensions. It can thus be argued that it is a both complicated and multifaceted phenomenon with numerous institutional and commercial partners.

It is against this background that the present research seeks to critically analyse the role of the judiciary in combating human trafficking focusing on Zimbabwe as a country and come up with a finding on whether or not the Zimbabwean Judiciary system is in a position to guard against humanitarian crimes. This will be done to come up with a tangible conclusion on whether or not Zimbabwe is in conformity with the international instruments to which Zimbabwe is a signatory. The idea is to check if human rights protection is a reality in our jurisdiction especially for women including young girls. In doing so, the study explores both international and regional frameworks that guards against human trafficking. Additionally, the study further explores the national framework of Zimbabwe in as far as human trafficking is

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<sup>1</sup> United Nations (2003) Protocol to Prevent, Suppress, and Punish Trafficking in Persons

<sup>2</sup> Ewelina U. Ochab, *The World's Fastest Growing Crime* (2017) para 7

concerned and the role of the judiciary in dealing with such cases in practical sense. More so, the study provides a comparative analysis with other relevant jurisdictions like South Africa to see how developed jurisdictions have dealt with the case at hand. Lastly, the writer gives the results of the study as well as the conclusions thereof. Recommendations will also be proffered.

## **1.2 BACKGROUND TO STUDY**

In recent years, human trafficking has been the topic of much research, academic debate, and advocacy in numerous sectors and disciplines, including criminology, politics, law, human rights, gender, public health, and sociologies of migration, among others. As will be described, Getu, trafficking has been characterized as the new "white slave trade," an illegal immigration problem, a threat to national security, a labour issue, a violation of women's rights, or a mix of the aforementioned. Global and national reactions to the problem have increased to such a degree that, arguably, human trafficking has evolved from a poorly financed NGO concern in the early 1980s into the global agenda of the United States Congress, the European Union, and the United Nations.

Human trafficking has been shown to take numerous forms, including forced labour, sex trafficking, bonded labour, migrant workers' debt bondage, and forced child labour. A synonym for forced labour is involuntary servitude. Due to high rates of unemployment, poverty, crime, discrimination, corruption, and political strife, this form of exploitation sees people exploited by unscrupulous employers.

It is common knowledge that instances of human trafficking have increased in southern Africa to the point that, according to the Southern Africa arm of UNDOC, in partnership with the Southern Africa Development Community (SADC), a new regional network for trafficking in persons was launched in Lobamba, Swaziland, in June 2017.<sup>3</sup> Zimbabwean citizens' rising vulnerabilities and vulnerability to human trafficking culminated in one of the gravest threats to human security presented by

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<sup>3</sup> United Nations Office on Drugs and Crime UNDOC (2017). Southern Africa: A regional response to smuggling of migrants

human trafficking to date. 200 Zimbabwean women were trafficked to Kuwait in 2016. While they were rescued by Kuwaiti officials, the USDSOMCTP (2016) reported that no trafficking perpetrators were prosecuted or convicted by the Zimbabwean government during the reporting period.<sup>4</sup>

The Anti-Trafficking Inter-Ministerial Committee (ATIMC) was established despite the fact that its performance has yet to be examined, according to researchers. This study examines the human security concerns, influencing factors, and repercussions that come from the trafficking of Zimbabwean women as a gateway to the entire phenomena of human trafficking.

### **1.3 PROBLEM STATEMENT**

According to Ochab, the United Nations International Children's Fund (UNICEF) estimates that approximately 21 million people are trafficked annually across the globe.<sup>5</sup> Zimbabwe is not an exception to this pattern; human trafficking has purposefully and methodically increased over many years to the point that it has become widespread. The preamble to the Zimbabwean Trafficking in Persons Act [Chapter 9:25] states that its purpose is to provide for the prohibition, prevention, and prosecution of the crime of trafficking in persons, as well as the protection of trafficking victims. Chapter 4 of the Zimbabwean Constitution comprises the Bill of Rights, which provides and safeguards what it terms basic human rights and liberties. For the avoidance of any reasonable doubt, the said constitution is the supreme law of land and presides over other pieces of legislation. However, despite having such legal frameworks in place and a recognised judiciary system, cases of human trafficking are ever rising in Zimbabwe due to various reasons. It is this problem that has motivated the present research to establish if the Zimbabwean judiciary has a role in combating human trafficking and if so, whether it is in a position to exercise its roles when faced with real cases. It is difficult if not impossible to dispute the simple

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<sup>4</sup> United States State Department Office to Monitor and Combat Trafficking in Persons, (USSDOMCTP) *Trafficking in Persons Report* (2016): Zimbabwe

<sup>5</sup>Ewelina U. Ochab, *The World's Fastest Growing Crime* (2017) para 7

<https://www.forbes.com/sites/ewelinaochab/2017/07/29/the-worlds-fastest-growing-crime/2/#69f409c16547>.

Accessed 01 August 2017

fact that if human rights are to be effectively protected in any country, the judiciary has to recognise that it also has a role to play in this regard. The rationale for this is that the judiciary has a duty to enhance and protect human rights.

#### **1.4 RESEARCH OBJECTIVE**

This research will be guided by the following research objectives:

1. To analyse the historical background of human trafficking and the position of international legal instruments.
2. To examine the constitutional role of the Zimbabwean Judiciary system in protecting human rights and combating human trafficking and check whether or not the system is in a position to guard against human rights violations.
3. To offer scholarly policy recommendations on national strategic solutions in curbing human trafficking as a human security threat not only in Zimbabwe but at a regional and international level.

#### **1.5 RESEARCH QUESTION**

In fulfilling the objectives of the study, the researcher shall be guided by the following research questions:

1. Whether or not the Zimbabwean Judiciary system is playing its role in combating human trafficking, and if so,
2. What challenges does the Zimbabwean Judiciary system encounter in its battle against human trafficking? And what can be done to effectively guard against human trafficking in Zimbabwe?
3. What are the possible scholarly policy recommendations on national strategic solutions in curbing human trafficking as a human security threat not only in Zimbabwe but at a regional and international level?

#### **1.6 LITERATURE REVIEW**

The literature review has demonstrated that there are enough resources available to carry out this study. To complete this research, articles, textbooks, online resources,

laws, and case law will be used. According to this analysis, the punishments follow the Trafficking Act's guidelines. As a result, sentencing and human trafficking will serve as the two main focuses of this study.

The issue of sentencing has already been covered by numerous academics. For instance, Terblanche has authored a thorough guide on criminal law and procedure pertaining to punishment in this jurisdiction, in addition to other publications.<sup>6</sup> But only one of his co-authored articles specifically addresses human trafficking, and he only briefly touches on the punishment of human traffickers in his guide. When Sloth-Nielsen and Ehlers look at mandatory and minimum sentences in South Africa, they come to the conclusion that these laws have had little to no effect on violent and serious crime reduction, achieving sentencing uniformity, and convincing "the public that sentences were sufficiently severe."<sup>7</sup> In his thesis on sentencing, Jameson examines how the sentence option is used in South African criminal courts.

The researcher discovers that courts may favour one of the three components of the triad—the seriousness of the crime, the offender's personal circumstances, and the interests of society—over the others when determining the appropriate penalties for convicted offenders. This could result in punishments that are wildly disproportionate. Jameson's research will be very useful in assessing how compatible and comparable to international law the South African anti-trafficking punishments are. According to the US Government an estimated 600,000 to 800,000 men, women, and children are trafficked globally each year. It is estimated that eighty percent of the victims are women and girls, and approximately fifty percent are under the age of 18 (United States Department of State 2010).

Saeed argues clearly that trafficking is one of the greatest profit generators for organized crime worldwide, and this holds true in Africa and Zimbabwe in particular. According to Saeed, economic disparities lure traffickers to disadvantaged countries, regions, and cities. The author identifies with this logic as a result of the situation in

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<sup>6</sup> Stephan Terblanche, 'Sentencing in South Africa: Dominated by minimum sentences' (2020) 33 SACJ 4-22

<sup>7</sup> Julia .S. Nielsen and Louise Ehlers , *The Impact Mandatory and Minimum Sentences in South Africa* (2005) p 15 para 4



Zimbabwe. <sup>8</sup>One could claim that due to the country's failing economy, the majority of women are susceptible to human trafficking. Saeed contends that conflicts have created a need for soldiers as well as sexual and domestic services. Other forms of trafficking are associated with the ritualistic exchange of organs and body parts. In addition, adoption trade is a factor. It has been stated that the push factors, or supply factors, are poverty, human deprivation, poor living conditions, unemployment, gender discrimination, detrimental sociocultural practices, low education, and a lack of legislative and policy frameworks.

The most prevalent kind of human trafficking in Africa, according to Adepoju, he states that sex trafficking, which includes bride trafficking, forced prostitution, child prostitution, and child pornography. <sup>9</sup>As indicated by rumours that Zimbabweans are being trafficked to South Africa for sex and pornography, this is the case in Zimbabwe. According to Africa News, Burundi, the Central African Republic, Comoros, the Democratic Republic of the Congo, Congo, Equatorial Guinea, Eritrea, Guinea, Guinea-Bissau, Mali, Mauritania, South Sudan, and Sudan are the African nations with the highest frequency of human trafficking from year to year over the past decade.<sup>10</sup> The author bemoans the fact that, despite Zimbabwe's absence from the shortlist, it is not an exception to human trafficking. It follows that instances of human trafficking in southern Africa have escalated to such a degree that, according to UNDOC's Southern Africa office, the problem has reached crisis proportions.

In June of 2017, in conjunction with the Southern Africa Development Community (SADC), the Southern Africa Development Community Trafficking in Persons Network (SADCTIPNet) was launched in Lobamba, Swaziland. Zimbabwean citizens' rising vulnerabilities and vulnerability to human trafficking culminated in one of the gravest threats to human security presented by human trafficking to date. 200 Zimbabwean women were trafficked to Kuwait in 2016. While they were

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<sup>8</sup> Ameena Saeed Hasan, *Human Trafficking in Sub Saharan Africa: Untold stories of the silenced* (2015) p60.

<sup>9</sup> Aderanti Adepoju (2005). "Review of research and data on human trafficking in sub-Saharan Africa" p75-98.

<sup>10</sup> Africa News, *Africa dominates U.S. list of worst human trafficking offenders* (2017) <http://www.africanews.com/2017/06/30/africa-dominates-us-list-of-worst-human-trafficking-offenders//Accessed> 01 August 2017

rescued by Kuwaiti officials, the USDSOMCTP (2016) reported that no trafficking perpetrators were prosecuted or convicted by the Zimbabwean government during the reporting period.<sup>11</sup> However, the efficiency of the Anti-Trafficking Inter-Ministerial Committee (ATIMC) has yet to be verified. This study examines the human security concerns, influencing factors, and repercussions that come from the trafficking of Zimbabwean women as a gateway to the entire phenomena of human trafficking.

The official documentation of individual cases of human trafficking in Zimbabwe is neither exhaustive nor precise. This has inspired the current study, which aims to add to the existing literature on the subject. In addition, personal stories of victims are rarely retained in written records or notes due to the sensitivity of their experiences and the need to protect identities, avoid shame, and prevent retaliation from traffickers.

However, there is consensus among government officials that the victims themselves drew Zimbabwean authorities' attention to the trafficking of Zimbabwean women as they attempted to be rescued.

The literature review has demonstrated that human trafficking is really an issue in Zimbabwe and there is a plethora of resources available to carry out the present study. To complete this research, articles, textbooks, online resources, legal frames and case law will be used by the researcher to come up with a well thought conclusion on the research at hand. According to this analysis, the punishments follow the Trafficking Act's guidelines. As a result, sentencing and human trafficking will serve as the two main focuses of this study.

### **1.7 CONCEPTUAL MODEL**

Recognizing human trafficking as a process that progresses from one stage to another is the idea of a "trafficking chain." Starting with recruiting, moving on to travel, and ending with exploitation, each phase is required to sustain the following. The

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<sup>11</sup> United States State Department Office to Monitor and Combat Trafficking in Persons, (USSDOMCTP) *Trafficking in Persons Report* (2016) : Zimbabwe

trafficking cycle is depicted in the diagram below, which also shows "reception/detention" and "integration/reintegration" in the event that victims are released or have eluded traffickers.



**Source: Adopted from ISO (2016)**

The trafficking cycle has effectively caught the reality that trafficking in persons is a crime that is conducted on the soil of several states and involves a variety of actors at various stages in addition to "victims" and "traffickers." Both kinds of people who are aware of the crime and those who take part voluntarily are included. For instance, it is likely that document forgers and brothel proprietors fall under the first category, whereas bus drivers and pilots fall under the second. The operations' financiers, dishonest government officials who take bribes, and travel brokers who may or may not be aware of the trafficking act are among the other actors. The chain of trafficking should be distinguished from a chain comparable to that of unauthorized immigration or human smuggling, though.

## **1.8 RESEARCH METHODOLOGY**

It can be challenging to determine the best human rights technique because human rights are challenging to quantify. This study best exemplifies secondary analysis for effect assessment in Landman's description of the many goals of evaluating human rights.<sup>12</sup> The requirement for a theoretical definition of human rights, according to

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<sup>12</sup> Todd Landman, *Measuring Human Rights* (2004), pp. 906-931  
[https://www.academia.edu/Measuring\\_human\\_rights](https://www.academia.edu/Measuring_human_rights)

Landman, is one of the difficulties in evaluating human rights. <sup>13</sup>The components of an approach based on human rights that are being evaluated in this study are defined using the conceptual framework. This research will be largely based on desktop method of research that is extensive use of the library. This include various relevant textbooks in constitutional law and human rights in Zimbabwe and other jurisdictions which are vital to this research to provide scholarly views on the context. Statute law in various jurisdictions will be consulted also in the comparative study for instance the Botswana and South African legal instruments that deals with human rights. Additionally, the resort to internet search engines sources will be done to access online journals and articles on the subject and law reviews of other jurisdictions to attain comparative relevant information and recommendations put forward in this research with regards to improving the law relating to human rights protection. Case law authorities on this subject will be used in order to provide judicial pronouncements on the issues at hand with a view of asserting the role of judicial officers in combatting human rights. All these materials will enable the writer to articulate clearly the law relating to protection of human rights against human trafficking.

### **1.9 SIGNIFICANCE OF THE STUDY**

It is common cause that this research is of significant importance because of its potential benefits to a host of stakeholders and same includes young girls and women in the country, the Zimbabwean government, Regional and International Law Enforcement agencies.

**To girls and women in Zimbabwe,** The report will serve as a cautionary tale, prompting individuals to respond to and accept job offers from foreign agents with caution. This would dramatically reduce the number of Zimbabwean girls and women that are trafficked.

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<sup>13</sup> Todd Landman, *Measuring Human Rights* pp. 906-931 Ibid  
[https://www.academia.edu/Measuring\\_human\\_rights](https://www.academia.edu/Measuring_human_rights)

The study will assist policymakers in the relevant Ministries of the Zimbabwean government, such as those of Justice and Home Affairs, Public Service, Labour and Social Welfare, Health and Child Welfare, and Women Affairs, Gender and Community Affairs, in formulating policies that enforce greater protections for potential victims of human trafficking by addressing the vulnerability factors identified by this research. In order to address capacity and policy gaps, the research will also alert the legislature, the judiciary, and law enforcement to legal and law enforcement deficiencies in the battle against human trafficking.

Regional and International Law Enforcement Agencies such as INTERPOL will be provided with a knowledge base regarding the evolving strategies and increasing cases of human trafficking in Southern Africa and Zimbabwe so that they may be better equipped to combat human trafficking from an informed standpoint.<sup>14</sup>

This study contributes to the repository of information in the field of Law and Social Sciences, and more especially in the realm of human security and how it connects to the phenomena of human trafficking, which will assist future scholars in their own investigations.

### **1.10 SCOPE OF THE STUDY**

The study will focus on the plight of Zimbabwean victims of human trafficking in order to determine why and how human trafficking has become a threat to human security. The purpose of the project is to investigate the variables that make Zimbabwean women and children more susceptible to being trafficked, the nature of the exploitation that results from the trafficking, and how to counteract such trafficking.

### **1.11 RESEARCH OUTLINE**

#### **1.11a CHAPTER 1: A Detailed Proposal.**

This chapter is more of an abstract of what will be discussed in this dissertation as a whole in form of a detailed dissertation proposal. The chapter gives an introduction,

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<sup>14</sup> International Criminal Police Organization, INTERPOL (2014).

highlights the problem statement, objectives or purpose of study, literature review, justification of study, methodology and research questions.

#### **1.11b CHAPTER 2: Human Trafficking and International/Regional Legal Instruments.**

This second chapter is of great importance to the research as it clearly articulates the historical background of human trafficking as a crime against humanity. The chapter will discuss what is meant by the term human trafficking, signs of human trafficking as well as various types of human trafficking which include, human trafficking for forced labour, forced criminal activities, sexual exploitation and removal of organs, to mention just a few. The chapter will then deal with the position of international law in combating human trafficking by analysing all legal instruments that have been put in place to guard against human trafficking.

#### **1.11c CHAPTER 3: The Zimbabwean judiciary and its role in combating human trafficking.**

Chapter 3, which contains the most fundamental aspects of this study, will discuss clearly the judicial system in Zimbabwe. The law relating to appointment of judicial officers and their duties in general. The chapter also seeks to establish if the judiciary has a mandate in combating human trafficking and if so, whether or not the Zimbabwean judiciary has been successful/ is in a position to stop human trafficking. The position of the law will also be discussed in detail in order to assess whether or not judges are in a position to deliver justice impartially.

#### **1.11d CHAPTER 4: Comparative Assessment of how other jurisdictions have dealt with human trafficking.**

This chapter will make comparison of law relating to the role of the judiciary in protecting human rights and combating human trafficking in other countries. Thus, it will consider how the law in other jurisdictions like South Africa deal with human trafficking taking into considerations the roles of the judiciary. It will largely draw comparisons between Zimbabwe and South Africa as common law jurisdictions. The

significance of this comparative assessment is to enhance the advancement of possible recommendations for reform on Zimbabwean constitutional law relating to the judiciary system as will be done in chapter 5.

### **1.11Chapter 5: Recommendations and Conclusion**

In this chapter, the overall conclusion of the study as well as necessary recommendations will be put across. This will be the final chapter, charting the way forward and recommendations reflecting on a practical path which the Legislature can adopt to protect human rights and guard against human trafficking so as to achieve world class justice. The conclusion to the preceding chapters will also be provided in this chapter, which hopes to provide answers to the research questions by providing a broad conclusion and recommendations.

### **1.12CONCLUSION**

As discussed earlier herein above, this study will make an effort to shed light on the Zimbabwean sentencing system and the punishments that Zimbabwean courts have imposed on human traffickers in accordance with the Trafficking Act. This will be done while taking into account international norms, the Constitution, the requirements of the Trafficking Act, and any other laws governing sentence, including case law. Through a comparative analysis of the history of international law, shortcomings will be found, and suggestions for appropriate practices will be given. The legal frameworks that are available under international law will be the primary topic of the subsequent chapter.

## **2. CHAPTER 2: INTERNATIONAL LAW AND HUMAN TRAFFICKING.**

### **2.1 INTRODUCTION**

The importance of this second chapter cannot be underestimated as articulates clearly the historical background behind human trafficking as a crime against humanity. It then goes on to discuss various types of human trafficking as well as various causes thereof. Lastly, the role of international law will be discussed in detail with a view of analysing whether or not international law is enough and sufficient to control and combat human trafficking.

In a more and appropriate sense, the United Nations defines “trafficking in persons” 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 of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person.<sup>15</sup> Some scholars have defined human trafficking as using force, fraud, coercion, and the use of power over another person for the purpose of exploitation (unodc.org). It is common cause that human trafficking is mostly associated with sex and labour exploitation, however, it has been convincingly argued that there are other types of human trafficking such as bonded labour, involuntary servitude among migrant labourers, involuntary domestic servitude, forced marriage, forced child labour, child soldiers, child sex tourism, and child exploited for commercial sex, to mention just a few. It can thus be argued that human trafficking is a part of modern-day slavery and what is difficult to dispute is that slavery is currently at its highest point than it has ever been, with an estimated twenty-seven million slaves. It is against this background that this chapter seeks to discuss the historical background behind human trafficking as a crime and how international law has been framed to combat the same.

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<sup>15</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2003) United Nations General Assembly, Palermo.



## **2.2 THE HISTORICAL BACKGROUND BEHIND HUMAN TRAFFICKING IN AFRICA.**

The Arab and Transatlantic Slave Trade, which sent 28 million Africans to the Middle East and 11 million to the West, respectively, established the long history of human trafficking on the African continent. Human cargo has been sold more frequently in recent years. For instance, Lutya and Lanier estimate that the human trafficking industry has experienced a boom since the 1980s, generating annual profits of \$ 32 billion.<sup>16</sup> Because there is such a large and inexpensive supply, this illegal activity has one of its most defining characteristics: low costs. Worryingly, very few human traffickers are caught, tried, and punished for their crimes. According to Lutya and Lanier, the ineffective response of the community and the criminal justice system to human trafficking strengthens the process, increases the abuse of trafficked individuals, and enables traffickers to generate financial proceeds from the crime. Traffickers do not spend a lot of money maintaining their victims because there are so many of them. In the event that a casualty slave becomes ill or harmed or on the other hand in the event that he frames his value or becomes problematic, he might be unloaded or killed, worldwide issues.

The essayist is of the view that as of now, illegal exploitation has run wild in the mainland and this has been brought about by the always falling apart economy, in addition to other things. For instance, as many as 154 victims with different citizenships were identified in 124 nations between the years 2010 and 2012 (Global issues, 2013). Even though women and children are frequently the focus of attention in this trade, the problem is much broader than that. The number of victims of human trafficking for domestic or construction work is staggering. According to Lutya and Lanier, only 4.5 million of the 21 million people worldwide who have been subjected to forced labour experience sexual exploitation.

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<sup>16</sup>Thozama M. Lutya and Mark Lanier, *Integrated Theoretical Framework to Describe Human Trafficking of Young Women and Girls for Involuntary Prostitution*, University of Pretoria (2012) p556-567.

In the era of human rights, it is tragic that so many people have been sucked into jobs through deception and are unable to escape it. By 2002, this trap represented 11.4 million female and 9.5 million male casualties showing that illegal exploitation can defraud men as almost as similarly as it can ladies.

### **2.3 CAUSES OF HUMAN TRAFFICKING**

The author is adamant that understanding the origins and factors that lead to human trafficking is crucial for preventing and thwarting its occurrence. This is due to the fact that exposing such causes explains why human trafficking is so prevalent despite the strenuous efforts of the national and international communities. Examining the elements that lead to human trafficking provides a clear picture of how recruiters think and the manipulative strategies they deploy, as well as protection against such crimes by preventing imprudent behaviour and victim behaviour in particular. Below, several causes of human trafficking are described.

Starting with economic globalization according to Rwebangira, as one of the causes of human trafficking, it can be observed that global economy and globalization of trade are natural social phenomena that have both beneficial and harmful repercussions nowadays. As a negative consequence, the global economy and trade create fertile ground for human trafficking.<sup>17</sup> Because of the increase of economic interactions, the market becomes more adaptable and fluid. Private businessmen and corporations are no longer required to manufacture and sell their products in their native nation; they now have ample options to do so in any part of the world. International human trafficking is likewise governed by market principles. Production is relocated to areas with the lowest related costs. A large number of well-known companies either aim to or have already moved their production to "Third World" nations.

While these activities may not constitute human trafficking in and of itself, they do allow criminal "dealers" in some nations to "create new jobs" for illegal immigrants

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<sup>17</sup> Joanita Rwebangira , *Human Trafficking- A contemporary African Perspective*—University of Kwazulu-Natal (2015) [https://www.researchgate.net/publication/280074001\\_Human\\_Trafficking-A\\_Contemporary\\_African\\_Perspective](https://www.researchgate.net/publication/280074001_Human_Trafficking-A_Contemporary_African_Perspective)

or unskilled labourers and expose them to cruel exploitation. Aside from that, some businesses prefer to utilize the inexpensive labour available in their own country rather than moving production overseas. In the majority of developed nations, there are countless migrant labourers, including illegal aliens, who become difficult for certain "businessmen" to resist. Moreover, the influx of inexpensive labour creates intense market competition.

## **2.4 TYPES OF HUMAN TRAFFICKING**

There are numerous forms of human trafficking worldwide, which needs to be made abundantly clear. These include domestic servitude, child soldiers, forced labour, bonded labour, sex trafficking, labour exploitation, and forced labour. In the previous years as per the worldwide issues an individual could be considered as being dealt provided that he had been shipped into shady circumstance inside the nation or outside the country. <sup>18</sup>The definition has now been expanded to include all illegal activities related to human trafficking and forced labour. There are three conditions that must be satisfied before a person can be trafficked, according to Allen.<sup>19</sup> The first is moving from one place to another (such as by recruiting, transporting, transferring, harbouring, or receiving a person). However, some academics contend that people are not always transported, moved, or moved across borders as part of trafficking. Dealing can happen inside an individual's own territory. The second factor is that a variety of approaches should be taken, such as abduction, power abuse, fraud, deception, and the threat or use of force.

People who are forced to work both inside and outside of their countries are referred to as forced labour—also known as cheap labour. It is detected and reported less frequently than human trafficking for sexual exploitation. Unscrupulous bosses are looking for cheap and submissive workers and are in demand for people who have been trafficked or are illegal immigrants. These workers don't have a job, and their

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<sup>18</sup> See Worldwide issues (2013)

<sup>19</sup> UNICEF USA 'What Fuels Human Trafficking?' 2017... January 13. <https://www.unicefusa.org/stories/what-fuels-human-trafficking/31692>.

lives are dangerous because they don't have access to the law, welfare, or help (Global issues, 2013).<sup>20</sup> This kind of labour is especially in demand in industries that rely heavily on labour, like factories, plantations, and farms, as well as in hazardous and dirty jobs like picking through trash and working with dangerous chemicals. Constrained work is anyway not quite the same as servitude. Slavery is the physical abduction of a person and their forced labour under the employer's subordination without pay. According to the International Labour Organization (ILO) in 1930, "all work or service which is extracted from any person under the threat of any penalty and for which the said person has not offered himself voluntarily" is considered to be forced labour. 68% of all trafficking, according to the ILO, is carried out for the purpose of exploiting labour.<sup>21</sup>

There is bonded labour which can be called debt bondage. This is the type of trafficking where by the victim is forced to work without being paid because he will be paying back a debt they might have or may have not agreed on as part of employment. This type of exploitation in the Zimbabwean case usually applies to those that are trafficked outside the country. For example, people working as maids but they will not be paid because their "agencies" back home will be the ones getting paid as they are the ones who would have facilitated the jobs and travelling arrangements. United Nations 1999 in B Herzfeld noted that at least 20 million people around the world are affected by bonded labour. According to ILO 1/5th of trafficking involves sexual exploitation. Sex trafficking is in two categories, the first is for children who have been forced into prostitution, that is child sex trafficking and it is usually for commercial purposes. The second is for adults who have been forced and deceived into prostitution. Global issues notes that if a person agrees to indulge in prostitution and then faces physical or psychological abuse, it will be considered

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<sup>20</sup> See Global Issues (2013)

<sup>21</sup> International Labour Organisation. ILO (2003) Forced Labour, modern slavery and human trafficking.

<http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm> Accessed 10 April 2017

as trafficking.<sup>22</sup> This type of exploitation in the Zimbabwean case exists both in domestic and international trafficking as will be shown in the discussion. Also, child soldiering is another form human trafficking. It involves children under the age of 18 who are forced into national forces. They are often used as cooks, spies or are forced to have sex with adult combatants. It has been reported that more than 20 countries have militias with children since 2010.

Child labour is another form of human trafficking. UNICEF estimates that 1.2 million children are trafficked each year for cheap or unpaid labour. They tend to engage in work that is likely to be hazardous to their health and or physical wellbeing. This often interferes with their education. Other forms of human trafficking that are going to be discussed in the paper include domestic servitude, and child labour.

One of Zimbabwe's greatest difficulties is human trafficking. A source is Zimbabwe; a country of transit as well as a destination for men, women, and children who are exploited in a variety of ways (Trafficking in Persons report, 2009). Among the many forms of exploitation, there is sexual abuse, forced labour in agriculture, and domestic servitude.<sup>23</sup> There is home grown and transnational dealing with the country. According to an IOM counter-trafficking officer, victims of human trafficking typically agree to go with the traffickers on the basis of false promises of good jobs, educational opportunities, and marriages. The Global Index of practices like forced labour, debt bondage, child exploitation, and forced marriages reveals that the country is severely affected by human trafficking, with an estimated 99 600 victims.

## **2.5 THE ROLE OF INTERNATIONAL LAW IN COMBATING HUMAN TRAFFICKING**

The legal concepts of slavery and "slave-like" practices, such as peonage, involuntary servitude, bonded labour, and forced labour, are commonly used

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<sup>22</sup> See Global Issues (2013)

<sup>23</sup> Trafficking in Persons Act (2009)

interchangeably with human trafficking. This is due to the common cause that human trafficking has gained attention in the legal community. The Palermo Protocol and addition to the United Nations Convention against Transnational Organized Crime, is the most significant international tool for combating human trafficking.<sup>24</sup> It was enacted by General Assembly resolution 55/25 on November 15, 2000. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea, and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition are three additional Protocols that supplement the Convention and target particular aspects and manifestations of organized crime. The Convention is a significant advancement in the fight against transnational organized crime and shows that Member States understand the gravity of the issues it poses as well as the necessity of fostering and enhancing close international collaboration to address those issues. The Protocol's protection and support of victims of human trafficking while fully upholding their human rights is another one of its goals. States are required by Article 5 of the Protocol to criminalize trafficking, attempted trafficking, and any other intentional participation in a trafficking scheme or organization.

Resolution 55/25 of the General Assembly authorized the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. It becomes effective on December 25, 2003. It is the first globally recognized legal document that defines human trafficking. The goal of this definition is to encourage national methods to domestic criminal offense establishment that are consistent with effective international cooperation in cases of human trafficking investigation and prosecution. Protecting and assisting those who have been the victims of human trafficking while fully respecting their human rights is another goal of the Protocol.

There is also, The General Assembly's resolution 55/25 authorized the Protocol against the Smuggling of Migrants by Land, Sea, and Air, which became effective on

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<sup>24</sup> Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000).

January 28, 2004.<sup>25</sup> It addresses the rising issue of organized criminal organizations smuggling immigrants, frequently at tremendous risk to the migrants and great financial gain to the offenders. A significant accomplishment of the Protocol was the development and adoption of a definition of migrant smuggling for the first time in a worldwide intergovernmental instrument. The Protocol aims to protect the rights of smuggled migrants and prevent the worst forms of their exploitation, which frequently characterize the smuggling process. It also aims to combat migration smuggling and promote cooperation among States parties

In support of the preceding, the following ILO conventions focus on forced labour or services: The ILO Convention on Forced Labour (Convention No. The ILO Abolition of Forced Labour Convention (Convention No. 29 of 1930) and its newly adopted Protocol, which defines forced or compulsory labour, 105 of 1957).<sup>26</sup> Slavery is defined in the Slavery Convention of 1926, and its Supplementary Convention talks about "practices similar to slavery," like debt bondage and institutions and practices that treat women differently when they get married. States are required to punish anyone who exploits another person's prostitution under the UN Convention for the Suppression of the Trafficking in Persons and the Exploitation of the Prostitution of Others (1949).<sup>27</sup>

Slavery, the slave trade, servitude, and forced labour are just a few of the practices that are outlawed by the International Covenant on Civil and Political Rights (ICCPR). Instruments Concerning the Trafficking of Women the Convention on the Elimination of All Forms of Discrimination against Women mandates that nations take all necessary measures to combat all forms of women's sex slavery and trafficking. No general suggestion 19 declares that trafficking is a form of violence against women because it places women in particular danger of being abused and violated. The respect for women's rights and dignity and the equal enjoyment of their rights by women are incompatible with trafficking.

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<sup>25</sup> 'United Nations Convention against Transnational Organized Crime and Protocols Thereto' (2004).

<sup>26</sup> United Nations Slavery Convention No 29 (1930).

<sup>27</sup> United Nations for the Suppression of the Trafficking In Persons and the Exploitation of the Prostitution of Others (1949).

It should be noted that certain international instruments contain specific provisions regarding child trafficking. The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (2000) and the Convention on the Rights of the Child (1989) both make it illegal to traffic children for any reason, including for exploitative and forced labour.<sup>28</sup> States are required by Article 39 of the UN Convention on the Rights of the Child to "take all appropriate measures to promote a child victim of: any kind of abuse, exploitation, or neglect Article 28 of the Convention on the Rights of the Child stipulates that every child has the right to an education and "to facilities for the treatment of illness and rehabilitation of health."

Specific forms of protection and assistance for child victims are outlined in the Optional Protocol to the Convention on the Sale of Children. Additionally, the ILO's Convention on the Worst Forms of Child Labour says that people can't use children under 18 for anything like slavery, trafficking, debt bondage, serfdom, forced or compulsory labour, or prostitution.<sup>29</sup> In accordance with Article 7(2)(b) and (c), states are obligated to take prompt and effective measures to ensure former victims of the worst forms of child labour, such as trafficking, have access to free basic education and, whenever feasible and appropriate, vocational training.

The requirements of foreign victims are specifically addressed in some instruments. Article 7 of the Palermo Convention says States ought to consider expected measures for permitting unfamiliar dealing casualties to remain, for a brief time or forever, in the state in which they were dealt. According to the UN High Commissioner for Refugees (UNHCR), if a person has a well-founded fear of persecution due to their race, religion, nationality, membership in a particular social group, or political

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<sup>28</sup> Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000)

<sup>29</sup> *International Labor Organization ILO Forced Labor. Modern slavery and Human Trafficking* (2003) <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm> Accessed 10 April 2017



opinion, they may be eligible for international refugee protection under the Convention relating to the Status of Refugees (1951) and its 1967 Protocol.

In addition, the possibility of trafficking victims being repatriated is the subject of article 8 of the Palermo Protocol. It makes the point that a state should return a victim with due consideration for the victim's safety when doing so.<sup>30</sup> "Ideally, repatriation should be voluntary" The International Covenant on Civil and Political Rights affirms a person's right to return to their home country. In addition, article 68 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) calls on states to effectively safeguard migrant workers' rights.

## **2.6 ARE THESE INTERNATIONAL INSTRUMENTS SUFFICIENT TO COMBAT TRAFFICKING?**

Even though international standards are very clear and unambiguous, there are still implementation gaps, it can be argued. This is on the grounds that albeit the Palermo Convention which requires a thorough way to deal with human trafficking, this approach has not been completely understood. The main reason is that there is not enough authority in international law to make good laws. Dissimilar to nations, there is no authoritative body that is explicitly answerable for making rules and guidelines. As a result, there is no efficient system or authority in place to enforce these protocols and other legal documents. The state makes the decision to be bound by an international legal instrument; whether to participate in it or not. In addition, given that the international court of justice lacks mandatory and automatic jurisdiction, the sanctions underlying international law are extremely weak hence it is possible to argue that international law is insufficient for combating human trafficking.

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<sup>30</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, (2003) United Nations General Assembly, Palermo.

Rwebangira, is of the view that it is possible to argue that the current state of international law is insufficient to combat human trafficking.<sup>31</sup> This is in addition to the fact that it cannot simply intervene in matters that fall under the states' and domestic jurisdictions' purview. This is due to the idea of state sovereignty, which states that all states are equal and have the authority to deal with issues within their borders. Even more concerning is the fact that the majority of international laws fail the legality test because they are too hazy and ambiguous. Consequently, the tweeter is of the firm opinion that international law has not been successful in preserving order and stability in relation to human trafficking. As a rule, States endeavour to address dealing from just a migration viewpoint or from an exclusively criminal point of view. In light of this, the author asserts that, in order to guarantee that the issue is dealt with to the fullest extent possible, nations need to acknowledge and put into action all international instruments aimed at combating human trafficking.

## **2.7 CONCLUSION**

Conclusively, the chapter sought to discuss unearthing the historical background behind human trafficking as a crime against humanity. It then discussed various types of human trafficking as well as various causes thereof. The role of international law will was discussed in detail with a view of analysing whether international law is enough and sufficient to control and combat human trafficking. The chapter then concluded that although international law exists to combat human trafficking, it is insufficient because there is no strict compliance of the law. This is mostly because there are no enforcement agencies tasked with enforcement of international law.

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<sup>31</sup>Joanita Rwebangira, *Human Trafficking- A Contemporary African Perspective—University of Kwazulu-Natal (2015)*.p 97-106

### **3. CHAPTER 3: HUMAN TRAFFICKING IN ZIMBABWE AND THE ROLE OF THE JUDICIARY.**

#### **3.1 INTRODUCTION**

This chapter seeks to discuss human trafficking in Zimbabwe and how the country has been used as a corridor by traffickers. The impacts of human trafficking will be discussed in detail before discussing the Zimbabwean Judiciary system in general with a view of establishing its role in combatting human trafficking as the upper guardian of all human rights. The chapter also seeks to establish if the judiciary has a mandate in combating human trafficking and if so, whether or not it has been successful in combatting human trafficking. The chapter will also discuss the Zimbabwean legal framework to establish whether or not the law is enough to guard against human trafficking.

#### **3.2 HUMAN TRAFFICKING IN ZIMBABWE**

Everyone, regardless of gender or age, is a victim of human trafficking in Zimbabwe. However, women and children are the primary victims of human trafficking. Victims of human trafficking are forced to steal, beg, work as domestic slaves, perform forced labour, or prostitute themselves. Because they may be sold to brothels or forced into prostitution, young women face the greatest risk. An officer with the IOM pointed out that during the recruitment period, traffickers frequently promise their victims good opportunities in "greener pastures."<sup>32</sup> This frequently entails employment opportunities in major cities, nations, and continents like Harare, Mutare, Bulawayo, South Africa, Namibia, Europe, Asia, and the United States. This is due to the fact that there are no opportunities available in Zimbabwe that people hope to find elsewhere.

Since 1997, when the unplanned payment of gratuities to war veterans was made, the Zimbabwean crisis has continued, with an increasing number of Zimbabweans looking for "greener pastures" both domestically and internationally. Out of control

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<sup>32</sup> International Organization for Migration IOM (1951)

inflation, confined monetary open doors and high joblessness levels brought forth many occasions of miserable neediness. As a result, human traffickers now have a fertile ground from which to operate as reported by Teya and Kurebwa.<sup>33</sup> This development reached its zenith most recently when it was made public that many Zimbabweans were working as slaves in countries like Kuwait. Cases of human trafficking continue to be a problem in our country, despite efforts made by public authorities and civic organizations to combat the problem.

The closing of schools, worsening political violence, and a poor economy all contributed to the peak of internal human trafficking in Zimbabwe in 2008 (Trafficking in Persons Report, 2009).<sup>34</sup> Against this background, this chapter traces human trafficking in Zimbabwe from a historical perspective. Between the presidential elections in March 2008 and the run-off elections in June 2008, ZANU PF youth militias, the Zimbabwe Central Intelligence Organization (CIO), and veterans of the liberation struggle abducted and held an unknown number of women and girls, particularly opposition supporters, as sexual and domestic victims at camping bases.

The collapse of the Zimbabwean economy had a significant impact on human trafficking, particularly during the crisis's height in 2007 and early 2009. For instance, the number of rape cases in 2008 was unprecedented, especially after the results of the presidential election in March 2008. According to the 2009 Trafficking in Persons Report, female victims have shared harrowing accounts of being drugged and subjected to intense and violent gang rape by militant gangs.<sup>35</sup> The majority of women who spoke about their ordeal said that they had no idea how many times they had been raped while being held hostage. This is a link between human trafficking and the dangerous spread of HIV/AIDS because the people who do it rarely use protection during these forced sexual encounters. This presented the casualties to physically communicated diseases.

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<sup>33</sup> Wellington Teya and Jeffrey Kurebwa, *International Journal of World Policy and Development Studies* 5(5), 42-52, 2019.

<sup>34</sup> See Africa News, Pindai Dube, Young Zimbabwean women sold into sexual slavery in Kuwait (2016).

<sup>35</sup> Trafficking in Persons Report, (2009).

According to AIDS Free World 2009, women who held positions in the party, political activists, and those related to opposition politicians were among the victims of sex trafficking in the bases.<sup>36</sup> Chanting revolutionary songs and party slogans, alleged ZANU PF militia abducted women from their homes as Kandi noted. According to Lawrence and Roberts (2012), women and children are particularly prone to being kidnapped when they are left alone or in small groups. Victims were made aware that they would be sexually and physically abused if they were kidnapped for their party affiliations.

In Zimbabwe, labour exploitation of desperate people by those in power is widespread. The government's security forces may have taken young men to work in the Marange diamond fields, according to reports. During this period residents who could never have seen their family members for quite a long time dreaded they might have been dealt for mining exercises (Dealing with people report 2009). Adults as well as children were coerced into digging and panning for a large number of miners. Militia and security forces guarded many of these mines. In Mudzi, Chingwena children were reportedly not going to school to look after gardens and fields against baboons (Zimbabwe special report).<sup>37</sup> The issue also occurred in seized farms, where the individuals who were given the farms sometimes forced the peasants into unpaid labour (International Trade Union Confederation, 2011).

They are hypotheses that men are being dealt inside in mines and ranches. This is being done so that profits can be maximized while people are being exploited. The men are rarely held hostage, but the circumstances in which they live make it difficult for them to flee. This is because they are familiar with their traffickers and frequently reside in the same communities. As a result, they cannot escape. Zimbabwe Community Development Association (ZCDA) is looking into the issues to this end.

Internal trafficking has also grown as a result of the crisis caused by sex tourism. It is said that young, unemployed women are taken to Victoria Falls and forced into

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<sup>36</sup> Tinoenda Kandi, Zimbabwe ZANU PF militia abduct women and children.

<https://reliefweb.int/report/zimbabwe/zimbabwe-zanu-pf-militia-abduct-children>

<sup>37</sup> Andrew Meldrum, 'Zimbabwe Special report' June 3 2000

prostitution. According to Willis and Levy, it is estimated that 10 million children under the age of 18 engage in prostitution-related activities, and another 1 million are compelled to do so annually.<sup>38</sup> Due to its status as both a tourist destination and a route for coal-transporting trucks, Victoria Falls is noted for its high rates of prostitution. It is noticed that young ladies are being enlisted, by pimps, from modest communities including Hwange. According to The Sunday Mail on May 15, 2013, the areas with the highest rates of prostitution are Lukosi, Ngundu, Neshuro, and Hwange. Minors were used as sex objects at the World Tourism Conference in 2013 for the tourist market.<sup>39</sup> According to Mabvurira, social workers investigating sex trafficking have also received threats of life from the perpetrators.<sup>40</sup>

Additionally, the rise of forced prostitution in Bulawayo has increased the number of cases of human trafficking. Under the false pretence of working as waitresses and housemaids, girls are being trafficked from within and outside the city, even Botswana. Haulage trucks are used to traffic the girls, and once they arrive, they are sold to pimps and madams who use them as prostitutes. It was noted that the girls were being abused by four men on average each day for as little as \$1 per client. July 2014 (Newsday) Due to financial difficulties, children are being used as prostitutes and abused.<sup>41</sup>

In Harare, artists are being compelled to strip in clubs by club proprietors. "Private Sessions" between dancers and patrons are becoming increasingly common in the capital's clubs. Club owners make a lot of money from the business while paying the girls very little, demonstrating labour exploitation at its finest. Chocolate's manager, Shepherd Tsandukwa, noted that some of the girls worked more than 18 hours per week. In addition, they are required to entertain clients outside of their work. A club owner stated that hiring the girls was less expensive than hiring a live band. Private

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<sup>38</sup> Brian .M .Willis and Barry S. Levy , *Child prostitution: global health burden, research needs, and intervention* Volume 359, p1417-1422 (2002)

[http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(02\)08355-1/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(02)08355-1/fulltext).

<sup>39</sup> Sunday Mail (2013)

<sup>40</sup> Vincent Mabvurira, Kambarami F Zengeni, (2022). *Child trafficking and child smuggling in Zimbabwe: legislation and policy gaps*. African Journal of Social Work, 12(1), 50-57.

<sup>41</sup> See Printah Printer Nkala, Newsday July (2014), 'Factors that influence the increase of Prostitution in Bulawayo's Business Center' p 67-68.

Lounge, Holly's, and Tipperary were the clubs that were said to own adult entertainment. 7 September 2017, Newsday) This demonstrates human trafficking in the sense that dancers are tricked into working as sex workers under exploitative circumstances due to the country's economic circumstances. According to another source, police officers were being paid to let it happen. In most African nations, including Zimbabwe, patriarchy was established by tradition. Traditional myths and mental models based on the belief that men are superior to women have been constructed. This indicates that culture has the power to violate females' fundamental human rights. Individuals' acts of violence can be justified by their social weakness. According to Akullo (2012), governments in Africa, including Zimbabwe, frequently view the practice as cultural or religious. This is demonstrated by the majority of the country's apostolic sects, which are persuaded by the Holy Spirit to marry young women. The women are exposed to human trafficking as a result. In addition, the practice of vengeance, also known as "ngozi" in the local language, exposes individuals, particularly females, to human trafficking. According to the 2016 Trafficking in Persons Report, individuals who give a family member to another family in order to exact vengeance on the spirit of a deceased relative are exposed to trafficking.<sup>42</sup>

In addition, the practice of placing children in the homes of others puts them at risk for a variety of forms of exploitation. Another custom that puts women at risk for human trafficking is marriage. Because girls and women marry, families and societies are accustomed to the fact that girls will eventually leave. A deeply ingrained culture allows and frequently excuses women's exploitation. The lobola culture, according to some, allows men to abuse their wives because "they paid for them." Women's rights are subjugated as a result of this Benjamin<sup>43</sup> Women may be purchased and sold by human traffickers with the same mind set. This is because patriarchal gender roles make females subordinate and strip them of their autonomy. Females are denied economic autonomy when they are viewed as objects. Women

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<sup>42</sup> Trafficking in Persons Report (2016), *'Meeting the global challenge: Effective Strategies to prevent human trafficking, vulnerability'* p8.

<sup>43</sup> Benjamin N. Lawrence and Richard L. Roberts, *Trafficking in slavery's wake, law and the experience of women and children in Africa* (2012), Cambridge university press/ swallow press p866-870.

are subjected to discrimination in education, employment, and other opportunities as a result. As a result, women become more vulnerable.

Women are economically undervalued and marginalized in Zimbabwean societies. Women are underrepresented in significant national economic activities. As a result, they are open to being trafficked. The national economic programs demonstrate this. Gender issues were not addressed in any special ways in the Land Reform Program. According to Mudeka, men received roughly 80% of the land through the land reform program. This was a significant initiative that could have balanced gender roles in the past. This is made even worse by inheritance laws that prevent women from owning land. Women are left out of their original communities as a result of this Mike.

In addition, despite the existing protocols for gender equity, the National Indigenization and Economic Empowerment Act of 2007 (NIEE) was also geared toward men, resulting in the marginalization of women.<sup>44</sup> The empowerment policy was dominated by men, with S and Kasuku leading negotiations with various businesses. Also male-dominated was the NIEE board, which was supposed to equalize development in the country. Women are not represented on significant boards or in key positions related to economic development. As a result, this demonstrates that women lack access to and the ability to control resource allocation and decision-making. Males hold sway in other arrangements, such as the Employee Share Ownership (ESO) and the Community Share Ownership (CSO), as Mudeka demonstrate<sup>45</sup>. These are local boards that help the people who live there financially. Women are not represented in important plans, and no one is pushing for their interests. Females are pushed backward by male dominance at all significant levels. Because of this, women are economically excluded, making them more susceptible to human trafficking.

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<sup>44</sup>National Indigenisation and Economic Empowerment Act NIEE (2007).

<sup>45</sup> Ireen Mudeka, *Female Combatants and shifting gender perceptions: International Journal of Gender and Women studies*. March 2014, Vol.2 pp. 83-104.



Young and old alike are subjected to domestic servitude in big cities. There is appeal for females in the metropolitan regions. Women are required to work in the homes or assist with food and other product sales in street markets. This is due to the belief that females are best suited for domestic work or the domestic economy. Females are taken as maids from rural areas to big cities, where they are promised good lives and pay, but the people who would have recruited them abuse them. They don't get paid as agreed, and sometimes even food. According to Herzfeld, exploitative employers frequently choose children over adults because children are less likely to complain about working conditions and higher wages, are cheaper, and are easier to control.

At the NAPLAC launch in July of this year, UNODC regional legal advisor S. Munodawafa advised the public to be aware of the fact that human trafficking occurs both inside and outside of the country. She pointed out that this occurred as a result of underage forced marriages, in which young and old women brought from rural areas are exploited and abused in domestic servitudes despite being promised good salaries and educational opportunities when hired. According to UNODC GLOTIP (2014), 70 percent of victims of human trafficking were women.<sup>46</sup>

### **3.3 ZIMBABWE AS A CORRIDOR OF TRAFFICKERS**

Human traffickers from Pakistan, India, the Democratic Republic of the Congo, Mozambique, and Zambia use Zimbabwe as a route to South Africa. According to the 2010 Trafficking in Persons Report, South Africans are being exploited as domestic workers in Zimbabwe. Individuals from East Africa are moved through Zimbabwe to South Africa. According to the 2015 Trafficking in Persons Report, children from Mozambique have been seen selling goods on the streets of Mbare, Harare. From the Zimbabwe Tongogara refugee camps, refugees from Somalia and the Democratic Republic of the Congo travel to Harare, where they are forced into prostitution and some are exploited. It was noted that numerous refugees were arriving from the Great Lakes and the Horn of Africa. Since 2014, Zimbabwe has

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<sup>46</sup> United Nations Office on Drugs and Crime UNDOC (2014). Ibid

received 7685 refugees. <sup>47</sup>According to trafficking in persons report, 902 refugees fled Zimbabwe to unknown locations. This could also be the other people who are sold into slavery.<sup>48</sup>

According to the United States Department of State's Trafficking in Persons Report 2009, "Zimbabwe is a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labour and sexual exploitation" (United States Department of State, 2009: 304). It is possible to identify a variety of risk variables that increase the susceptibility of migrants from Zimbabwe to human trafficking. The country's severe economic situation looks to be the most important among these. <sup>49</sup>Because of their extreme desperation, many Zimbabweans would easily trust bogus promises. Other risk factors include open borders with neighbouring nations that can be abused by traffickers, the lack of information and experience of many migrants, exacerbated by the unwillingness of returning migrants to discuss the negative aspects of migration, and many other issues. While many risk factors are common to all migrants, it is important to note that some migrants are more at risk than others. Minors, young and old ladies, as well as minors traveling alone, are among these groups.

On the international front, Zimbabwe is a party to the international convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the 1951 Geneva Convention relating to the Status of Refugees, the 1967 New York Protocol relating to the Status of Refugees, the 2000 Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Convention on the Rights of the Child. These international agreements protect all human beings regardless of their nationality.

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<sup>47</sup> Trafficking in Persons Report (2015)

<sup>48</sup> United States Department of State's trafficking in Persons Report (2009).

<sup>49</sup> Stephen Ndoma, Almost Half of Zimbabweans have considered emigrating; job search is the main pull factor p 1 pp1

[https://www.africaportal.org/documents/17708.ab\\_r6\\_dispatchno160\\_zimbabwe\\_emigrant](https://www.africaportal.org/documents/17708.ab_r6_dispatchno160_zimbabwe_emigrant)  
Accessed February, 2022.

Zimbabwe is also a signatory to several international agreements, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the 1951 Geneva Convention Relating to the Status of Refugees, the 1967 New York Protocol Relating to the Status of Refugees, the 2000 Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Particularly Women and Children, and the International Convention on the Elimination of All Forms of Racial Discrimination. All people are protected by these international agreements, regardless of their nationality.

Notable is the fact that human trafficking seemed distant to Zimbabweans for a long time, which may have allowed the practice to spread unnoticed. The government relied on organizations like IOM in 2007 to identify victims and notify authorities; the author of this paper may argue that this was because ministries were reluctant. The question of why the government has not established a commission of inquiry into such a barbaric act is legitimate. Even though senior government officials discussed the dangers of illegal migration and human trafficking, some may argue that it was due to a widespread misperception of trafficking among the various government departments in previous years. The rise of the human trafficking phenomenon can be attributed to social media. Women realized that they were being trafficked after sharing their experiences in WhatsApp groups. Before now, people were unaware of the problem of human trafficking.

However, it is the responsibility of parliamentarians to discuss the problem of human trafficking in the country. On Thursday, June 9, 2016, it is crucial to examine the eighth parliament, the third session of the national assembly. On the 19th of May, during the previous parliamentary session on the 9th of June, the lawmakers had previously discussed the issue. This was because of the increasing number of women who were trafficked and the alleged stranding of 200 women in Kuwait. Parliamentarians exhibited against the dealing of ladies in Kuwait by sitting on the floor and boycotting sitting on the seats in Marvellous Mhlanga Article when she

was interviewed by Nyamupinga.<sup>50</sup> Women from every party in the country carried this out. The women included B. Nyamupinga of ZANUPF, P. Misihairabwi – Mushonga of MDC, R. Bunjira of MDC, and N. Ndlovu of MDC T. This occurred after the honourable K. Paradza, the chairperson of foreign affairs, read horrifying accounts of girls who were trafficked in Kuwait (Newsday, May 14, 2016).<sup>51</sup>

Honourable Mumbengegwi, the minister of foreign affairs, was wanted by the women. This was because he had ignored letters from Marongwe and Mr. G, the Zimbabwean ambassador to Kuwait. The minister was informed of the predicament women in Kuwait were in by the letters. The minister said that the government couldn't help the girls because it didn't have enough money. He was contacted on another call to help the girls get tickets to their home country, but he never answered.

During their time at the embassy, the girls received assistance from the ambassador to Kuwait. As a result, he owed Kuwait \$130,000 in rental arrears and approximately \$275,000 in salary areas. (Newsday, 14 May 2014) An officer at the Zimbabwean embassy in Kuwait was said to have failed to pay his wife's maternity hospital bill. However, with the promise of bringing those responsible to justice, the government engaged and ensured that the women, including those who had been subjected to slavery, were brought back to Zimbabwe.<sup>52</sup> It is essential to note that numerous organizations played a role in reuniting the women with their families. These include Wicknell Chivayo, the government, and the Young Women's Christian Association (YWCA) International, which is led by Nyaradzayi Gumbonzvanda, a human rights advocate.

The Ministry of Home Affairs launched campaigns to educate the general public, particularly young people, about human trafficking. The ministry enlisted the assistance of Kuwait's government to prevent similar misfortunes from occurring

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<sup>50</sup> The Herald, Zimbabwe: 'MPs Stage Floor Sitting Demo inside Parliament in Protest Over Human Trafficking' 17 May 2016.

<http://allafrica.com/stories/201605180161.html> Accessed 3 August 2017

<sup>51</sup> See Newsday, May 14 (2016)

<sup>52</sup> The Zimbabwean, 'Kuwait set free human trafficked Zimbabwean women and punish perpetrators' 23 May 2016

<http://www.thezimbabwean.co/2016/05/kuwait-set-free-humantrafficked-zimbabwean-women-punish-perpetrators/> Accessed 01 August 2017.

again. The herald reported on the 18<sup>th</sup> of May 2016 that there was prohibiting the 20 active visas, which caused the Kuwaiti embassy to employ Zimbabweans as slaves.<sup>53</sup> Later, money was given to the Zimbabwean embassy in Kuwait to send the affected people back and feed them by officials of USDSOMCTP (2016).<sup>54</sup> It was suggested that a comprehensive national strategy be developed to combat human trafficking and call on the government to establish a compensation fund for all victims.

### **3.4 IMPACTS OF HUMAN TRAFFICKING**

Human trafficking has negative impacts on the individual, the society and the country as a whole as will be examined in this research.

#### **3.4.1 Impacts upon an individual**

The victims of human trafficking suffer from a variety of conditions, including physical, sexual, violent, deprivation, torture, and sometimes being forced to use drugs. It is essential to emphasize the fact that poor, vulnerable, and disabled individuals are the most likely victims of human trafficking. They went through traumatic experiences, which they sometimes repeat. They are taken to protective homes for this reason before being reintegrated into society.

Trafficking victims frequently become ill, and some pass away. To this end, Tuyizere argues that women who are the victims of this trade are more likely to get sexually transmitted diseases and have unwanted pregnancies.<sup>55</sup> For instance, Debbie Siyangapi, a Bulawayo woman who was forced into the youth service and was referred to as "Boarder Gezi," contracted HIV/AIDS in 2002 after becoming pregnant. She spent nine months in the training camp, during which time she was

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<sup>53</sup> THE Herald, *Zimbabwe: Government Seeks Ban on Kuwait Visas* (18 May 2016)

<sup>54</sup> United States State Department Office to Monitor and Combat Trafficking in Persons, (USSDOMCTP) 2016 Trafficking in Persons Report: Zimbabwe.

<sup>55</sup> Alice P. Tuyizere, *Gender and Development: The role of religion and culture*: Fountain publishers, Kampala (2007).p 187-200.

raped almost daily by some of the hundreds of young male conscripts.<sup>56</sup> Her child, whom she gave the name Peace, was a direct result of those sex abuses. She also talked about how she was happy at times and angry about the child at other times Wines.

Due to the fact that they were sexually abused and the perpetrators did not use protection, some of the women who were abducted in the camps discussed above tested positive. This is due to the women's lack of influence over the issue of condom use. Another reason why victims of human trafficking get sick is that they aren't given medical care when they need it.

Another example is Audrey Mukachana, a 16-year-old girl who lived in a rehabilitation center run by Msasa Projects in Harare. After being hired by four white people at Beitbridge, the girl spent eight months in Musina, South Africa. Human traffickers make it easier for their victims to illegally cross borders. Victims are sometimes sexually exploited. Victims are instructed by the perpetrators on how to behave sexually. It is possible to coerce victims into having sex with two or three men at the same time. In some cases, drug traffickers make pornographic films and photographs by exposing victims to drugs during sexual acts. This is done to make victims feel like they belong together and at ease performing various sexual acts. Traffickers frequently use violence against their victims in an effort to control them. They threaten them with death or by reminding them that they are illegal migrants in a specific nation.

According to UNODC, victims are stigmatized, which has an effect on their lives, including trauma and the possibility of physical rejection from family and/or community.<sup>57</sup> Audrey made the decision to run away from home after witnessing the tense relationship that existed between her and her stepmother. The individual's long-term effects of human trafficking are complicated and contingent on numerous factors, and there is no guarantee of recovery, according to UNODC. The experience frequently has further repercussions in the form of victimization. Audrey was once

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<sup>56</sup> D Siyangapi. (2003) [https://www.zimbabwesituation.com/old/dec29\\_2003.html](https://www.zimbabwesituation.com/old/dec29_2003.html)

<sup>57</sup> United Nations Office on Drugs UNDOC (2009) Global report on trafficking in persons

more the victim, so she was taken to Zambia and then Malawi, where they stayed for a while.

Victims frequently learn the true identity of traffickers. In the case of Audrey, the man claimed to be from Tanzania and promised to take her along. However, he spoke French, indicating that he might not have been from Tanzania. Human trafficking victims are subjected to additional forms of sexual exploitation and drug abuse. When human traffickers no longer have a need for their victims, they give them up. Victims are frequently dumped without anything, including clothing. Victims are assisted in returning home safely by Zimbabwean embassies located in various nations.

Audrey was transported to a rehabilitation facility in Zimbabwe, where she received psychosocial support. It was noted that Audrey was unable to recall everything that had transpired at once; she had more to say about her ordeal each time someone met her. Third parties may have difficulty comprehending the behaviour of victims of human trafficking, and victims may also have difficulty comprehending, discussing, or explaining what happened to them UNODC. Her caregivers informed her that memory loss is common in traumatized individuals. Her health was deteriorating, and her HIV and hepatitis tests came back positive.

The Msasa Project noted that people who would have been trafficked, they have symptoms which include:

- Post-traumatic stress disorder
- Anxiety
- Depression
- Suicidal ideation
- Panic disorder
- Substance abuse

Many people blame themselves for what they would have done. According to research conducted in 2008 by the United Nations Office for the Coordination of

Humanitarian Affairs (UNODC), trauma worsens during the process of human trafficking and may persist well after the exploitation ends.

Additionally, the UN Women Country Director mentioned that some Kuwaiti women were embarrassed to return to their original communities. This is due to the fact that they had given away everything they owned. They left with nothing, and they returned empty-handed. Some had given away things like clothing, cars, homes, etc. This made it difficult for some women to appear to their relatives. This demonstrates that the women were under a lot of stress and pressure. People who are trafficked have no way to grow as individuals.

As a means of surviving, some victims of human trafficking end up prostituting. Casualties of illegal exploitation are given bogus data of work. This was especially true during the 2008 financial crisis. In South African restaurants, numerous young women were offered false employment opportunities. Victims would be handed over to foreigners, such as Nigerian women, upon arrival, and their passports would be confiscated. In order to keep their victims from fleeing, they would use black magic to threaten them. This would be accomplished by collecting a sample of their hair, nails, and clothing. The young women would be sexually abused, but the Nigerian women would collect the money. They couldn't refuse the men's requests for unprotected sex because they would be punished. The girls who were able to escape frequently turned to prostitution as a means of surviving as reported by Studio 7 on 19 May 2016.<sup>58</sup>

In addition, victim blaming occurs when victims are repatriated and find it challenging to integrate back into society. Trafficking in a large number of people is frequently blamed. This is made worse by the fact that victims will be brainwashed into believing they will do what they are told to do. If they don't do what their captors tell them to do, they will be physically abused. People often think that victims would have chosen the way of life they will live. Because some of the victims might be addicted to drugs and work in the sex industry, they frequently portray them as "ladies of the night." [www.monarchsgcc.org/wp-](http://www.monarchsgcc.org/wp-)

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<sup>58</sup> See Marvelous Mhlanga-Nyahuye Studio 7. VOA.19 May 2016



content/uploads/Human-Trafficking.pdf.)<sup>59</sup> Because of the societies in which they live, many people do not report what happened to them.

### **3.4.2 Impact on families**

Human Trafficking causes family separation and family ties are broken as the individual who is trafficked is not allowed being in contact with his or her family members. This results to psychological effects on both the individual and the family members. This can be seen in cases where victims do not give their relatives their phone numbers and physical addresses of where they would be staying. In some instances when they call their relatives they just talk to them for a short period of time as if the calls are being monitored. The relatives back home are the ones who will take care of the victim's children if they had any. This is due to the fact that they will be constantly complaining of the difficult living conditions in the foreign countries. Family members are even more worried when they hear of trafficking issues being discussed.

### **3.4.3 Impacts on the country**

Human trafficking lead to increased Social responsibility on government as in some instances children are left stranded with no parents to provide for them. The government will have to take care of the children of the victims. In the case of Zimbabwe most victims of human trafficking are single females who will be looking for ways to look for their children. It was noted that they are 48 223 child headed houses in Zimbabwe housing 102 233 children.<sup>60</sup> Thus the government has to take care of the children. This is due to ratification of a number of acts by the country which forces it to take care of the children. The government takes care of the children through programs such as the Basic Education Assistance Module, Zunde Ramambo and many others.

One of the consequences of human trafficking in persons is loss of human resources and declines in tax revenue. To support this Zimbabwe women's resource and

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<sup>59</sup> [www.monarchscc.org/wp-content/uploads/Human-Trafficking.pdf](http://www.monarchscc.org/wp-content/uploads/Human-Trafficking.pdf).

<sup>60</sup> "Basic education assistance module as a material and psychosocial support intervention for orphans and vulnerable children, Zimbabwe: An Evaluation" June 2020. *New ideas in Psychology* 59(2) DOI:10.1016/j.newideapsych.2020.100803.

network center director Mhlanga noted that human trafficking is a practice that was robbing the nation its human resources that could have largely contributed to the country's economy. This is because trafficking is resulting to the loss of human capital for the turnaround of the economy in the country. The participation of women in the economy is not quantified but it is very important according to the Herald 10 July.<sup>61</sup> Moreover, potential remunerations, to migrants, their families, community and government or other potential legitimate employers to traffickers and their associates are lost due to trafficking in persons. Trafficking creates a firm and regular source of income for criminal networks, resulting on other forms of criminal activity as well as legitimate business.

### **3.5 THE JUDICIAL SYSTEM OF ZIMBABWE.**

It is common knowledge that the judiciary system of this country is provided for in terms of Chapter 8 of the Zimbabwean Constitution. It is composed of the Constitutional Court, Supreme Court, The High Court, Labour Court, Administration, the Magistrates Courts, Customary law Courts and other court that maybe developed under an Act of Parliament as provided by Section 162 of the current Zimbabwean Constitution.<sup>62</sup> It also consists of the Chief Justice who is the head of the judiciary and is in charge of the Constitutional court and the Supreme Court who is currently Chief Justice Malaba. The judiciary also consists of the deputy Chief Justice and other judge presidents of other courts such as the High Court and others below. It has to be noted that it is the Supreme Court and the Constitutional Court where the judicial authority of Zimbabwe vest in and their decisions are binding to all lower Courts.

What is of great importance to bear in mind is that the most fundamental function of the judiciary in Zimbabwe is the interpretation of law which L Madhuku has argued

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<sup>61</sup> The Herald , *Human Trafficking:Zimbabwe Government* 10 July 2014

<sup>62</sup> Constitution of Zimbabwe: Section 162

to be a sui generis function.<sup>63</sup> The rationale behind the learned professor's argument is that because other two organs of the state which are the Legislature and the Executive cannot perform such functions. The courts decide which law is applicable to the given facts of each case. Judges use their own discretion by applying principles of fairness and justice. The Court applies the principles of custom, Statutes and the Constitution on specific cases. Where the law is deficient it then applies the principle of justice, equality and morality. This is so because Section 165 (1) (a) of the Constitution provides that "Justice must be done to all, irrespective of status."<sup>64</sup> A vivid example where the courts applied fairness and justice is on the Case of *Chapeyama v Matende* and another where the court decided that the application of customary law yielded clear injustice and it resorted to the justice of the case thus refusing to apply customary law to the case.<sup>65</sup> Again, in the case of *Lopez v Nxumalo* where Lopez was a white Portuguese man and Nxumalo was a black Zimbabwean woman who lived in the rural areas.<sup>66</sup> In this case the Judge undertook discretion on the surrounding circumstance of the case and decided to apply customary law because the respondent was governed by African custom thus it appears just to use customary law instead of general law on the case. Thus, one can note that the judiciary of Zimbabwe is an important organ of the state as it adds flesh to the dry bones.

### **3.6 DUTIES OF JUDICIAL OFFICERS IN LIGHT OF HUMAN TRAFFICKING**

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<sup>63</sup> Love More Madhuku *An Introduction to Zimbabwean Law*, p 45

<sup>64</sup> Constitution of Zimbabwe: Section 165(1) (a)

<sup>65</sup> *Chapeyama V Matende* 2000 (2) ZLR 365(S)

<sup>66</sup> *Lopez V Nxumalo* SC-115-85

*Every day, in every courthouse, judges honour their oaths by scrupulously following the law even when they disagree with the law or the law conflicts with the judge's personal belief.<sup>67</sup>*

Judicial Ethics primarily means the qualities of a good judge. A judge is an elected or appointed official who conducts court proceedings. It is a well-known principle that judges must be impartial when delivering their duties and strive to properly interpret the meaning, significance, and implications of the law. It then follows that the two major qualities that makes a good judge are impartiality and fairness. To help ensure these legitimate public expectations, every judge takes an oath that courtroom decisions will not be influenced by friendships, public clamour, powerful litigants, or politicians. The oath further requires that judges disregard their personal opinions on social, political, and legal issues and scrupulously follow the law. Judges must also recognize that justice means more than just interpreting the law — they must also show compassion and understanding for the people on both sides of the case.<sup>68</sup> This is very important especially with human trafficking cases where judges are trusted with protecting people from traffickers by imposing serious punitive measures. This view was cemented by Justice Ndou in the case of *S v Dlamini* (CRB W/C 1010 of 2010) who lamented that cases of human trafficking of children are prevalent and a deterrent sentence is called for.

It has been argued that a judge's role is to serve the community in the pivotal role of administering justice according to law. Judges must strive to ascertain the truth in all cases which come before them. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. In order to do this, judges must be independent and strongly a judge holds a personal view or how vehemently a judge disagrees with the law.<sup>69</sup>

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<sup>67</sup> Hon. Raymond J. McKoski *Judge (ret.), Illinois, and author of Judges in Street Clothes Acting Ethically Off-the-Bench*

<sup>68</sup> *'What is the role of the Judge?'*

[http://wiki.answers.com/Q/What\\_is\\_the\\_role\\_of\\_a\\_judge#ixzz186DMbhTD](http://wiki.answers.com/Q/What_is_the_role_of_a_judge#ixzz186DMbhTD)

<sup>69</sup> Hon. Raymond J. McKoski *Judge (ret.), Illinois, and author of Judges in Street Clothes Acting Ethically Off-the-Bench Ibid*

### **3.7 THE LAW IN ZIMBABWE**

Similar to other African nations, Zimbabwe did not have any specific laws or policies in place to combat human trafficking until 2014, as Chibwe T states when it enacted the Trafficking in Persons Act.<sup>70</sup> Criminal offenses such as kidnapping, extortion, fraud, and false imprisonment were brought against individuals. However, it is necessary to review the legislations which were used to prosecute perpetrators of human trafficking before the Trafficking in Persons Act.

- Constitution of Zimbabwe
- Immigration Act [Chapter 4:02]
- Criminal Law (Codification and Reform) Act (Chapter 9:23)
- The Labour Act (Chapter 28:01)
- Sexual offences Act

Although there are no provisions in the Zimbabwean constitution that deal with human trafficking, it is nonetheless essential to note that the country's constitution guarantees a number of significant human rights to all citizens, regardless of their race, religion, sex, or political affiliation. The right to life, the right to liberty, the right not to be subjected to slavery, servitude, forced labour, or bonded labour, the right not to be subjected to torture, cruel, inhuman, or degrading treatment or punishment, the right not to be subjected to gender-based violence, the right to freedom of association, the right to freedom of movement, the right to the highest attainable standard of physical and mental health, the right to just and favourable work conditions, the right to an adequate standard<sup>71</sup>

UN (2014) says that there is a connection between human rights and human trafficking because many modern trafficking practices are clearly against international human rights law. Miss Lilly Sanya, IOM's chief of mission,

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<sup>70</sup> Lovemore T.Chibwe, *An appraisal of legislation and policy on human trafficking in Zimbabwe* (2016)p26-30

<sup>71</sup> Marco Sutto, "Human Trafficking and Violation of Human Rights" the CoESPU MAGAZINE 2019 pag.56.

emphasized the significance of taking a "rights based" approach to trafficking in this note. She argued that this incorporates the principles, norms, and standards of international human rights systems into policies, procedures, and laws. Human trafficking has shed light on potential migration-related human rights violations (De Guchteneire et al., 2009). The framework for combating human trafficking recognizes that human trafficking violates human rights. This is on the grounds that dealers subject casualties to denials of basic freedoms including physical and sexual brutality, keeping compensation which these practices abuses weak worldwide common liberties and the constitution of Zimbabwe.

However, Zimbabwe's failure to uphold human rights violated the constitution's requirements for preventing human trafficking. According to Teya and Kurebwa (2019) the 2008 saw more than 200 reports of political violence-related kidnappings.<sup>72</sup> The human rights NGO forum reported that it had filed more than 400 lawsuits with Zimbabwean courts against individuals who committed human rights violations like life deprivation, but nothing was done.

Sections 70, 71, 72, and 83 of the Criminal Law (Codification and Reform) Act (Chapter 9:23) were primarily sexual offenses that could be used to prosecute trafficking, particularly in cases involving minors. These requirements mention "procuring" for illegal sexual conduct and sexual crimes against youth.<sup>73</sup> The extraterritorial provisions that allow prosecutors to prosecute sex trafficking within Zimbabwe and beyond its borders in many instances. Under sections 76 and 86, property owners can be accused of complicity in allowing children to be sexually abused, and under section 87, parents can be reached. These measures' strength is that they are gender-neutral, do not just target commercial forms of sexual exploitation, and they address both domestic and international forms of sexual trafficking. However, they do not cover the obtaining of adults for other forms of commercial sexual exploitation that do not involve sexual intercourse (such as pornography, stripping, and other similar activities). Or any form of labour

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<sup>72</sup> Wellington Teya and Jeffrey Kurebwa, *International Journal of World Policy and Development Studies* 5 (5), 42-52, 2019

<sup>73</sup> Criminal Law Act (Chapter 9:23)

exploitation trafficking, and procuring adults is only an offense. In order to strengthen laws against child labour and align domestic law with international labour standards, Zimbabwe and other countries in the SADC region amended their labour acts (USAID 2007).<sup>74</sup> The Criminal Law recommends laws that are not severe enough to curb trafficking. In Zimbabwe, it is illegal to employ a child in the "worst forms of child labour." The ILO Convention lists trafficking, prostitution/pornography, slavery-like practices, and hazardous labour as the worst forms of child labour. However, some may argue that the Labour Act does not specifically address the protection of children from such abuse.

Madziva R states that the Zimbabwean government ought to be credited for be essential for a program, for example, the ILO-IPEC which is against the most terrible types of work, the public authority made a council which incorporates government organizations, NGOs, bosses and worker's guilds.<sup>75</sup> The implementation of the Basic Education Assistance Module (BEAM) and a National Action Plan for Orphans to ensure that children do not engage in the most inhumane forms of labour due to a lack of financial resources to cover tuition costs. The National Program for the Elimination of the Worst Forms of Child Labour was also developed by the Government of Zimbabwe. The Labour Act also Protects Adults from Being Exposed to Work. The ministry of labour and social security looked into a number of Chinese construction companies because they were suspected of abusing employment practices like forced labour and not following Zimbabwean labour laws. This demonstrates how useful Zimbabwean law is in stopping and reducing human trafficking. However, it was unknown if any actual steps were taken.

The Sexual Offenses Act includes some aspects of human trafficking, although it is not specific regarding the recruitment, transportation, transfer, harbouring, or reception of persons using threats or force or other forms of coercion, abduction, fraud, deception, or abuse of authority. (ESAAMLG 2011) Prior to the establishment of the Trafficking in Persons Act, prosecution of cases in which individuals were

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<sup>74</sup> United States Agency for International Agency for International Development

<sup>75</sup> Roda Madziva, *The Role of Non-Governmental Organizations in the Fight Against Human Trafficking* (2020-2021) p1

offered decent work only to wind up in servitude may have been unsuccessful due to a lack of relevant legislation.

The Immigration Act [Chapter 4:02] is used to regulate the entry of persons into and exit from Zimbabwe, to provide for the deportation of certain persons from Zimbabwe, and to provide for the control of aliens.<sup>76</sup>

Section 14 prohibits the following: • anyone who is a prostitute or homosexual; • anyone who lives or has lived on, or knowingly receives or has received, • any portion of the proceeds from prostitution or homosexuality; or • anyone who has obtained persons for immoral purposes.

Section 36 establishes penalties for those who, among other things: • forge permits or travel documents; • use permits or travel documents that they are not authorized to use; • assist individuals to enter, remain in, or depart Zimbabwe in violation of this Act; or transport individuals into or out of Zimbabwe in violation of this Act. 67

The Act affords immigration officers the authority to interact with foreigners and illegal immigrants. These rights enable law enforcement personnel to deal with undesirables, such as prostitutes, by deporting them rather than committing necessary resources to investigation and prosecution. As a result, however, some victims who are innocent may be criminalized, especially since the Act places the burden of proof on the accused to demonstrate their innocence.

As an example of the effectiveness of the Immigration and Nationality Act, Rommy, a Zambian national, was charged with trafficking kids.<sup>77</sup> Reportedly, Victor, who is also a Zambian national, gave him \$11,000 to traffic two girls. Rommy slept in a resort in Bulawayo with two 7- and 9-year-old girls. He claimed to be the father of the children, but a language barrier appeared to exist between him and the children. The children spoke Lingala, a Malawian language. The lodge's staff was suspicious of the three guests because their room was constantly closed.

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<sup>76</sup> Immigration Act (Chapter 4:02)

<sup>77</sup> Immigration and Nationality Act: *Law abolished the human trafficking against Southern, European (1952)*



In some instances, traffickers secure visas for their victims. Investigations revealed that perpetrators of human trafficking frequently purchase airline tickets to multiple countries, indicating a lengthy history in the industry. Advocate Tonderai Bhatasara of Mupanga Bhatasara Legal Practitioners remarked, however, that the laws were no longer enough to handle complex human trafficking situations. The Immigration Act was last revised in 1997, its penalties are not very severe, and it is not an effective instrument for combating people trafficking.

The purpose of the Sexual Offences Act is to outlaw certain sexual activities, particularly the sexual exploitation of minors and people with mental disabilities. It does not address adults, who are covered by the Human Trafficking Protocol, nor does it address other forms of exploitation, such as labour exploitation, which are equally covered by the Protocol.<sup>78</sup> However, certain portions of the Sexual Offences Act may pertain to human trafficking. These comprise sections 5, 6, 9, 10, 11 and 12

- Preventing the sexual exploitation of children and people with intellectual disabilities outside of Zimbabwe

- Preventing international conspiracies to exploit young people or people with intellectual disabilities in Zimbabwe

- Brothels and prostitution; • Sexual enslavement; • Procuring, coercing or enticing a person to engage in extramarital sexual activity;

They are individuals who were detained according to this law, such as a woman who was arrested for employing Saudi Arabian women between the ages of 22 and 24 as housemaids.<sup>79</sup> In February 2014, while the travel documents were being processed, she was arrested. At another example, a woman was jailed for paying young girls to sleep with men in her St. Martins apartment, and then giving them a small share to keep them quiet. (Newsday May 10 2014).

Also of the above-mentioned laws were useful in prosecuting individuals for human trafficking, but they all had flaws, including the fact that the punishments for

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<sup>78</sup> Sexual Offences Act: *Prohibits sexual offences to minors* (2003)

<sup>79</sup> Caroline Kimeu and Ventura Kireki, 'Modern-day slavery': Domestic workers tell of abuse in Saudi Arabia 27 Sept 2022.

traffickers were relatively low; therefore, a more fitting law was required to combat human trafficking in the nation. The majority of traffickers were deported rather than charged for criminal offenses. Some charges were prosecuted as violations of separate laws, such as immigration rules, and the trafficker was deported rather than tried for the criminal offense committed.

### **3.8 The Trafficking In Persons Act (Chapter 9: 25)**

Among the SADC nations, Zimbabwe is credited with ratifying the Trafficking in Persons Act. The Act contains provisions regarding the crime of human trafficking, the powers of law enforcement agents, victim protection and compensation, forfeiture of trafficking proceeds and property, centres for victims, extraterritorial jurisdiction of Zimbabweans in cases of human trafficking, and the establishment and functions of the anti-trafficking inter-ministerial committee as said by Bvirindi and Landa (2016).<sup>80</sup> These provisions will be discussed in greater detail in the paper.

The act made it possible to bring the identified victims of human trafficking back to Zimbabwe. A number of victims of trafficking have been returned home. The Demonstration expects that the casualties justified should be helped by the nation's international safe haven and send back home. According to Zimbabwe Broadcasting Cooperation (ZBC) news, 107 Zimbabwean women have been brought back from Kuwait. 89 women were in the first group, and on July 21, 2016, the remaining women in the second group arrived. <sup>81</sup>Consequently, Ambassador Mumbengegwi advised ZBC news on September 8 that Zimbabwean embassies in various nations should look for trafficked nationals. This exemplifies the effectiveness of the Human Trafficking Act in preventing the exploitation of Zimbabwean citizens.

Additionally, the Act permits the prosecution of human trafficking offenders in accordance with the classification of human trafficking victims and criminals. Take, for instance, the scenario in which a Zimbabwean woman trafficked other women to

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<sup>80</sup>Tawanda R. Bvirindi, and Nigel M.Landa, *Exploring policy issues on the trafficking of women in Southern Africa: Journal of Development Studies* 46 (2), pg73-87, 2016.

<sup>81</sup>See Zimbabwe Broadcasting Cooperation News (ZBC) 2016.

Angola, deceiving them into thinking they would find decent work there, only to find that they were being used as sex slaves there. The woman would make money by forcing them to have unprotected sex with different men. The woman's actions were punished. Victims of trafficking were made criminals, and the people who did it were also made victims.

According to the Herald Zimbabwe (2016), seven individuals were also charged with human trafficking and appeared in court for running questionable travel agencies and recruiting people to work in Kuwait.<sup>82</sup> Lucia, Lawrence Chibayambuya, Faith Magora, Josephine Gondo, T Gondwa, F, Nyandoro, and E Gora are among those alleged to be operating fraudulent agencies. Tinashe Nyandoro, who was based in Kuwait, was collaborating with Gondwa, Gora, and Gondo. Tinashe was the owner of an employment agency in Kuwait. He helped people get to Kuwait and found them jobs as housemaids that required them to work for more than 22 hours. Between January 2014 and May 2016, the ministry of home affairs claims that a total of ten cases were pursued, of which two have been resolved and eight are still pending before the courts. The fact that one case was still pending with the national prosecuting authority was also mentioned.

### **3.8 CONCLUSION**

This chapter discussed human trafficking in Zimbabwe and how the country has been used as a corridor by traffickers. The impacts of human trafficking was discussed as well as the role the Zimbabwean Judiciary system in general with a view of establishing its role in combatting human trafficking as the upper guardian of all human rights. The next chapter will carry out a comparative analysis and check how other jurisdictions have dealt with human trafficking.

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<sup>82</sup> See The Herald Zimbabwe (2016)  
<https://allafrica.com/view/group/main/id/00042055.html>

## **4. CHAPTER 4: COMPARATIVE ASSESSMENT OF HOW OTHER JURISDICTIONS HAVE DEALT WITH HUMAN TRAFFICKING.**

### **4.1 INTRODUCTION**

As discussed earlier, this chapter makes comparison of how other developed countries have dealt with human trafficking taking into consideration the role of the judiciary in combatting human trafficking. Law relating to the role of the judiciary in protecting human rights and combating human trafficking in other countries. Thus, it will consider how the law in other jurisdictions like South Africa deal with human trafficking taking into considerations the roles of the judiciary. It will largely draw comparisons between Zimbabwe and South Africa as common law jurisdictions. The significance of this comparative assessment is to enhance the advancement of possible recommendations for reform on Zimbabwean constitutional law relating to the judiciary system as will be done in chapter 5.

### **4.2 THE SITUATION IN SOUTH AFRICA**

The Republic of South Africa has several laws to combat human trafficking within and beyond the borders of South Africa. The research in this section looks at some of the legislation that existed before the Prevention and Combating of Trafficking in

Persons Act 2013 came into force. Some of this legislation remains a significant component of South African law.<sup>83</sup> The legislation is as follows:

- a. Prevention and Combating of Trafficking Persons Act, 2013
- b. Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007
- c. Children's Act 38 of 2005
- d. Prevention and Combating of Corrupt Activities Act 12 of 2004
- e. National Health Act 61 of 2003
- f. Immigration Act 13 of 2002
- g. Prevention of Organised Crime Act 121 of 1998
- h. International Co-operation in Criminal Matters Act 75 of 1996
- i. Drugs and Drug Trafficking Act 140 of 1992

Trafficking in human beings, especially women and girls, is not new in South Africa. The Salvation Army is one of the Non- Governmental Organisations at the forefront of anti-human trafficking campaigns in South Africa. It provided the research with information that includes:

- It is estimated that 30,000 children are being prostituted in South Africa
- Half of these children are younger than 14 years' old
- Children as young as four are prostituted
- There are up to 10,000 child prostitutes in the city of Johannesburg alone
- Up to 1,000 girls are trafficked to South Africa from Mozambique each year

However, the Government of South Africa does not fully meet the minimum standards for the elimination of trafficking although it cannot be disputed that it is making significant efforts to do so. Scholars like Rwebangira have argued that the government demonstrated overall increasing efforts compared to the previous reporting period; therefore, South Africa was upgraded to Tier 2.<sup>84</sup> These efforts included increased investigations, prosecutions, and convictions of traffickers,

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<sup>83</sup> Prevention And Combatting of Trafficking in Persons Act (2013)

<sup>84</sup> Joanita Rwebangira, *Human Trafficking – A Contemporary African Perspective* – University of Kwazulu-Natal (2015)

including within organized criminal syndicates that facilitated the crime. Additionally, the government also increased training of national and provincial frontline responders. Surely this is a positive step towards combating human trafficking and it is hereby recommended that Zimbabwe must follow suit.

It is common cause that the government identified more trafficking victims and referred all to care, providing protective services in partnership with NGOs and international organizations, and increased protective services for victims who assisted ongoing law enforcement investigations. The government of South Africa launched its national policy framework on trafficking, a strategic plan to improve capacity and coordination among government agencies, and it conducted increased awareness-raising activities throughout the country. It adopted the Southern African Development Community regional data collection tool and launched a national baseline study.

However, it can be noted that the government did not meet the minimum standards in several key areas. Corruption and official complicity among law enforcement and immigration officials remained a significant obstacle. The Department of Employment & Labour (DOEL) instituted mandatory trafficking training for all new labour inspectors, but the government did not comprehensively monitor or investigate forced child labour or the labour trafficking of adults in the agricultural, mining, construction, and fishing sectors. Poor understanding of trafficking hindered the government's overall anti-trafficking efforts. Implementing regulations for the 2013 Prevention and Combating of Trafficking in Persons (PACOTIP) act's immigration provisions were not promulgated for the seventh straight year.<sup>85</sup>

### **4.3 THE SITUATION IN BOTSWANA**

Botswana is a country located north of South Africa and east of Namibia that fits the requirements for a Tier 2 rating. This indicates that, although not meeting all of the standards, the country is making progress in eradicating human trafficking. In Botswana, two distinct types of human trafficking have been identified. The first

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<sup>85</sup> Prevention and Combatting of Trafficking in Persons Act (2013)

variety is international. On this level, Botswana is a source, transit, or destination for human trafficking. Traffickers transport Batswana (natives of Botswana) to neighbouring countries such as Zimbabwe, whilst they transport Ethiopians and Tanzanians through or to Botswana.

The sexual exploitation of women is one of the most prevalent forms of human trafficking. In Botswana, the rate of female unemployment in 2020 was 21.76 percent (more than twice the unemployment rate during the Great Recession in the U.S.). This vulnerability is exploited by traffickers through fraudulent job postings and social media marketing.

The second form of human trafficking in Botswana is more rooted in the culture. It is not commonplace for rural poor parents to send their children to remain with a wealthy relative with the expectation that the relative will provide care and education. In actuality, the relative typically uses the youngster for free labour and denies the child an education. According to Madoda Nasha, deputy manager of Botswana's Department of Trafficking in Persons, Batswana people see this type of behaviour as normal and, as a result, report it infrequently.

Botswana has enacted a number of anti-trafficking laws to address human exploitation. The Anti-Human Trafficking Act 32 of 2014, which criminalized sex and labour trafficking as well as child labour, is a cornerstone of the Botswana government's ability to combat human trafficking.<sup>86</sup> This statute created protective services, including care centres and a victim fund. The government then established the Human Trafficking Prohibition Committee to monitor the execution of these programs.

Although the Anti-Human Trafficking Act represents significant progress, it is not perfect. This statute can result in a 25-year prison term, a fine, or both. Because a trafficker can escape with merely a fine, the penalties are significantly less severe than for other violent crimes, such as rape. In addition, judges and prosecutors

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<sup>86</sup> The Anti-Human Trafficking Act 2014 (Act No.32 of 2014)  
[https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_isn=98257&p\\_lang=en](https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=98257&p_lang=en).

frequently lack knowledge of this statute, which hinders efforts to fully punish traffickers.

#### **4.4 RECENT ADVANCEMENTS**

The government amended the Anti-Human Trafficking Act in 2018 to include higher fines and life sentences in prison to address some of its flaws. The penal code was updated by the government in the same year.<sup>87</sup> The 2018 Penal Code Amendment introduced harsher sentences for violent crimes and raised the consent age to 18.<sup>88</sup> Last but not least, victim protection services have seen an increase in funding from the government over the past few years, going from \$41,930 in 2017 to \$346,100 in 2019.

Additionally, Botswana actively participates in international efforts to combat human trafficking.<sup>89</sup> For instance, Botswana collaborated with Zimbabwe and Nigeria to identify 31 foreign trafficking victims in its country between April 1, 2019, and March 31, 2020. As a member of the Southern African Development Community (SADC), Botswana also participates in SADC's public outreach and awareness campaigns as well as data collection and sharing efforts.

In addition, the country has provided prosecutors and judges with comprehensive training on Botswana's 2014 anti-trafficking law so that they can try and decide cases more effectively. It then developed procedures for identifying trafficking victims and instructing stakeholders, including immigration and front-line law enforcement, on them. To ensure that children are not subjected to forced labour, the government has implemented routine inspections of cattle farms, including those in Ghanzi. Most importantly, the government has made an effort by funding the non-governmental organizations (NGOs) that the government refers trafficking victims to for services and shelter. Zimbabwe must learn from its neighbour in order to combat human trafficking, and this is a positive step.

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<sup>87</sup> The Anti-Human Trafficking Act (2018): Section 12A

<sup>88</sup> Penal Code (Amendment) Act, No. 10 of 2018: Chapter 19

<sup>89</sup> Reid Maki, Nigeria: Rehabilitating Victims of Human Trafficking, Child labor 28 August 2012 [from AllAfrica.com].



In addition, the Botswana judiciary has banned suspension sentences for traffickers and established formal procedures for referring trafficking victims to treatment. This is intended to send a clear message to society about human rights violations and ensure that traffickers are punished. The anti-trafficking national action plan has been further implemented by the government, and it is collaborating with a number of non-governmental organizations to make it easier for trafficking victims living in shelters to move around and find work.

Finally, projects to combat human trafficking in Botswana have been carried out by the Mandela Washington Fellows (MWF), the flagship program of the Young African Leaders Initiative (YALI) of the United States. It has launched a website to provide international standard operating procedures for dealing with victims of human trafficking to NGOs and civil society organizations. This enables these organizations to accelerate response and victim care. Through community projects, social media, and collaboration with the Botswana government, MWF also plays a significant role in raising awareness.

#### **4.5 PROBLEMS BEING ENCOUNTERED BY AFRICAN GOVERNMENTS IN COMBATING HUMAN TRAFFICKING.**

From the discussions above, it can be concluded that although African countries are doing their best to suppress human trafficking, there are still a lot of challenges which they all encounter. Some of them are briefly discussed herein below.

- Lack of comprehensive migration data in the Africa continent. Countries have fragmented data which makes it complex for reliable information to be shared with other members.
- Inadequate resources and budgetary allocations. Human trafficking is not seen as a government priority. Education, housing, and Health remain the main focal object for many African and developing countries of the world.

- Competing national interests amongst African countries instead of working in collaboration and partnership to combat human trafficking through regional and international bodies like ECOWAS, SADC, AU, EU, and the UN.
- Economic benefits of migration are often over emphasised more than the potential risks, loss of lives resulting from human trafficking. It is reported that migrants annually send remittances estimated over \$20- 35 billion dollars from overseas to their countries of origin.
- Identification of the incessant effects of the push and pull factors of human trafficking with no possible solutions.

#### **4.6 CONCLUSION**

In conclusion, the writer note with great concern that the phenomenon of human trafficking is not only a case of Zimbabwe but an international problem. The research established that people are being trafficked on daily basis worldwide. This is caused by various factors which have been dealt with in detail above. A comparison was carried to see how other countries have dealt with human trafficking.

## **5. CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS**

### **5.1 INTRODUCTION**

It is worth reiterating that this dissertation's primary goals were to analyse the historical background of human trafficking and the position of international legal instruments. It was also the purpose of the research to examine the constitutional role of the Zimbabwean Judiciary system in protecting human rights and combating human trafficking and check whether or not the system is in a position to guard against human rights violations. It is important to note that this discussion yielded insights that apply to the rest of the chapter. This chapter concludes the dissertation's major arguments and as a result, makes recommendations for new forms of existing and future legislation.

### **5.2 CONCLUSIONS**

Zimbabwe is a source; transit and a destination country for men, women and children that are trafficked for various forms of exploitation. Sexual abuse, domestic servitude, child labour, and forced labour in the mining and agriculture sectors are all examples

of human trafficking. Smuggling and deception are the main methods used to traffic people into the country.

Internal and transnational human trafficking are the two types of human trafficking that occur in Zimbabwe. They are internal rumours that men are trafficked in farms and mines. This is being done so that profits can be maximized while people are being exploited. Despite not being held hostage, the men's living conditions make it difficult for them to escape. Young women and girls are being trafficked to tourist destinations like Victoria Falls, where they are forced into prostitution as a result of the rise of sex tourism. People are being trafficked to big cities, especially women and children, where they are promised better things. They make little to no money as housekeepers.

United Nations Convention against Transnational Organized Crime, is the most significant international tool for combating human trafficking. It was enacted by General Assembly resolution 55/25 on November 15, 2000. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea, and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition are three additional Protocols that supplement the Convention and target particular aspects and manifestations of organized crime. The Convention is a significant advancement in the fight against transnational organized crime and shows that Member States understand the gravity of the issues it poses as well as the necessity of fostering and enhancing close international collaboration to address those issues

Zimbabwe has ratified numerous international and regional protocols to combat human trafficking. As a result, powerful organizations like Interpol and SARPCO were established to combat human trafficking. Every year, USALAMA organizes events, and Zimbabwe sometimes does not take part. This might be because it does not have enough money. Before the foundation of the dealing with people demonstration of 2014, individuals had to deal with penalties like extortion, grabbing and kidnapping. The Immigration Act, the Sexual offenses Act t, the Labour Act, and

the Criminal law were used. However, due to their light sentence of imprisonment, these laws were insufficient on their own. The 2014 Trafficking in Persons Act was passed as a way to help victims of human trafficking and reduce the number of people who are sold into slavery.

The statute against trafficking in humans has had limited success thus far. This is demonstrated by the number of individuals charged with human trafficking since 2014. The term employed in the Zimbabwe anti-trafficking act, which is insufficient for combating human trafficking issues, as well as a lack of resources and the other factors described above, hinder the effectiveness of the act. NAPLAC is the first policy to be implemented to aid victims of human trafficking. The policy was intended to be in effect for two years, from 2016 to 2018. To yet, however, little has been done to implement the policy's plans. It is also essential to note that the issue persists, as this strategy is tied to the trafficking in person's act of 2014, which differs from international law, so limiting the extent of human trafficking in the country. The lack of resources has also hindered the plan's efficacy to date.

It is also important to note that the problem endures because this plan is connected to the trafficking in persons of 2014, which breaches international law and restricts the extent of human trafficking in the country. The researcher went on to outline areas that must be modified for Zimbabwe to have an effective policy and legal framework for human trafficking. Inadequate resources have also impeded the plan's efficacy to date. These included addressing the root causes of human trafficking and implementing extensive witness protection programs to prevent victims from becoming victims again. Despite the fact that it is unheard of in most societies, human trafficking is the most prevalent crime in today's society.

The researcher concludes that traditional leaders must be involved in raising awareness. Public awareness and education in schools, churches, social media, mass media, information campaigns, and road shows are all ways to carry out awareness programs. This can be accomplished by collaborating with as many non-governmental organizations (NGOs) and international organizations as possible that

can help victims and raise awareness. Most importantly, resources must be made available so that policies and laws can be put into action rather than just written down.

### **5.3 RECOMMENDATIONS**

1. Laws must be created more stringent so that traffickers do not bring away easily.
2. Increased participation from social levels should be solicited with more power to them for handling issues.
3. Increased vigil by the rule enforcement agencies

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