THE INADEQUACIES OF ZAMBIAN LEGISLATION TO COUNTER HUMAN TRAFFICKING.

BY

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Obligatory Essay

On

THE INADEQUACIES OF ZAMBIAN LEGISLATION TO COUNTER HUMAN TRAFFICKING.

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An Obligatory Essay submitted to the School of Law of the University of Zambia in partial fulfilment of the requirements for the award of the Degree of Bachelor of Laws (LL.B).

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DECLARATION

I, Mwenda Hamanyati of Computer Number 22079823, do hereby declare that the contents of this Dissertation are entirely based on my own findings and that I have not in any respect used any person's work without acknowledgement.

I therefore bear the absolute responsibility for the contents, errors, defects and any omissions herein.

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DEDICATION

To my parents, Trust and Lillian Hamanyati. Thank you for raising me up in the fear of the Lord. I will always be indebted for the sacrifices you have made for me. May God bless you with long life and happiness.
This essay advocates the introduction of a new law that will effectively deal with the crime of human trafficking. A number of conventions and Acts are dispersed throughout the work in order to demonstrate that while there may be a plethora of legal provisions that can be employed to fight the traffic, they are nevertheless inadequate to grapple with all the complexities that arise as a result of the offence.

The subject matter of human trafficking is a very broad one, encompassing the economic, sociological and legal aspects. It is impossible within the limits of this paper to pursue all the various facets to this crime all at the same time. The reader will discover that the central theme of this essay is that the offence of human trafficking has persisted largely as a result of an inefficacious legal framework. The law will remain sterile if it is suited to meet the needs of society. This essay appraises current Zambian legislation. The last part of the essay is addressed primarily to recommendations on the law pertaining to human trafficking.

December 2007

Mwenda Hamanyati.
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First and foremost, I would like to thank the Lord God for His guidance and protection through all my trials and tribulations. His mercies are new every day and innumerable.

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Finally, I wish to thank my colleagues Bridget Pizo and Grace Samui for providing research material that proved indispensable. God Bless you all.
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Penal Code, Chapter 87 of the Laws of Zambia.

Prohibition and Prevention of Money Laundering Act, Chapter 96 of the Laws of Zambia.
INTERNATIONAL INSTRUMENTS AND CONVENTIONS


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<tr>
<td>C.R.C</td>
<td>Convention on the Rights of a Child</td>
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<td>I.C.C.P.R.</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>I.C.E.S.C.R.</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<td>I.O.M.</td>
<td>International Organisation for Migration</td>
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The growing crime of human trafficking presents one of the greatest challenges confronting humanity. The 21st Century has witnessed concerted efforts the world over to grapple with the trafficking industry. The devastating impact caused by human trafficking is immense. Human trafficking not only subjects trafficked persons to gross human rights abuse but also threatens national and regional peace, security and development.

A staggering 800,000 victims are forced to cross international borders every year, generating an annual return of $12 billion for the perpetrators. However, statistics vary as to the precise number of trafficked persons. This is not only due to the clandestine nature of the offence, but also due to the lack of a universal standard of what constitutes trafficked. Cultural practices and internal forms of trafficking are non-paradigmatic instances of trafficking not envisaged by the Convention on Transnational Organised Crime, and are particularly commonplace in Africa.

There is an intimate connection between poverty and the persistence of the scourge. The resulting problems of the traffic are doubly acute in the sub-Saharan region. More than 70 per cent live below the poverty datum line. This region is at the epicenter of the HIV/AIDS pandemic. One-fifth of the regional population is infected with the virus. This had had irreversible consequences such as a proliferation in the number of orphans, street children and child-headed households, hence militating for the growth of vulnerable people to traffickers. A viable legal framework is a precursor to address all the intricacies of human trafficking nationally and regionally. It is the purpose of this essay to advocate for a new law that will effectively combat the crime and provide vulnerable people with lasting solution to their plight. The proposed law must also tackle the root causes of the traffic.
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CHAPTER ONE

1.0 Introduction

The crime of human trafficking presents unprecedented challenges to the human race. The victims, mostly women and children, have high hopes of a better life elsewhere and are deceived or abducted for the purposes of exploitation by unscrupulous traffickers who often pose as employment agents. Human trafficking has impinged on the development of virtually every region of the world. Statistics on trafficking vary widely. This is principally due to the furtive nature of the offence. The traffic industry has particularly flourished in the poorer regions of the world, especially Southern Africa. This research intends to examine the importance of enacting legislation that will effectively eradicate the crime.

1.1 Statement of the Problem.

The purpose of this research is to critically analyse the scourge of human trafficking as a legal problem in Zambia. The essay will discuss the inadequacies of current Zambian legislation to effectively provide a comprehensive legal framework that will eradicate human trafficking. The essay will lay emphasis on the need for a separate piece of legislation pertaining exclusively to human trafficking and the necessity to harmonise such a law with the international legal and institutional framework. In spite of the
Amendment to the Penal Code in 2005, the traffic industry in Zambia is on the increase. It is therefore imperative to advocate for a lasting solution to the escalating crime.

1.2 Research Questions

1. What is human trafficking?

2. What distinguishes trafficking from other related offences?

3. What are the elements and stages of trafficking?

4. What are the main purposes of trafficking in persons?

5. What is the international and regional legal framework on trafficking in persons?

6. What is Zambia’s legal, policy and institutional framework pertaining to human trafficking?

7. What specific laws provide protection for potential and de facto victims?

8. What has been Zambia’s experience applying national laws in trafficking cases?

9. To what extent do cultural practices militate against efforts to counter human trafficking?

10. What would be the justifications for advocating for the enactment of a separate Human Trafficking Act?

1.3 Methodology
The research was qualitative. It was done largely by desk research by consulting published works and the Internet. Relevant pieces of legislation were widely referred to. Newspaper articles were extensively consulted throughout the research.

1.4 Objectives of Study
The research seeks to demonstrate the lacunae in Zambian legislation that have enabled the proliferation of trafficking cases in the country. It is important to evaluate the efficacy of the laws regulating human trafficking and to give recommendations as to how the law can be strengthened to eradicate the crime of human trafficking. Therefore, the paper is aimed at making a contribution towards making Criminal Law in Zambia efficacious in meeting the socio-economic and legal challenges of society.

1.5 Limitations of Study
The major limitation that this research faced was the lack of adequate time in order to conduct interviews with law enforcement officers. It was difficult to visit all the public offices that deal with Human Trafficking. This problem was exacerbated by the insufficiency of financial resources.

1.6 Chapter Outline
Chapter two provides a background to the offence of human trafficking and defines the concept as provided in the United Nations Convention on Transnational Organised Crime (2000). This is aimed at ascertaining precisely what constitutes trafficking.
Chapter three of the dissertation focuses on the scourge of human trafficking as a global problem and the profound impact that international norms, public opinion and legal mechanisms have had on the fight against trafficking. Human rights discourse will be explored in order to demonstrate the gravity of the problem.

Chapter four appraises the significant impact that human trafficking has had on the continent of Africa as a whole. The chapter then focuses on how generally low socio-economic situations have militated for the growth of the crime in the sub-Saharan region.

Chapter five evaluates Zambian laws that have a bearing on trafficking and demonstrates the glaring limitations of such laws to adequately counter the traffic of persons. In this chapter, a plethora of legislative provisions will be analysed.

The essay concludes with Chapter six, suggesting the need for overall reforms. The mainstay of the recommendations is that a separate Human Trafficking Act is necessary in order to effectively tackle all the intricacies of the crime. It is also proposed that the Act should establish a Human Trafficking Fund and a Task Force.
CHAPTER TWO

2.0 INTRODUCTION
The discourse of human trafficking has assumed a central position over the last six years. Human trafficking is the epitome of modern slavery. The problems created by the unforgettable slave trade are still manifesting today. As a more intricate and sophisticated form of slavery, human trafficking is the root cause of the most inhumane conditions imaginable. This seemingly intractable problem calls for an efficacious legal framework that will erase the conditions that contribute so dangerously to the sustenance of the scourge.

In spite of concerted international efforts, human trafficking remains an unfortunate reality. While humanitarian reasons for acting quickly and efficiently to eradicate the scourge are compelling enough in themselves, the unprecedented brutality that is attendant to this abhorrent trade in persons has aroused the conscience of the world. The staggering growth of the crime is a source of serious concern. Trafficking in human beings has placed increasing strains on the fabric of society.

Although human trafficking is by no means restricted to third world countries, its devastating effects have hit the hardest in the African continent, particularly in the sub-Saharan region. Prostitution, child pornography, highly exploitative commercial sexual services, labour, child soldiers and other related vices are the main factors that have fuelled the demand for trafficking victims in Africa.
Zambia has been cited as a source and transit country of human trafficking.\(^1\) The nation is vulnerable to the crime principally because of an inadequate legal framework and high levels of poverty amongst citizens who fall prey to enticing offers from perpetrators promising a better life abroad. Young women and children are by far the most prone victims of trafficking.

The International Organisation for Migration (IOM) has pointed out that the crime of trafficking in Zambia has reached alarming proportions. The organisation has offices in Zambia, Angola, South Africa, Zimbabwe and Mozambique. IOM Migration Health Project Development Officer for Zambia Elizabeth Barnhart told the National Mirror\(^2\) in an exclusive interview that her organisation faced problems in tackling internal trafficking which involves relatives enticing their nieces and nephews or brothers to live with them offering good education and yet abrogate this offer. “There are a lot of cultural lines attached to this but this is also on the rise and we have a bit of problems in tackling this because of the agreements undertaken by the parties involved,” she said.

This serves to show that the non-paradigmatic instances of trafficking prevailing in the country add impetus to calls for a comprehensive and country-specific piece of legislation that will meet the unique demands of the Zambian nation.

2.1 What is Human Trafficking

\(^1\) The Post, ‘Zambia is being used as a transit country’ – Ogina, May 8, 2007.
Human Trafficking basically involves the recruitment, transportation, transfer, harbouring or receipt of persons for the purpose of exploitation. It involves a process of using illicit means of such as 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. Human beings are treated as commodities that can be traded. On 3rd June 2005, while unveiling U.S. State Department Fifth Annual Report on Trafficking in Persons (TIP), U.S. Secretary of State Condoleezza Rice, described human trafficking as, ‘nothing less than a modern form of slavery.’

It has been defined as ‘the recruitment or transfer of persons, by force, abduction or deception for exploitation. “Trafficking in persons” is intended to include a range of cases where human beings are exploited by organised crime groups, where there is an element of duress involved and trans-national aspect, such as the movement of people across borders or their exploitation within the country by a trans-national organised crime group.’


(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means

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4 G.A. Res. 55/25 of 15th November, 2000. This Convention was signed in Palermo, Sicily and is sometimes called the ‘Palermo Convention’.
of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.\(^5\)

The Article further provides that the consent of the victim of human trafficking to the intended exploitation set forth in subparagraph (a) shall be irrelevant where any of the means have been used. The trafficking of a child is couched in much broader terms: “The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article.\(^6\)

### 2.2 Stages of Human Trafficking

Human trafficking can best be understood as a process, rather than as a single act. The crime of trafficking essentially comprises three (3) elements: recruitment, transportation and exploitation.

#### 2.2.1 Recruitment

The first stage in trafficking involves the recruitment of a person in the community or country where they live. Traffickers often convince unsuspecting persons to leave their homes for opportunities in foreign countries. Although recruitment practices vary, this stage invariably involves some form of coercion or deception. Victims are deceived by

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\(^5\) Article 3, paragraph (a) of the United Nations Protocol to Prevent, Suppress and Punish Trafficking Persons, Especially Women and Children.

\(^6\) *Ibid*, subparagraph (c)
alluring offers. Traffickers may recruit victims through advertisements for scholarships, jobs or marriage-brocage. Victims are mainly young women who go abroad based on fake promises of good jobs, educational opportunities, often with an ambition to make a better life for their families and children. In Southern Africa and elsewhere, many of the agents used to recruit victims are acquaintances or relatives. A person may also be recruited through a seemingly legitimate business or organisation, such as an employment agency.7

2.2.2 Transportation

Transportation is the second stage of trafficking. Human trafficking almost always involves some facilitated movement of some kind, whether it is across international borders or within the same country.8 With regard to trans-national trafficking, victims are often transported out from a country of origin via a country of transit to the country of destination. Cross-border transportation increases the vulnerability of victims.

2.2.3 Exploitation

The ultimate aspiration of human trafficking is the exploitation of the victim for financial or personal gain.9 Victims are subjected to degrading and slave-like conditions with little or no freedom at all to escape. The principal motivation underlying trafficking worldwide is for the purpose of forced prostitution or other forms of commercial sexual exploitation (ranging from child pornography to striptease in far-flung countries).

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7 Zambia Law Development Commission: Issue Paper on Human Trafficking in Zambia, p.4
8 Ibid.
9 Ibid, p. 5
However, human trafficking is not exclusive to commercial sex. Children and adults are enslaved in domestic labour, illegal sweatshops, in farms or mines, and in other work.\textsuperscript{10} The exploitation of men, the sale of children for adoption and the removal of organs for transplant, or body parts for muti (spiritual medicine) are just some of the emerging purposes of human trafficking.\textsuperscript{11}

2.3 What Distinguishes Trafficking from Related Crimes?

It is essential in to clarify the difference between human trafficking on the one hand, and related offences such as smuggling and exploitative labour on the other. While the offences of trafficking, migrant smuggling and exploitative labour are intimately interrelated, there are important differences between the crimes.

2.3.1 Trafficking as opposed to Migrant Smuggling.

The Protocols to the Palermo Convention make a clear distinction between human smuggling and human trafficking. The key elements of a trafficking relationship are the threat or use of force or other forms of coercion, abduction, fraud, deception or abuse of power, while smuggling generally implies a degree of consent between the transporting agent and the smuggled individual. Migrant smuggling is an activity in which people pay money to individuals or organized groups to help them enter a country illegally or through irregular means. In addition, the smuggled person is not necessarily subjected to exploitative conditions whereas in the case of human trafficking this is invariably so.

2.3.2. **Trafficking as distinguished from Exploitative Labour**\(^{12}\)

Exploitation is a key element of human trafficking, but not all exploited workers have been trafficked. Labour exploitation occurs when a person benefits unjustly or illegally from the work or services of another person. This includes remunerating a person less than he or she is entitled to by law or by agreement, or subjecting a person to unfair or illegal conditions of work. Exploitation in the case of human trafficking is often subjects the victim to drastic conditions, amounting to forced labour, servitude or worst forms of child labour. Moreover, it is usually extracted through some form of coercion or abuse of power. Trafficking is also distinguished by the existence of two other factors: recruitment and transportation of the person from one country or community to another.

\(^{12}\) *Supra*, Note 5.
CHAPTER THREE
Human Trafficking as a Global Problem

3.0 INTRODUCTION
This chapter explores the scourge of human trafficking as a global problem and the profound practical effect that international norms have had on the fight against this rapidly growing problem. It is proposed that national legislation should—at the very least—be in alignment with the international instruments and should, in addition, interpret these instruments liberally with a view to completely eradicating trafficking in persons.

3.1 Human Trafficking as a Global Problem
One of the greatest challenges confronting the world today is the flourishing scourge of human trafficking. Trafficking in persons ranks as one of the most aggravated form of violence threatening the social fabric of mankind. Victims, primarily adolescent female, are subjected to physical, psychological and emotional trauma. Trafficked persons are susceptible to vices such as rape, torture, harassment, intimidation, manipulation and isolation. It has played a catalytic role in the spread of the HIV/AIDS pandemic. Research findings of the Zambia Law Development Commission lend support to this view: ‘...organised criminals earn up to U.S. $12 billion annually from human trafficking. This makes human trafficking second only to drug trafficking in terms of profitability for organised crime. On the trans-national level, trafficking in people is often perpetrated by the same criminal groups that engage in such crimes as drug trafficking, document fraud, migrant smuggling and money laundering. Trafficking is also facilitated

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by corruption at all levels of the state, especially amongst law enforcement and immigration authorities.\textsuperscript{14} Human Rights Watch\textsuperscript{15} estimates that annually an appalling 800,000 to 900,000 men, women and children are trafficked across international borders into forced labour or slave-like conditions. However, owing to the illegal nature of trafficking and differences in methodology, the exact extent of the scourge remains elusive.\textsuperscript{16}

The dawn of the 21\textsuperscript{st} Century has witnessed concerted international and regional efforts to stem the tide of human trafficking. The international community has had to grapple with the unfortunate reality of child soldiers\textsuperscript{17}, proliferating rates of prostitution, physical and sexual violence, forced labour, and innumerable human rights violations that have taken place with disturbing frequency.

Sex trafficking is prevalent in virtually every region of the world. It has soared to epidemic proportions in Europe and South East Asia. For example, there seems to be continuing trafficking of women from Dominic\textsuperscript{1} Republic to the Netherlands. In Europe, most of the women working as prostitutes come from Russia and other countries of the former Soviet Union. There are more than 50,000 Russian prostitutes in Germany’s red light districts alone.\textsuperscript{18} The pressure to migrate as a result sheer lack of prospects for a more exacerbates already dismal situations.

\textsuperscript{14} Supra, Note 5 at p.1  
\textsuperscript{15} Human Rights Watch Report 2007  
\textsuperscript{16} Ibid  
\textsuperscript{17} Child soldiers are prevalent in war-torn areas such as Rwanda, Sudan and Somalia.  
The trafficking of women in South East Asia tells even a more depressing account. In particular, there are many more minors in South East Asia than in Europe. W.I.D.E.R. estimates that there are 800,000 child prostitutes in Thailand, 400,000 in India and Indonesia each and 100,000 in the Philippines. Most of the child prostitutes are sold by their poor parents or they are abducted from rural villages to work in urban brothels in their own countries.¹⁹

Violations of human rights are both a cause and inevitable consequence of trafficking in persons. Accordingly, it is essential to place the protection of all human rights at the centre of any measures taken to prevent and end trafficking. Anti-trafficking measures should not adversely affect the human rights and dignity of persons and, in particular, the rights of those who have been trafficked.²⁰

Persistent human rights abuses²¹ have rendered the trafficking of human beings a matter of international concern. Sex and forced labour are the two most prominent purposes of human trafficking. Other factors include the trade in body organs, illicit adoption and the demand for child soldiers. Human trafficking is driven by two basic factors: (1) the available supply of persons, who are susceptible to being trafficked, manipulated and/or forced into slave-like conditions, and (2) the demand created by those who use people to fill a need for cheap and highly exploitative commercial sexual services, labour, and/or other form of exploitation.

¹⁹ ibid.
²⁰ IOM, Counter-Trafficking Handbook for Law Enforcement Officers in Southern Africa.
²¹ The human rights treaty-monitoring bodies include the Human Rights Council, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee Against Torture, and the Committee on the Rights of the Child.
Market demands –especially from male sex buyers- creates a strong profit incentive for traffickers to entrap more victims, fuelling the growth of trafficking in persons. To fully address the trafficking problem, further understanding is needed to address demand factors as the root cause of trafficking. International organizations and governments have a crucial role to play in eliminating the demand for trafficking in persons.\(^\text{22}\)

The Economic and Social Council\(^\text{23}\) of the UN in a Substantive Session in 2002 made recommendations emphasizing the primacy of human rights. The principal resolutions are as follows:

1. The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.

2. States have a duty under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons.

3. Anti-trafficking measures shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked…

International organizations and governments have collaborated in fighting trafficking. The world’s eight major industrialized nations agreed on 17 June, 2005 to back a new high-tech system to tackle human smugglers and human traffickers. Speaking to reporters

\(^{22}\) US Department of State TIP Report 2005 www.state.gov/g/tip
at a meeting of interior and justice ministers from the G8 nations in Sheffield, England, British Home Secretary Charles Clarke said that the messaging system would give law enforcement officers far greater understanding of routes used by traffickers across the world. Closer cooperation between law enforcement bodies has already led to a series of worldwide raids on those involved in human trafficking.²⁴

3.2 International Instruments Aimed at Countering Human Trafficking.

The exponential growth of the scourge has aroused greater involvement and engagement on the international scene. A viable international normative framework has been shaped over recent years to address the problem of trafficking in persons. The United Nations Protocol to Prevent, Suppress and punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime (2000), lies at the heart of international legislation aimed at fighting human trafficking worldwide.


²⁴ Ibid
²⁵ Cited from Zambia Law Development Commission: Issue Paper on Human Trafficking in Zambia, p. 8
The United Nations Convention on Transnational Organised Crime\textsuperscript{26} (CTOC) recognizes that trafficking is principally perpetrated—globally and regionally—by organized criminal syndicates who employ sophisticated mechanisms to launder their proceeds of criminal activities.\textsuperscript{27} The Convention mandates states to take measures to counter organized crime. These include criminalizing organized crime (participation in organized criminal groups) as well as ‘organising, directing, auxing, abetting, facilitation or counseling the commission of serious crime involving an organized group’\textsuperscript{28}, criminalizing money laundering of proceeds of crime\textsuperscript{29}, criminalizing corruption by public officials and strengthening extradition and mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to offences covered by the Convention\textsuperscript{30}. The Convention also contains several important victim protection measures. These include obligations to protect witnesses (and their families) from repercussions and intimidation, and the mandate to establish witness protection procedures and programmes.\textsuperscript{31}

The United Nations Convention on Transnational Organised Crime is supplemented by two protocols: the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol Against the Smuggling of Migrants by Land, Sea and Air.\textsuperscript{32} This Convention and its two protocols were ratified by Zambia on the 24\textsuperscript{th} of April 2005.\textsuperscript{33}

\textsuperscript{26} Full document available at \url{www.uncjcin.org/documents/conventions/dcato/} final
\textsuperscript{27} Ibid.
\textsuperscript{28} Article 5
\textsuperscript{29} Article 6
\textsuperscript{30} Article 8
\textsuperscript{31} Articles 24 and 25
\textsuperscript{32} Supra, Note 11.
\textsuperscript{33} Ibid.
The internationally recognized definition of human trafficking is contained in the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Protocol criminalizes trafficking in persons as a whole, especially women and child trafficking. It provides for a fine or imprisonment of up to 20 years, or both a fine and such imprisonment, for anyone convicted of this crime.\textsuperscript{34}

The Protocol expressly contemplates trafficking for the purpose removal of organs, but fails to mention the exploitation of persons for the purpose of removal of non-organ body parts. Other emerging forms that are not expressly mentioned in the Protocol include trafficking in babies (whether dead or alive), and trafficking in children for armed conflict. Fortunately, with the Protocol reading: "Exploitation shall include at a minimum..." the Protocol allows for a liberal reading of its definition of exploitation, so that organ trade, baby market and child soldiers can be included.\textsuperscript{35}

Most states that have signed and ratified the United Nations Convention on Transnational Organised Crime and the Protocols thereto fully comply with the minimum standards for the elimination of human trafficking. Hence, several states are poised to make arrests against traffickers. However, there is need to harmonise national legislation with international instruments as well as to make significant headway in national and regional counter-trafficking measures.


\textsuperscript{35} Ibid.
CHAPTER FOUR

Human Trafficking in the African Context.

4.0 INTRODUCTION

This chapter demonstrates the significant impact that the trafficking of person has had on the African continent as a whole. Further, the essay will specifically tackle the general findings and case studies conducted in the Southern African region and how region-specific problems have militated for the growth of the scourge in the region. This chapter affords profound insight into the escalating scourge of the traffic in persons within the region. Human trafficking poses a significant threat to countries in Southern Africa, yet nowhere in the region has it been criminalized. It remains a frequently undetected low-risk/high profit endeavour for criminals.\textsuperscript{36}

4.1 Human Trafficking in Africa

The continent of Africa has a unique and rich socio-historical context. Although Africa is endowed with vast human and natural resources, its inhabitants are largely impoverished and are subjected to gross human rights violations. Walter Rodney, an unimpeachable authority in the field of African history, observes that the legacy of the Atlantic slave trade impinged greatly on the labour force of Africa.\textsuperscript{37} While human trafficking affects

\textsuperscript{36} Republic of Zambia REPORT of the COMMITTEE ON LEGAL AFFAIRS, GOVERNANCE, HUMAN RIGHTS AND GENDER MATTERS for the Fifth Session of the Ninth National Assembly. http://www.parliament.gov.zm/index

virtually every region of the world, its devastating effects have manifested themselves principally on the African continent.\textsuperscript{38}

Trafficking is a very complex and complicated activity. There are many facets to trafficking and very few cases of trafficking are the same. Human trafficking is regarded as a contemporary form of slavery. According to Fitzgibbon (2003), “Hundreds of thousands of Africans men, women and children are being forced into situations of forced labour and sexual exploitation both on the continent and abroad every year. Internationally, trafficking in persons has been identified as a serious threat to human security and development by governments, pressure groups and the United Nations. But for many African governments, the problem has only recently been acknowledged.”\textsuperscript{39}

\textit{The Post}\textsuperscript{40} quotes Jeffrey Avina, director of operations at the United Nations Office on Drugs and Crime (UNODC) as follows: “It is no coincidence that most of the victims are from developing countries. They are the most vulnerable to predators who exploit the dreams of poor and vulnerable people who are seeking a better life.” The victims, mostly women and children, have high hopes working as domestic servants or in factories will open new opportunities. But many are coerced into forced labour or prostitution, unable to break the cycle of exploitation. The traffic sees the young and vulnerable, particularly in developing regions such as Africa, sold into sexual servitude, child soldiers are drugged and forced into combat, and women enslaved as indentured labour. The problem

\begin{itemize}
  \item \textsuperscript{38} IOM, \textit{A Counter-Trafficking Handbook for Law Enforcement Officers in Southern Africa} (2006)
  \item \textsuperscript{39} Fitzgibbon, K. (2003) \textit{Modern Day Slavery? The Scope of Trafficking in Person in Africa}. African Security Review 12 (1)
  \item \textsuperscript{40} The Post, Friday October 5, 2007. ‘Tackle human trafficking with economics’ – United Nations
\end{itemize}

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is acute in Africa, where experts say organized criminal syndicates using false documents take advantage of porous borders and widespread poverty.\textsuperscript{41}

The perpetrators of the scourge employ various methods to manipulate victims. These range from deception, lies, isolation of the victim, intimidation and the issue of threats. Sexual abuse includes forced vaginal, oral and anal sex, gang rape and forced prostitution. The victims of human trafficking are also subjected to economic exploitation in the form of fines and charges for travel documents, housing, food and other basic commodities. The traffickers often assume control over the earnings of victims and can confiscate such proceeds in whole or in part.\textsuperscript{42}

The IOM\textsuperscript{43} reports that trafficking syndicates use voodoo in order to control victims. The bulletin reads: ‘One of the least understood corners of the slavery underworld; gangs using the perceived potency of native West African voodoo and hexes to hold women in their grip…Faith in the power of voodoo – sometimes called juju- is deeply ingrained in West African culture. The women are told that fleeing the traffickers will bring death to them or their family.’

When people think of trafficking many visualize women and children who are recruited, transported and sold for purposes of sexual exploitation or forced labour. Women and children are the two groups with the highest rates of abuses. 80 percent of the victims are

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\textsuperscript{41} Ibid.
\textsuperscript{42} Supra, Note 34.
\textsuperscript{43} IOM, \textit{Eye on Human Trafficking}, Issue 7 of 2005
female, and up to 50 percent are children.\textsuperscript{44} Human trafficking, however, extends beyond
the trade in women, and can result in more than sexual exploitation. The exploitation of
men, the sale of children for adoption and the removal of organs for transplant, or body
parts for spiritual medicine, are just some of the emerging purposes of human trafficking
in Africa. For example, in Kenya and Nigeria, there have been documented cases of
doctors, priests and preachers participating in the trafficking of newborns.\textsuperscript{45} Illegal
adoption in the context of human trafficking occurs mainly for sexual exploitation and
forced labour. It could also be triggered by the motive to circumvent stringent legal
adoption requirements.

In spite of the enactment of the African Charter on the Rights and Welfare of the Child
in 1999, “Africa has the largest number of child soldiers...Child soldiers are being used
in armed conflict in Burundi, Cote d’ Ivoire, Congo DR, Rwanda, Somalia, Sudan and
Uganda.”\textsuperscript{46} This instrument plays a complementary role in reinforcing the Convention on
the Rights of the Child (CRC). It provides the means whereby children’s welfare and
human rights concerns can effectively be addressed within the particular social,
economic, historical and political context of Africa.

The African continent has witnessed unprecedented prominence in human rights rhetoric
in the last fifty years. The African Charter on Human and Peoples’ Rights, the principal
instrument in the African human rights edifice, entered into force in October 1986 and

\textsuperscript{44} Trafficking in Persons Report, Released by the Office to Monitor and Combat Trafficking in Persons of
the U.S. State Department, June 3, 2005: \url{http://www.state.gov/ripstiprpt/200546606.htm}
\textsuperscript{45} Reference from \url{http://www.apologeticindex.org/d/d51aa.html}
\textsuperscript{46} Quote from Coalition to stop the use of Child Soldiers: \url{http://www.childsoldiers.org/childsoldiers/
questions-and-answers}
became operational in July 1987 when its implementing body, the African Commission, effectively came into being. Most African states were already parties to the two 1966 UN human rights covenants (the ICCPR and the ICESCR) and so had already committed themselves to the protection of human rights. Besides, the national constitutions of many of these states already contained a number of human rights guarantees. The Charter was necessitated out of the desire for a regional human rights system that took into account cultural relativism.47

All the fifty-three African Union member states have ratified the African Charter. The Charter contains 68 articles. It provides for a wide range of rights, the beneficiaries of which are either individuals or groups. Individual rights are provided for in articles 2 to 17 and comprise civil and political rights as well as economic, social and cultural rights. For instance, the Charter provides for the right to freedom from exploitation, slavery, slave trade, torture or other inhuman or degrading treatment, arbitrary arrest or detention, vicarious criminal punishment, and expulsion from a country without due process of law.48

4.2 What Is The Character of Human Trafficking In Southern Africa?

Human trafficking is a relatively new but serious issue emerging across Southern Africa. Currently, none of the countries in the SADC region have in place a legal framework adequate to deal with this complex phenomenon.49 By nature a hidden problem, the full extent of the scourge is not yet known. A feature that seems to run through reported cases

48 Ibid.
49 Cited from Zambia Law Development Commission: Issue Paper on Human Trafficking in Zambia
is that the victims are unwilling to co-operate with law enforcement officers for fear of repercussions.\textsuperscript{50} Lack of research and fear of reporting contribute to this problem. Nevertheless, hundreds of individual cases of human trafficking have been documented in the past few years, and anecdotal evidence is mounting. Given the numerous obstacles to identifying and/or reporting human trafficking, it can reasonably be assumed that the number of trafficking cases identified in the region to date represent only a small proportion of actual cases.\textsuperscript{51}

Southern Africa does not yet have a regional agreement specifically aimed at combating human trafficking.\textsuperscript{52} The need for a comprehensive treaty coordinating and harmonizing all the elements of counter-trafficking efforts is long over-due. This will enhance efficacy at national, regional and inter-governmental levels by ensuring that there is no conflict in law at any level. A regional agreement relating to trafficking has already been achieved in the West African region.\textsuperscript{53}

There is a pressing need for a regional protocol that will take into account the unique challenges confronting the SADC region. Men, women and children have been trafficked within and without the region for various purposes. Cases of internal trafficking have proliferated. In addition to cross-border situations, it appears that various forms of human trafficking are also occurring inside national borders. For example, it is relatively common in Southern Africa to recruit children from rural areas to work in urban centres, often through promises of well-paid work, schooling or better life. Albeit not commonly

\textsuperscript{50} Supra, Note 36.
\textsuperscript{51} Supra Note 49, p.4
\textsuperscript{52} Supra, Note 8.
\textsuperscript{53} An example is The Economic Community of West African States (ECOWAS) "Declaration and Plan of Action against Trafficking in Persons," (2002-2003).
recognized as “trafficking”, many of these young people end up deceived, exploited and abused in various forms of sex or domestic labour. Debt bondage, child selling, pledging children or females to pay a debt, forced or early marriage to obtain “bride price”, and other practices also constitute forms of human trafficking in the region.\textsuperscript{54}

Trafficking in women and children especially for the purposes of sexual exploitation remains a significant problem in Southern Africa. The absence of specific legislation criminalizing trafficking in persons in Southern Africa is a main obstacle preventing police and prosecutors from investigating the practice.\textsuperscript{55} The HIV/AIDS pandemic is also having its impact, leaving many widows, or orphaned households – often teenagers who must provide for a number of younger siblings. Not to be discounted is the effect of the region’s on-going food crisis has had in exacerbating the vulnerabilities of households, so that it is not uncommon to read stories in the press about parents who have sold their children to passers-by, believing that nowhere could conditions be worse than here.\textsuperscript{56}

To varying degrees, human trafficking is a problem that affects all of the countries in the SADC region. Most countries in the SADC region are primarily “source countries” – countries from which the victims are recruited or obtained – or “transit countries” - countries through which the traffickers transport their victims on their way to other destinations.\textsuperscript{57} Angola, Botswana, DR Congo, Lesotho, Mozambique, Malawi, South Africa, Swaziland, Tanzania, Zimbabwe and Zambia are source countries for trafficking


\textsuperscript{55} Supra, Note 38, pp.11-13.


\textsuperscript{57} Supra Note 36.
activities in Southern Africa. Thailand, China, and Eastern Europe are the extra-regional sources for victims trafficked to South Africa.\textsuperscript{58}

South Africa is the only country in the region that is primarily a "destination" or "receiving" country for human trafficking, although others, including Zambia are also destinations to a limited extent. Moreover, because trafficking occurs internally, that is to say, within the borders of a given country – all countries in the region are to some degree countries of origin, transit and destination and therefore need strategies to combat trafficking and assist victims at all stages of the trafficking process.

4.3 Case Studies in Southern Africa

4.3.1 South Africa

The traffic of persons in South Africa seems to epitomize the height of the trafficking problem in Southern Africa. The Constitution of the Republic of South Africa, the Immigration Act 2002 and the Children’s Act of 2006 provide, for the most part, an adequate legal framework to prevent human trafficking. However, the complex nature of the scourge compounds the problem in that the lack of specific legislation has militated against a holistic legal remedy.

The South African Constitution came into force in February 1997. It is the supreme law of the country.\textsuperscript{59} According to the Constitution, "[the] Bill of Rights is the cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms

\textsuperscript{58} Supra Note 38, p. 14.
the democratic values of human dignity, equality and freedom. The Bill of Rights entrenches the rights of everyone in South Africa, inter alia, to equality before the law, human dignity, personal freedom and security, privacy, due process of law, and freedom of expression and association. The Bill prohibits slavery, servitude, or forced labour.

Under the Constitution, international law must be considered in the interpretation of the Bill of Rights and other national legislation. South Africa has ratified the ICCPR. Most rights provided for in the ICCPR apply to everyone, regardless of immigration status. For example, the ICCPR prohibits the use of torture or cruel, inhuman or degrading treatment or punishment, and slavery, servitude, and or forced or compulsory labour.

South Africa has criminalized the trafficking of children through its Children’s Act of 2006. Chapter 18 of the Act deals with the issue of trafficking in children. The Act gives effect to the UN Protocol on Trafficking in Persons, criminalises child trafficking and provides for a fine or imprisonment of up to 20 years, or both a fine and such imprisonment, for anyone convicted of this crime. This is in addition to any other offence for which a person may be convicted. The prohibition also applies to a juristic person and a partnership, which means that syndicates can be prosecuted under the Act.

The Act broadens the definition of trafficking in the UN Protocol on Trafficking in Persons by, inter alia, adding to the definition the adoption of a child facilitated or

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60 Ibid, chapter 2, section 7 (1)
61 Ibid, chapter 2, sections 9, 10, 11, 14, 16, 18 23, 26 and 28.
62 Ibid, chapter 2, section 13
63 ICCPR, art 7
64 ICCPR, art 8
65 [http://www.iom.org.co.za](http://www.iom.org.co.za)
secured through illegal means. Unlike the Protocol, the Act recognizes the trafficking of children for purposes of removing their body parts, other than organs.  

It also enables the South African Government to prosecute South African citizens and permanent residents who commit an act of trafficking in a foreign country. The Act as a whole is a landmark for the protection of the rights of children, in particular for the fight against trafficking in children.

4.3.2 Mozambique

An inquiry conducted by the IOM in April 2005 indicates that women continue to be trafficked from rural areas of Mozambique and the capital city Maputo, for sale to mine workers on a gold mining district in South Africa known as West Rand. The trafficking operations are run by Mozambican and South African men on both sides of the border.

Taxi drivers commuting between the two countries recruit young women from rural areas such as Macia and Chokwe in Mozambique’s Gaza province. The women are dropped at the border, along with other migrants they may be smuggling. A guide will then take them through, so that they can evade border officials before meeting on the other side. Alternatively, one can buy their way across the border for as little as R100-150 [US $17-25].

Once in South Africa, the women realize that there are no jobs for them. They may be sometimes raped and physically abused before being sold off to the miners. The

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66 Ibid.
67 This information is excerpted from the IOM bulletin *Eye On Trafficking* Issue 6/ April 2005 in an article entitled *Carletonville: Destination for Trafficked Mozambicans*
Traffickers seem to depend mainly on the helplessness and disorientation women encounter once they reach a destination where there seems to be no means of survival and no social networks.

Mozambique has a relatively robust legal framework to counter human trafficking. The State has signed the United Nations Convention against Transnational Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, and the Protocol against the Smuggling of Migrants by Land, Sea and Air.\textsuperscript{68}

Immigration codes focus only on illegal entry and fail to criminalise illegal exit or facilitation of illegal exit. The gap creates a loophole for traffickers to smuggle victims out of the country, unless the trafficker can be charged with other offences such as making false statements, possessing false documents, or similar offences.

4.3.3 Tanzania\textsuperscript{69}
Tanzania has also signed the United Nations Convention against Transnational Crime. Tanzania has a distinct offence on trafficking contained in the Sexual Offences Special Provisions Act, 1998, section 139A. Although called an anti-trafficking law, section 139A is primarily directed at illegal adoptions. Section 139A prohibits the “buying, selling or bartering” a person for money or any other consideration. It also prohibits certain specific acts that “promote, facilitate or induce the buying, selling or bartering or placement in adoption of any person for money or any other consideration.”

\textsuperscript{68} Supra, Note 65, p.17  
\textsuperscript{69} Ibid, pp.18-19
These acts all relate to the acquisition of children for illicit adoption. The penalty for trafficking under the statute is twenty years’ imprisonment and a fine, with mandatory compensation to the victim. The limitation of the statute is its definition, which is vague and too narrow in scope to address all forms of human trafficking.

4.3.4 Zimbabwe

Zimbabwe has several sexual offences that could be used to prosecute trafficking, particularly in cases involving children under the age of 16. These provisions – sexual offences against young persons and procuring prostitution or unlawful sexual conduct – have specific extra-territorial provisions built in that enable prosecutors to reach beyond Zimbabwe’s borders in many cases, as well as to prosecute internal forms of sex trafficking and “sex tourism.”71 Property owners or occupiers can be charged with complicity in permitting the sexual exploitation of children.72

The strength of these measures is that they are gender neutral (not limited to female victims), not limited to commercial forms of sexual exploitation or prostitution, and address both internal and cross-border forms of trafficking for sexual purposes. The principal shortcoming is that it might not cover procurement of adults for other forms of commercial sexual exploitation not involving sexual intercourse or any form of trafficking for labour exploitation.

4.3.5 Summary of the Lacunae in the Legal Framework of SADC States

70 Ibid, p.20
71 Criminal Code, sections 70, 71, 72 and 83.
72 Ibid, sections 76 and 86
An efficacious anti-trafficking strategy requires effective criminal laws to prosecute and punish traffickers. In the absence of a specific anti-trafficking law, most states in the region have relied on existing immigration statutes pertaining to forged documents, or criminal provisions relating to prostitution, or abduction to prosecute trafficking or trafficking-like offences. A persistent problem, however, is the narrow reach and low penalties associated with these crimes. Moreover, none of the existing laws are adequate to fully address all manifestation of human trafficking or reach actors in the trafficking chain.\textsuperscript{73}

Public sector corruption, lack of access to legal access and/or representation, the stringent evidentiary rules requiring corroboration for sexual offences, lack of witness protection and limitations on compensation/restitution for victims of crime are some of the major shortcomings in the legal framework of several SADC states.\textsuperscript{74}

Until specific counter-trafficking legislation is passed, existing laws can at best serve as a resourceful mechanism for addressing the escalating traffic in persons. However, it is clear from the foregoing discussion that since human trafficking is a relatively new and highly complex crime, current laws are grossly ineffective. It remains undetected by law enforcement officers or is mistaken for other lesser offences which form part of the extended process of transporting humans for purposes of exploitation. A good illustration is where perpetrators are charged with immigration offences and required to pay fines. In some instances, law enforcement agencies have in countries affected by trafficking are unfamiliar with traffickers’ modus operandi, and inadvertently criminalise victims. In

\textsuperscript{73} Supra, Note 38, p.21
\textsuperscript{74} Ibid.
spite of consensus amongst SADC countries for the need to provide legislation specifically criminalizing trafficking, none of the countries has yet attained this goal.
CHAPTER FIVE

5.0 HUMAN TRAFFICKING IN THE ZAMBIAN JURISDICTION

The Republic of Zambia is situated in Central and Southern Africa. Zambia is a landlocked country bordered by eight neighbouring countries, namely: Angola, Botswana, Malawi, Tanzania, Congo DRC, Mozambique, Namibia, and Zimbabwe. Zambia has a geographical size of 752, 614 square kilometers and a population of 12 million people.  

Zambia is a country of origin, transit and destination for trafficking in women and children. Zambian women and children are trafficked to Botswana, the Far East, the Middle East, and South Africa. Zambia is a country of destination for street children for children from Lesotho’s capital, Maseru. A number of Thai women involved in prostitution have been trafficked to Zambia to work in the commercial sex industry.

In five African countries – Botswana, Lesotho, Swaziland, Zambia and Zimbabwe – at least 20 percent of adults are infected with the HIV/AIDS virus. Most HIV/AIDS-related deaths have occurred among the economically productive population (ages 15 to 50), a situation that has greatly damaged economic productivity and growth. Governments should

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77 Ibid, p. 14
therefore tackle the links between poverty, unsafe migration and the HIV/AIDS pandemic in the Southern African region.

HIV/AIDS, coupled with poverty, has contributed to the proliferation of street children and child labour in Zambia. Approximately 80 percent of the population lives in abject poverty. Prostitution has soared in major towns and smaller urban areas. The number of street children has escalated. The country is saddled with 1.2 million orphans, who are particularly susceptible to child trafficking. The problem of orphans is a prominent feature of Zambia’s social sector today. Nearly half of Zambian children, regardless of orphan status, are not enrolled in primary school. Education expenditure was a meager 3 per cent of GDP, representing US $0.25 per child.

In 2000, a Zambian government study found that an estimated 563,000 children between the ages of 5 and 17 were involved in some form of domestic labour or prostitution. Zambia’s Labour and Social Security Minister reported in late 2003 that more than 700,000 Zambian children were involved in the worst forms of child labour. The rampant increase in defilement cases, corruption of minors, abduction for sexual purposes, and trafficking of girls for the purposes of prostitution has compounded the problem. Minors are particularly at risk of being pushed into prostitution in border towns and along trafficking routes. In Chirundu, on the border between Zambia and Zimbabwe, truck drivers may wait for days before crossing the border. Women and girls

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79 Supra, Note 75 at p. 13
82 http://www.countryreports.org/content.zambia.htm
offer their services to men there. Sex tourism has reportedly taken root in Livingstone, which is located above the Victoria Falls. Livingstone has the highest incidence of HIV/AIDS in Zambia, at approximately 30 percent of the population.\textsuperscript{85}

The payment of \textit{lobola} (bride price) is a common cultural practice in Zambia. This practice exposes women in violence and abuse at the hands of husbands and in-laws, who might feel that the \textit{lobola} entitles them to treat the wife as a virtual slave. Furthermore, early marriage related to \textit{lobola}, which is common and on the increase in Zambia, exposes young girls to abuse and makes them more vulnerable to trafficking.\textsuperscript{86}

According to an unpublished assessment carried out by the Anglican’s Children Project (ACP) – Anglican Children’s Project: Draft Report on Human Trafficking in Zambia\textsuperscript{87}, respondents estimated that the majority of those trafficked were girls. The people involved in the trafficking were family, truck drivers, friends, hotel owners, church organisations, neighbours, tourists, business people and older prostitutes. Whilst the research does not state where the children are moved to, it would appear that the majority were moved \textit{within Zambia and not outside the country}.\textsuperscript{88}

5.1 Internal Trafficking within Zambia\textsuperscript{89}

Internal trafficking usually takes the form of movement of children from rural to urban areas in order to work. This involves either moving from surrounding rural areas to the

\textsuperscript{85} Supra, Note 81, p.8
\textsuperscript{87} September 2004 (Unpublished), quoted in ILO Working Paper with support from IPEC, supra, note 81
\textsuperscript{88} Emphasis applied.
\textsuperscript{89} This information is drawn primarily from ILO Working Paper on the Nature and Extent of Child Trafficking in Zambia, \textit{op cit}.
larger towns in the province, neighbouring provinces or to Lusaka. For example, in Livingston victims were found to have moved from the Copperbelt, Lusaka, Kafue, Kazangula and as far as Mbala.90

In all the provinces, there are cases where urban dwellers go to rural areas to recruit children for work as maids and garden boys in towns. These cases usually involve relatives, but occasionally non-relatives as well. This is a well-known practice in Zambia which, though culturally tolerated, may be regarded as child trafficking as the children are overworked, underpaid, if paid at all, and in extreme cases may be sexually and physically abused.91 It is therefore proposed that law enforcement officers will be proactive in protecting the welfare and rights of children, especially against covert methods of trafficking.

The IOM has identified human trafficking as being one of the most highly-organised cross-border crimes, which, if left unchecked, could take its tragic toll on the economic and social fabric of Third World countries in the sub-Saharan region, Zambia included. It is in this quest that the IOM has partnered with law-enforcement agencies such as immigration officials, drug-enforcement agencies and the Victim Support Unit (VSU) of the Zambia Police Service to train officers so that they will be able to identify victims of human trafficking during the course of their duties.

5.2 Zambia’s National and Legal Framework to Combat Human Trafficking

90 Ibid, p.8
91 ‘Child Trafficking: Does it exist in Zambia?’ http://www.allAfrica.com
The Government of Zambia has adopted a comprehensive national policy to combat trafficking while legislation is still underway. This is a step in the right direction. It is, however, only an ephemeral measure. The *Sunday Mail*\textsuperscript{92} quotes Zambia Law Development Commission senior research officer, Sharon Williams, as saying that the current national policy framework does not address trafficking effectively. “Governmental and non-governmental strategies to combat trafficking have not been effectively coordinated or harmonized at the national or regional level. Nor is the current legal framework adequate to effectively prosecute human traffickers for their crimes,” Williams said.

5.2.1 The Republican Constitution\textsuperscript{93}

The Republican Constitution of Zambia is the supreme law of the country. All laws must be in alignment with the provisions of the Constitution. The Bill of Rights, Part III of the Zambian Constitution, implicitly prohibits trafficking of a young person in any form. The Constitution defines a young person as “any person under the age of 15 years.” The Bill of Rights enshrines a number of fundamental rights and freedoms relevant to human trafficking. These include:

- the right to life, liberty, security and protection of the law;
- protection of young persons from exploitation;\textsuperscript{94}
- the right not to be held in slavery or slavery;\textsuperscript{95}
- the right to be protected against forced labour;\textsuperscript{96}

\textsuperscript{92} *Sunday Mail*, September 2, 2007. ‘Fight against Human Trafficking.’
\textsuperscript{93} Chapter 1 of the Laws of Zambia.
\textsuperscript{94} Article 11 (a)
\textsuperscript{95} Article 14 (1)
\textsuperscript{96} Article 14 (2)
• the right not to be subjected to torture, inhuman or degrading treatment.\textsuperscript{97}

\textbf{5.2.2 International Commitments}\textsuperscript{98}

Zambia is a party to several of the relevant conventions and protocols including:

• Convention on Transnational Organised Crime
• Trafficking Protocol (acceded to on April 2005)
• Migrant Smuggling Protocol
• Convention on the Rights of the Child
• Convention against the Elimination of All Forms of Discrimination against Women (CEDAW)
• ILO Forced Labour Convention (1930) (No.29)
• ILO Minimum Age Convention (1973) (No. 138)
• ILO Convention on Worst Forms of Child Labour (No. 182)
• The Slavery Convention
• Supplementary Convention on the abolition of slavery, the slave Trade, and Institutions and Practices Similar to Slavery (1956)
• African Charter on the Rights and welfare of the Child
• Charter of Fundamental Social Rights in SADC (2003)

\textbf{5.2.3 Criminal Offences}

\textsuperscript{97} Article 15
\textsuperscript{98} Quoted from the ZLDC Issue Paper
Zambia has a separate offence of human trafficking in its Penal Code. The Code specifically criminalizes trafficking in section 143 of the Penal Code (Amendment) Act No. 15 of 2005. Following the prosecution of the “Congolese” child trafficking case in May 2005, many in government publicly acknowledged the need to strengthen Zambia’s criminal laws to address the problem of trafficking and pushed for the inclusion of a specific trafficking offence in the penal Code (Amendment) Bill of 2005. The current law makes it a criminal offence to sell or traffic in a child or other person for any purpose or in any form. Section 143 is couched in these terms:

143. Any person who sells or traffics in a child or other person for any purpose or in any form commits an offence and is liable, upon conviction, to imprisonment for a term not less than twenty years:

   Provided that where it is proved during the trial of the accused person that the sale or trafficking in a child or other person was for the purpose of causing that child or person to be unlawfully and carnally known by any other person, whether such carnal knowledge was intended to be with any particular person or generally, the person is liable, upon conviction, to imprisonment for life.

The penalty for trafficking is stiff. Trafficking “for the purpose of causing the child or person to be unlawfully and carnally known by any other person” carries a penalty of up to life imprisonment—the same as rape99 or defilement100. Unfortunately, the amendment does not define the term “traffic” or “trafficking” or clearly set out the elements of the offence. The open-ended language is aimed at maximizing flexibility in the light of the difficulty of establishing that the crime of human trafficking has been committed. This, however, has the unintended but inevitable consequence of making it difficult to enforce

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99 Section 138
100 Sections 138 and 139
the law as currently drafted. An even greater lacuna in this section is that it fails to address important components of prevention and protection of victims.

The Penal Code also contains a number of provisions that could be used in prosecuting traffickers. These include: procurement for prostitution\textsuperscript{101}, procuring defilement by threats or fraud\textsuperscript{102}, detention with intent in premises or brothel\textsuperscript{103}, living on earnings of prostitution\textsuperscript{104}, child pornography\textsuperscript{105}, kidnapping /abduction\textsuperscript{106}, slavery\textsuperscript{107}, abduction for slavery\textsuperscript{108}, “dealing in slaves”\textsuperscript{109}, forced labour\textsuperscript{110}, abduction for sexual purposes\textsuperscript{111}, threatening violence\textsuperscript{112}, as well as numerous prostitution-related offences.

The Employment of Young Persons and Children’s Act (2004) also plays an instrumental role in counter-trafficking. The amendments relating to the “worst forms of child labour”\textsuperscript{113} provide further legislative provisions to criminalize the traffic of children. Although the Act is not on point to criminalize human trafficking, it is nevertheless important legislation on human trafficking. This 2004 Act prohibits trafficking in children, slavery, slavery-like practices and the use of children in harmful and illicit activities such as prostitution and pornography. Key terms such as “trafficking” and “slavery” are not defined and the law applies only to persons under 18. These are serious

\textsuperscript{101} Section 140
\textsuperscript{102} Section 141
\textsuperscript{103} Section 144
\textsuperscript{104} Section 147
\textsuperscript{105} Section 177A
\textsuperscript{106} Sections 251-258
\textsuperscript{107} Section 261
\textsuperscript{108} Section 256
\textsuperscript{109} Section 262
\textsuperscript{110} Section 263
\textsuperscript{111} Sections 135-136
\textsuperscript{112} Section 90
\textsuperscript{113} Employment of Young Persons and Children’s Act, sections 4B and 17B
limitations. As intimated earlier, Zambia does in certain cases experience non-paradigmatic instances of trafficking, especially as a result of cultural practices.

Other relevant offences pertaining to trafficking are contained in:

- The Immigration and Deportation Act
- The Anti-Corruption Commission Act (1996)
- Adoption Act\textsuperscript{114}
- Juveniles Act\textsuperscript{115}
- Prohibition and Prevention of money Laundering Act (2001)

None of these laws capture all the elements of the crime of trafficking or reach all the complex forms of trafficking as required by the UN Protocol. The exigencies of the rapidly growing scourge, however, demand that current legislation should be used to prosecute traffickers.

5.2.4 Limitations of current Penal Code offences to prosecute Trafficking.

Zambia’s Penal Code has not evolved at the necessary pace to prosecute emerging crimes such as human trafficking, domestic violence, child prostitution, and organized crime. Under the current code, there is no single provision that “establishes as offences” all forms of conduct defined in Article 3 of the UN Protocol. The new trafficking offence is broadly worded. While this may be beneficial by netting a wide range of practices that relate to trafficking, the lack of precision makes it difficult to enforce. Furthermore, the section is arguably overbroad. In terms of “recruitment”, Zambian law prohibits

\textsuperscript{114} Chapter 54 of the Laws of Zambia
\textsuperscript{115} Chapter 53 of the Laws of Zambia
“procurement” for prostitution or for extra-marital sexual intercourse (if the woman is under the age of 21 or the defendant uses threats or fraud).\textsuperscript{116} However, procuration offences are by definition limited to prostitution or sexual intercourse and would not cover any form of non-sexual trafficking. An interesting example is the fact that trafficking for labour exploitation or body parts is not covered. Although the recent amendments to the Penal Code significantly increased the penalties for procuration - even by threats, intimidation, false pretence or fraud – still requires corroboration. This requisite condition is per se sufficient in many cases to render the provision unenforceable.

The amended Penal Code contains two new offences, child pornography\textsuperscript{117} and compelling a child to become a prostitute\textsuperscript{118} that could be resourceful provisions in criminalizing some cases of sex trafficking involving children. This piecemeal approach potentially curtails possible child trafficking. Its major shortcoming is that it is restricted to children under the age of 16 and this is a fetter to prosecutions for similar crimes committed relating to victims above that age.

Besides “morality offences,” the Penal Code also contains various “offences against liberty.” Abduction under section 135 does not require corroboration. However, the scope of the law is also restricted. The purpose of the abduction must be for marriage or carnal knowledge of a female person, and prosecutors must prove that the “taking away” or “detention” of a woman (or girl) “was against her will.” While some trafficking cases do

\textsuperscript{116} Sections 140 and 141
\textsuperscript{117} Section 177A
\textsuperscript{118} Section 147
involve "classic" abduction — that is abduction by force — the vast majority of cases involve the use of fraud, deception, intimidation, coercion, abuse of power or parental authority to obtain the ‘consent’ of the victim.

For trafficking of children, a stronger Penal Code provision is Section 171: Child Stealing. Section 171 criminalises "forcibly or fraudulently" taking away or enticing or detaining a child under the age of 16, or to receive or harbour the child, knowing it to have been so taken or enticed away or detained. This provision can serve as a counter-trafficking law in trafficking cases to reach recruiters as well as those who transport or detain the child. The consent of the child is not relevant nor is it necessary to prove the purpose behind the child stealing — a significant implication in trafficking cases where the exploitation cannot be proved or has not yet occurred.

However, there are also major limitations — child stealing requires "intent to deprive any parent, guardian or other person who has the lawful care or charge" of the child — a potential problem in trafficking and trafficking-related cases in which the parents, guardians or institutional custodians give "consent," are knowingly complicit in the trafficking, or cannot be identified or located. In the light of the rampant orphan problem and lack of proper birth records, proving the offence can be problematic.

The Penal Code also includes a number of provisions relating to slavery and other "offences against liberty." These provisions could also be used in certain cases to prosecute human trafficking. For example, section 267 makes it a felony to import, export, remove, buy, sell or dispose of a person "as a slave," or to accept, receive or
detain “against his will any person as a slave.” Habitually importing, exporting, removing, buying, selling, trafficking or dealing in slaves is also a felony punishable up to a maximum ten years imprisonment.

In addition, it is a felony to kidnap or abduct a person in order to subject that person (or put such a person in danger of being subjected) to “grievous harm”, “slavery”, or the “unnatural lust of any person,” or to abduct or kidnap a person knowing that such an outcome is likely. The penalty for this offence is up ten years’ imprisonment.\(^\text{119}\)

Aside from section 141 (b) (procurement for defilement by false pretences or false representations) and section 256 (abduction for slavery) which are defined narrowly – the Zambian Penal Code does not criminalise fraudulent or deceptive recruitment. Victims of human trafficking are often recruited by means of deception, particularly through alluring promises of employment, marriage or educational opportunities. However, at present Zambia does not have a specific provision criminalizing fraudulent labour recruitment or advertising, or a general fraud provision broad enough to encompass this or similar practices.

Even though Zambia’s Penal Code addresses a host of exploitations incidental to human trafficking situations, it does not provide adequate protection against other forms of exploitation required by the UN Protocol such as adult forced labour, forced marriage, child marriage, pornography involving adults, debt bondage, removal of organs, or other forms of sexual exploitation of children 16 and older.

\(^{119}\) Section 256
One of the most overlooked and critically important shortcomings of the Penal Code is that it does not provide for criminal liability of juristic persons. The only statutory provision identified with respect to corporate liability is contained in the Money Laundering Act\textsuperscript{120}, Chapter 96 of the Laws of Zambia. Given the fact that the traffic of persons is often masterminded by syndicates, it is therefore absolutely essential that the law must take into account this flaw.

5.2.5 Employment of Young Persons and Children Act (Amendment) (No. 10 of 2004)

Sections 4 and 17 of Zambia’s Amended Employment of Young Persons and Children Act are potentially useful provisions to counter human trafficking. Under section 4A (1) of the Act, it is an offence to employ a child (a person under age 15) “in any covered worksite.” A “covered worksite” is defined as “any public or private undertaking” including “any commercial, agricultural or domestic worksite and any undertaking in which only members of the same family are employed”.\textsuperscript{121} The penalties available if a young person (15-18 years old) is employed “in any type of employment or work which by its nature or the circumstances in which it is carried out, constitutes a worst form of child labour” are enshrined in section 4 and 17. Based on the international definition (ILO Convention 182), “worst forms of child labour” is defined in the statute as:

(a) all forms of slavery and practices similar to slavery, such as the sale and trafficking of children and young persons, debt bondage, serfdom, forced and

\textsuperscript{120} Money Laundering Act, section 8 pertaining to offences committed by a body of persons.

\textsuperscript{121} Section 2
compulsory labour and forced or compulsory recruitment of children and young persons for use in armed conflict;

(b) the use, procuring or offering of a child or young person for prostitution, production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child or young person for illicit activities, such as the production and trafficking of illegal drugs; and

(d) work that by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children or young persons.

Any person who contravenes these sections is liable to a fine of not less than 200,000 penalty units up to 1,000,000 penalty units, or to imprisonment for a term not less than five years but not exceeding twenty-five years, or to both.

The statute has numerous positive elements. First, the generic provision on child labour applies to all sectors (including informal and domestic employment) but carves out an exception for “light work” that does not impede schooling or other training and is not harmful to the child. Hence a necessary balance is struck and this appears to be a reasonably well-defined approach to child labour. At the same time, sections 4B and 17B make it a serious offence to engage a child in “worst forms of child labour.” The Act can also be used to prosecute all forms of trafficking of persons under the age of 18, including trafficking for prostitution, pornography or other sexual performance; forced, hazardous or harmful labour; and even forced marriage/sexual servitude – a subject not normally covered by employment law.
5.2.6 Immigration and Deportation Act

The Immigration and Deportation Act does not per se criminalise human trafficking or migrant smuggling as those terms are defined in the UN Protocols. However, it does contain a plethora of provisions that could be used in appropriate cross-border cases to prosecute traffickers and their accomplices. These include:

- Entry into or departure from Zambia in contravention of the Act
- Employment of any person without valid work permit
- Willful concealment of identity, citizenship or country of origin (false representations, false statements and failure to produce passport or answer questions, etc.)
- Assisting a person or persons whose entry into or presence in Zambia is in contravention of the Act (harbouring, making false statement, forgoing or altering permit or other document, knowingly using forged permit or document, unlawful use or altering of any document or certificate, etc.)
- Unlawful possession of multiple passports or identity documents
- Knowingly facilitating of unlawful entry or stay by an immigration officer.

Penalties for immigration offences (unless otherwise noted) range from a fine of up to 6000 penalty units, imprisonment up to three years or both. These can be reduced where the defendant makes an admission of guilt. Certain offences (including 29 (9) where committed by an immigration officer) do not allow the option of a fine. The option of fines is not a stringent penalty to neither prosecute trafficking nor act as a deterrent.

122 Chapter 123 of the Laws of Zambia
123 Section 30 (1)
124 Section 30 (3)
measure because most perpetrators of trafficking in persons generate huge profits from their illicit trade in human beings. The need for reforms in this piece of legislation is long overdue and must be done with utmost competence and caution, bearing in mind that human trafficking is very lucrative for traffickers.

5.2.7 Other offences

In addition to the laws discussed above, the Zambian legal framework contains a number of other statutory provisions that may be instrumental to the prosecution of human trafficking. These include, for instance the Adoption Act\textsuperscript{125}. Under the Act it is an offence to receive or make payment in connection with arrangement of adoption\textsuperscript{126}; an offence to advertise for adoption\textsuperscript{127}; an offence to send an “infant” (person under 21) abroad “in connection with adoption” without a proper licence or authority. Penalties for adoption offences carry a penalty of 500,000 penalty units, a fine or imprisonment of up to six months, or both. The Juveniles Act\textsuperscript{128}, the Anti-Corruption Commission Act\textsuperscript{129} and the Prohibition and Prevention of Money Laundering Act\textsuperscript{130} are legislative measures that can be employed in the prevention and prosecution of the crime of trafficking.

Part IV of the Anti-Corruption Commission Act criminalises public corruption. Offences include, corrupt practices by or with public officers\textsuperscript{131}, corrupt use of official powers and procuring corrupt use of official powers\textsuperscript{132}, and attempting, aiding/abetting, counseling or

\textsuperscript{125} Chapter 54 of the Laws of Zambia.
\textsuperscript{126} Section 30
\textsuperscript{127} Section 31
\textsuperscript{128} Chapter 53 of the Laws of Zambia
\textsuperscript{129} Chapter 91 of the Laws of Zambia (No.42 of 1996)
\textsuperscript{130} Chapter 96 of the Laws of Zambia
\textsuperscript{131} Section 29
\textsuperscript{132} Section 30
conspiring with any person to commit an offence under the Act. The general sentence for public corruption is imprisonment for up to twelve years, with a minimum term of five years applicable to second or subsequent convictions. In addition, the court may order that any property or material benefit received by the defendant in the commission of a corruption offence be forfeited to the State. Under section 49, an accused is “presumed” to have acted with corrupt intention unless he or she can offer a satisfactory explanation to prove his innocence.

The Prohibition and Prevention of Money Laundering Act of 2001 establishes regulatory and monitoring mechanisms to prevent, investigate and prosecute money laundering activity, establishes a number of serious criminal offences, and contains detailed provisions enabling confiscation and restraint of property. The offence of money laundering is punishable by a fine not exceeding 170,000 penalty units or imprisonment of up to ten years or both. Attempt, aiding/abetting, counseling/procuring and conspiracy to commit a money laundering crime are punishable by a fine not exceeding 139,000 penalty units or imprisonment up to five years. Legal entities (whether incorporated or unincorporated) may also be held criminally liable.

The Act could be used to prosecute perpetrators of human trafficking and their accomplices for money laundering (in conjunction with another offence such as procuration, running a brothel or child labour). Charging a trafficker under the Money Laundering Act would also enable prosecutors to confiscate criminal proceeds and access

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133 Section 39
134 Section 41
135 Chapter 96 of the Laws of Zambia
mutual legal assistance and/or extradition procedures in cases where the underlying
offence would not otherwise be covered.

5.3 Zambia’s Experience of Human Trafficking Cases

Zambia’s trafficking record has on the whole been poor as a result of failure to report the
offence on the part of the public and rampant undetected cases of the crime. According to
an article by the African News Dimension: ‘The tipping point that forced the government
into action came in 2005 when a Congolese woman was caught trying to smuggle 14
children through Zambia into South Africa. The case received huge media attention when
the Zambian Government failed to prosecute the woman because the country had no
specific law against the crime...After the case of the 14 Congolese children, Zambia
hastily enacted an anti-trafficking law, with a minimum penalty of 20 years in prison for
a convicted offender.’136

The Zambia Daily Mail137 reported that a 43-year-old Serenje man was sentenced to 20
years’ imprisonment with hard labour for attempting to sell his 10-year-old son last year.
The man, Christopher Malama, was arrested in March 2006 when he tried to sell his son
for K850, 000 to a local businessman. Malama, a farmer, appeared before Kabwe High
Court Judge, Reuben Mwape. He was committed to the High Court by the Subordinate
Court in Serenje for the offence of selling or trafficking in children, contrary to section
143 of the Penal Code.B

136 Quoted in IOM Bulletin, Supra Note11
137 May 27, 2006. ‘Father jailed for selling son’
In a separate incident, the *Times of Zambia*\(^{138}\) reports in an article entitled ‘Mpulungu man arrested for child trafficking’ that police in Mpulungu District in Northern Province arrested a man and charged him with child trafficking. The suspect, Sikazwe, approached a Mpulungu businessman to sell his two-year-old daughter at a cost of K20 million. The businessman reported the matter to the police. The suspect was arrested when trying to get the purchase price from the businessman.

5.4 **Summary**

The foregoing discussion has established that human trafficking will continue to be a major legal and socio-economic concern if a new law is not passed. In spite of the long catalogue of offences, the current laws are not able to meet all the emerging facets to the intricate elements of human trafficking. An enormous number of trafficking cases largely go undetected and the failure to report, especially in rural areas, has compounded the problem. Many offenders are prosecuted for lesser offences, in certain instances paying only a fine. Human trafficking is commonplace within the country, and is often committed by. Internal displacement and the activities of parents and other guardians in the sale of children have perpetuated the upsurge of child trafficking in Zambia. The proliferation in the number of child-headed households has fuelled the rise in trafficking instances. Further, the cases above demonstrate that the existing legal framework is very limited in scope, and this should spur lawmakers to review the law.

\(^{138}\) Wednesday June 21, 2006
CHAPTER SIX

RECOMMENDATIONS AND CONCLUSION.

6.1 Recommendations
Human trafficking is driven by two (2) basic factors: (1) the available supply of people who are susceptible to being trafficked, and (2) the demand created by those who use these trafficked people to fill a need for cheap and highly exploitative commercial sexual services, labour and/or other forms of exploitation. In order to adequately counter the trafficking problem, in-depth understanding is a requisite to address demand factors as a root cause of trafficking.

It is proposed that a separate Human Trafficking Act should be enacted in the light of trafficking as hitherto experienced and understood in the Zambian context. Such a piece of legislation would be amply justifiable because even though there are numerous laws that can serve as counter-trafficking legislation, the lack of elaborate legislation criminalising trafficking has proved to be a fetter to the prosecution of criminals. An appropriate definition of what constitutes human trafficking in the Zambian jurisdiction would be a good starting point. The Act should take into account the need for prevention of the scourge, the prosecution of traffickers, and the protection of victims.

The UN Protocol and other regional instruments must be applied in full so as to ensure that efforts of law enforcement officers and other stakeholders can achieve the intended results. A more effective law enforcement body will create a disincentive to traffickers
and will therefore have a direct impact upon the demand for trafficked persons. The Government must therefore enhance capacity-building and increase salaries of public officers in order to curb public sector corruption. Proactive investigatory procedures and the confiscation of proceeds for trafficking activities will also serve as an important deterrent mechanism.

The decline of broad socio-economic factors, poverty, disintegration of the family, and unemployment are some of the precipitating factors of human trafficking. The law must explicitly or implicitly provide for programmes and strategies aimed at reducing poverty and promoting economic empowerment for vulnerable groups. Women and children’s rights should be at the centre of these programmes. More could also be done to improve women’s and girls’ entrance into higher education and vocational training programmes that would improve their skill sets and qualify them for better-paying jobs. Foreign direct investment could also be divided in order to foster local employment opportunities and invest in education so that potential victims have real alternatives in life. A Human Trafficking Fund and Human Trafficking Task Force would play a pivotal role in improving the welfare of victims.

The human rights of trafficked persons must be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims. Violations of human rights are both a cause and consequence of human trafficking.\textsuperscript{139} The Palermo Trafficking Protocol recognises that a necessary strategy to combat trafficking is the protection and assistance of victims. Trafficked individuals are often subjected to severe

forms of exploitation and abuse by their traffickers. If they do manage to escape from their situation, or if they are discovered or intercepted by the police, they may be subjected to further trauma at the hands of state authorities who either do not identify them as trafficking victims in need of assistance, or who do not have systems or procedures in place to enable them to provide assistance. For instance, victims may be deported as illegal immigrants than provided with protection or basic services. The Protocol\textsuperscript{140} outlines a number of mandatory and “recommended” protection and assistance measures. These include support services, including safe shelter, emergency medical care, psycho-social counselling, and legal advice. Further, the Protocol also recommends the protection of the trafficked victim’s privacy and physical security and adequate witness protection. Zambia acceded to the Trafficking Protocol in April 2005. It follows therefore that Zambia is under an obligation to implement these principles.

The law must serve the legitimate interests of society and as a corollary to this must not be oppressive in character. Therefore, anti-trafficking laws must apply only to those whom it can be proved beyond reasonable doubt that they had intended to commit the crime.

6.2 Conclusion

It is axiomatic that human trafficking is escalating to epidemic levels whilst subjecting millions of victims to the most unimaginable and degrading circumstances. Human trafficking spans the entire globe, manifesting its devastating consequences in virtually every continent.

\textsuperscript{140} Article 7
Governments, international organisations, and non-governmental organisations have a responsibility to address human trafficking through the development of legislation, prosecution of traffickers and assistance to victims. The reintegrating of women and children and improving their conditions through the equitable distribution of resources would be positive step to help them withstand the challenge of human trafficking.

 Trafficking in African women and children for forced prostitution or labour is exacerbated by war, abject poverty, and flawed or nonexistent birth registration systems. Poverty aggravates already desperate conditions. High levels of illiteracy and belief in the power of witchcraft have also militated for the escalation of human trafficking on the continent.

The Southern African region epitomises the full impact of human trafficking. The crime is seemingly intractable in this region in spite of political will on the part of governments and a plethora of legal and policy mechanisms to eradicate the scourge. Some harmful cultural practices have caused women to be regarded as a sexual commodity. Prostitution, the demand for body parts for the purposes of traditional medicine, child pornography, child labour, and other related vices are the main features that have fuelled the demand for trafficked persons in the region. The ongoing food crisis, particularly in Zimbabwe, worsens the situation. Traffickers capitalise on these vulnerabilities created by war, poverty, minimal education, rampant unemployment, and a general lack of opportunity in the region.
In recent years, Zambia has emerged as a significant and growing source, transit and destination point for victims of human trafficking. Trafficking pervades all sectors of society in Zambia. It is predominantly internal and generally involves family and relatives. It is quite common for parents to sell their children. The provisions of the proposed law must not be overbroad as to criminalise legitimate assistance rendered to orphans and other vulnerable persons in the form of job opportunities and other incentives in consideration of their services. It is therefore imperative that the law should strike a reasonable balance between genuine assistance extended to the indigent on the one hand, and curbing internal forms of trafficking on the other.

Public sector corruption and lack of adequate training are quite telling. IOM and SACTAP training efforts have made significant headway in preventing and detecting the crime, particularly at border posts. Law enforcement officers and immigration officers have varying levels of knowledge of trafficking issues, resulting in an ad hoc approach to prevention and protection of victims. This situation is exacerbated by weak legislation and relatively low levels of training which impacts on enforcement capabilities. The law must provide for heavy punishment for public officials’ complicity in trafficking.

As a final word, it is important to acknowledge that human trafficking is a fast-growing industry that requires more stringent and elaborate laws in order to meaningfully eradicate the scourge. Although poverty stimulates its growth, the lack of an efficacious legal system is the principal factor that informs its continuity. The failure of current laws
to effectively address all existing and emerging aspects of human trafficking leads us to the inescapable conclusion that the need for enacting a Human Trafficking Act is long overdue.
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