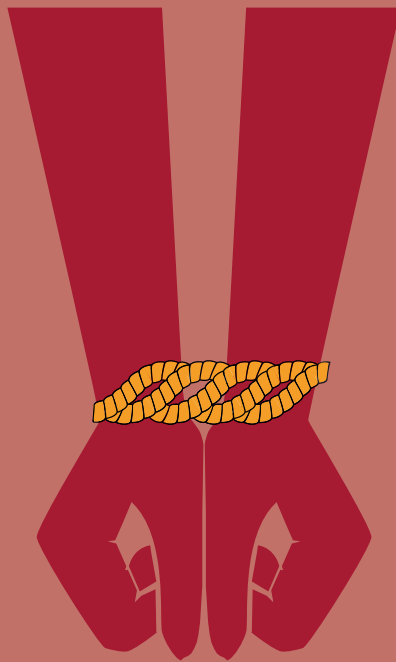


# PREVENTION AND COMBATING OF TRAFFICKING IN PERSONS



INFORMATION SHEET





# PREVENTION AND COMBATING OF TRAFFICKING IN PERSONS

INFORMATION SHEET

## Introduction

**T**he South African Human Rights Commission (SAHRC/ Commission) is an independent institution established in terms of the Constitution of the Republic of South Africa, to support constitutional democracy. The mandate of the SAHRC is to promote, protect and monitor the observance of human rights in the Republic. In line with its promotional mandate, the SAHRC must educate and raise awareness to promote respect for human rights and a culture of human rights. This information sheet is intended to provide basic information and; raise awareness about trafficking in persons; to support recognition of this serious offence, and to support the prevention and combatting of trafficking in persons. Other sources of information regarding trafficking in persons are available in addition to this information sheet and reference to such information is strongly encouraged.



# What is trafficking in persons?

**T**rafficking in persons is a criminal offence in terms of the *Prevention and Combating of Trafficking in Persons Act, 7 of 2013*. The offence involves the recruitment, transportation, transfer, harbouring, selling, exchange, lease or receipt of another person within or across the borders of the Republic under false pretences and for exploitation purposes.

VICTIMS OF TRAFFICKING ARE MAINLY WOMEN AND CHILDREN AND ARE TRAFFICKED FOR SUCH PURPOSES AS:



**FORCED LABOUR IN FACTORIES**



**FORCED MARRIAGE**



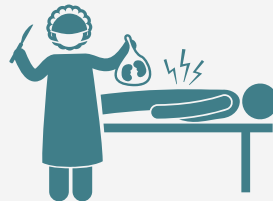
**FARMS AND PRIVATE HOUSEHOLDS**



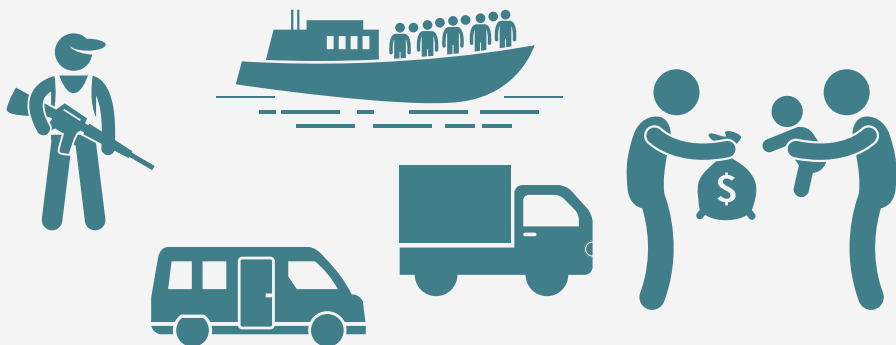
**BEGGING**



**SEXUAL EXPLOITATION AND PORNOGRAPHY**



**AND FOR OTHER ILLEGAL CRIMINAL ACTIVITY SUCH AS DRUG OR HUMAN ORGAN TRAFFICKING**



A FEW KNOWN METHODS AND MOTIVATIONS FOR  
TRAFFICKING IN PERSONS

**ACTIONS**  
what is done to  
the person being  
trafficked

Recruitment  
Transport  
Transfer  
Harbour  
Selling  
Exchanging  
Leasing  
Receipt

**MEANS**  
how it is done

Threat of harm  
Threat or use of force  
or other forms of  
coercion  
Abuse of  
vulnerability  
Fraud  
Deception  
Abduction  
Kidnapping  
Abuse of power

**PURPOSE**  
Why it is done

Sexual exploitation  
Servitude  
Forced labour  
Child labour  
Removal of body parts  
which are sold and  
used by unscrupulous  
practitioners,  
ostensibly to increase  
wealth, influence,  
health or fertility  
Impregnating women  
for purposes of selling  
babies

# How prevalent is trafficking in persons?

**T**rafficking in persons is a global criminal activity which affects countless victims around the world and which in some instances forms part of organised crime that generates billions of dollars in illegal profits yearly. *The Attorney General Alliance Africa Partnership* estimates that globally, approximately 40.3 million people are trafficked in conditions akin to some form of modern human slavery. *The 2019 Global Slavery Index* estimates that approximately 155 000 people live in modern slavery in South Africa. *World Hope South Africa* further estimates that South Africa has approximately 30 000 children in the sex work industry, half of whom are younger than 14 years old and that the majority are trafficked children to Gauteng and the Western Cape provinces.

**Trafficking of persons is often difficult to detect as the activity relies on a number of people who work together to abduct people whom they move to other locations, holding them in conditions where they are unable to obtain assistance.**

Detection of the crime of trafficking in persons is often difficult, as different parts of the offence take place through different people in different places and in different modes. In addition, victims have difficulty reaching help due to the conditions in which the victims are kept.

## DIMENSIONS OF HUMAN TRAFFICKING IN SOUTHERN AFRICA\*

### KEY PATTERNS OF TRAFFICKING



#### INTERNAL

within and between provinces



#### REGIONAL

from and within Africa



#### INTERCONTINENTAL

to and from other continents

South Africa is identified as a **source**, **transit point** and **destination** for human trafficking



### LARGEST GROUP OF TRAFFICKED VICTIMS

#### GIRLS AND WOMEN



APPROXIMATELY

**40.3 MILLION  
PEOPLE**

**ARE TRAFFICKED GLOBALLY**

in conditions akin to some form of  
modern human slavery

\* Human Sciences Research Council, *Dimensions of Human Trafficking in Southern Africa*, 2010

## Trafficking in persons as a violation of human rights

Trafficking in persons is a heinous crime which violates fundamental human rights. It exploits human beings and robs victims of their dignity and basic rights. The law recognises this crime but also recognises that certain groups require special protection because they share particular vulnerabilities. This can mean groups such as women, children, persons with disabilities, internally displaced persons, migrants, migrant workers, refugees and asylum seekers who require special protection because of increased challenges they experience in society.

### TRAFFICKING IN PERSONS VIOLATES A NUMBER OF HUMAN RIGHTS INCLUDING:

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- the right to life
- liberty and security
- not to be subjected to slavery, servitude, forced labour or bonded labour
- not to be subjected to torture and/ or cruel, inhuman, degrading treatment or punishment
- be free from gendered violence
- freedom of association
- freedom of movement
- the highest attainable standard of physical and mental health
- just and favourable conditions of work
- an adequate standard of living
- social security and the special protection applicable to children, amongst others

Apart from the violation and denial of their rights, persons who have been subjected to trafficking experience serious long term trauma and struggle to recover from the suffering and humiliation they experience.

**Persons who have been subjected to human trafficking require support to heal and for reintegration into their families, and communities.**

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## What is being done to address the problem and available protection for victims

A number of efforts have been made to address the problem of trafficking in persons. These include legal protection in the passing of key laws, the formation of an inter-governmental task team to draft and monitor the implementation of such laws, arrests and prosecution of perpetrators, support to survivors and advocacy interventions to deepen awareness of the issue so as to identify and eradicate trafficking in persons.

### International Legislation

The numerous concerns associated with human trafficking have necessitated the development of a legal framework to tackle the problem. At the international level, a number of States have ratified the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol); which entered into force on 25 December 2003.



**The purpose of the Trafficking Protocol is, to prevent and combat trafficking in persons, especially women and children; to protect and assist the victims of trafficking; and to promote cooperation among State Parties to meet those objectives.**

### Domestic Legislation

South Africa is party to international laws and agreements such as the Trafficking Protocol, which means the country accepts all the legal obligations imposed through this instrument. South Africa demonstrated its commitment by implementing domestic laws to fight the trafficking of people on 2 August 2013.

*The Prevention and Combating of Trafficking in Persons Act, 7 of 2013* forbids acts that relate to trafficking in persons and imposes severe punishments for such violations; which is in line with the key elements listed in the UN Trafficking Protocol. Prior to the introduction of this legislation there was no legislation that specifically and substantially criminalised the trafficking of persons.

By creating domestic laws, the State has demonstrated that it will treat the trafficking of persons in a serious light and that it is committed to the eradication of this crime. The Act provides for the prosecution and sanctions



of persons who commit offences; and the coordinated implementation, application and administration of the Act, including the development of a draft national policy framework.

**Importantly, the Act includes the provision of protection and services for victims of trafficking.**

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In addition, the Act provides that any person who adopts a child or facilitates through legal or illegal means; or concludes a forced marriage with another person within the Republic, for purposes of exploitation of the child or any person is guilty of an offence. These two aspects are meant to address situations of trafficking that are unique to South Africa.



### **The South African Police Service**

The South African Police Service (SAPS) is responsible for preventing crime and policing, combatting and investigating crimes, maintaining public order, protecting all people and their property; and upholding and enforcing the law. If you suspect a person is a victim of human trafficking, please immediately report the matter to the local police or through the national toll free number: 10111. The SAPS continue to receive training on the investigation of such matters and securing support for victims of trafficking.

#### *Reporting of and dealing with a child victim of trafficking*

The Act provides that any person who knows or ought to have reasonably known or suspected that a child is a victim of trafficking *must immediately report* this to a police official for investigation. Such a person is entitled to have his or her identity kept confidential if his or her safety is at risk as a result of the report. A designated child protection organisation which comes into contact with a child who is suspected of being a victim of trafficking *must immediately report* this to a police official for investigation. The law protects undocumented non-national child who is a victim of trafficking and deems such a child as one in need of care and protection in terms of the Children's Act.

**Such a child must be allowed to remain in the Republic as determined by the courts.**

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## Reporting of and dealing with an adult victim of trafficking

The Act provides that notwithstanding any law prohibiting the disclosure of personal information, any person who knows or ought to have known or suspects that an adult person is a victim of trafficking, *must immediately* report this to the police for investigation. An accredited organisation which comes into contact with an adult person suspected of being a victim of trafficking must immediately report this to a police official. A police official may place an adult victim in temporary safe care, pending the transfer of that person to an accredited organisation. A police official must assist such person to obtain medical treatment and transport that person to a place of temporary safe care.

## The courts

South African courts have jurisdiction in respect of an act of trafficking committed outside the Republic, regardless of whether or not the act constitutes an offence at the place of its commission, if the person to be charged:

- is a citizen or is resident in the Republic
- has committed the offence against a citizen or a person who is resident in the Republic
- is present in the Republic after the commission of the offence.

Further, a court may order a convicted person to pay appropriate compensation to any victim of the offence for:

- Damage to or the loss or destruction of property, including money
- Physical, psychological or other injury
- Being infected with life threatening diseases
- Loss of income or support, suffered by the victim as a result of the commission of that offence.



The Act provides for penalties that the courts can impose against perpetrators of trafficking in persons, depending on the level of severity of the crime. For example, a person convicted of an offence is liable to a fine not exceeding R100 million or imprisonment, including imprisonment for life, or such imprisonment with the option of a fine or both. A person convicted of debt bondage or using the services of victims of trafficking is liable to a fine or imprisonment for a period not exceeding fifteen years or both. A person convicted of an offence such as possession, destruction, confiscation, concealment of or tampering with documents and conduct which facilitates the trafficking of persons is liable to a fine or imprisonment for a period not exceeding ten years or both.

Some of the examples of cases where the courts have successfully prosecuted and convicted perpetrators of trafficking in persons include:

- a. The **Jezile** matter which dealt with the customary practice of *Ukuthwala*. The court found that the facts in this particular case involved unlawful sexual coercion of an underage girl who had not agreed to an arranged marriage. The court interpreted the practice of *Ukuthwala in its distorted version* as currently practiced a harmful cultural practice as it involved the forced abduction of women or girls who are subjected to rape, violence, and non-consensual marriage. The Cape High Court then confirmed Mr Jezile's convictions on human trafficking and rape. This case demonstrates how criminals opportunistically abuse cultural practices which, if properly observed, do not always violate rights, to conduct trafficking of persons.
- b. In 2014 the court demonstrated its condemnation of trafficking in persons by handing down a severe sentence in the **Mabuza** matter. In this matter the North Gauteng High Court sentenced a timber business tycoon to eight life terms. The accused was found guilty of preying on young victims, multiple counts of rape, human trafficking and sexual slavery. The case highlighted cross-border human trafficking of underage girls for sexual exploitation. The victims aged between 10 and 16 from Mozambique, were lured to South Africa under false pretences by a Mozambican national who had promised them the opportunity of a better life and education in South Africa. The police found the girls starved and living in appalling conditions in a locked compound in a remote part of Mpumalanga. The girls testified that they had been threatened with a firearm and had been sexually abused.
- c.

- d. In the 2018 **Abba and Obasi** matter, the North Gauteng High Court sentenced two Nigerian brothers to 12 and 18 years imprisonment respectively for trafficking in persons. They had held two women captive in a flat in Arcadia, Pretoria; forced them to take illicit drugs and to work 12 hours a day as sex workers.

## Chapter 9 Institutions

The Constitution in Chapter 9 provides for a number of institutions to support constitutional democracy such as:

### *The South African Human Rights Commission (SAHRC)*

The SAHRC is the national human rights institution in South Africa as designated by the Constitution. The SAHRC engages directly with members of the public to raise awareness of rights through outreach interventions, publication of educational material and disseminating information to enable the public to assert and enforce their rights. The SAHRC provides support to persons reporting offences relating to suspected trafficking in persons by working closely with the SAPS, at no cost to any applicant or complainant.

### *The Commission for Gender Equality*

The Commission for Gender Equality (CGE) promotes respect for gender equality and the protection, development and attainment of gender equality. The CGE investigates gender related complaints including violations and challenges, practices and customs that discriminate against people because of their gender. For more information contact the CGE.



### *Dedicated civil society organisations*

A number of non-governmental, faith or community based organisations assist victims of human trafficking. Such organisations typically assist survivors, based upon individual needs, with trauma counselling, medical treatment, safe housing, and preparation for court proceedings and repatriation to places of origin. Examples of such organisations include, but are not limited to, The Salvation Army. Anonymous tip offs may also be sent to the toll free numbers.

In reality, no comprehensive or exhaustive profile exists of victims, and anyone may easily be a potential victim of trafficking. Awareness, vigilance and timely reporting is key to supporting the detection and prevention of this offence.

**If you suspect a person is a victim of human trafficking,  
please immediately report the matter to the local police  
or through the national toll free number: 10111.**

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## How to contact the SAHRC

Forum 3, Braampark, Braamfontein, Johannesburg



011 877 3600



[www.sahrc.org.za](http://www.sahrc.org.za)



[info@sahrc.org.za](mailto:info@sahrc.org.za)  
or  
[complaints@sahrc.org.za](mailto:complaints@sahrc.org.za)



@SAHRCCommission



SA Human Rights  
Commission

## PROVINCIAL OFFICES

<p><b>Eastern Cape</b> Address: 13-33 Phillip Frame Road, Waverly Park, Phase 4B, Chiselhurst, East London Tel: 043 722 7828/21/25 Fax: 043 722 7830 Provincial Manager Mr Abongile Sipondo Contact: Yolokazi Mvovo E-mail: ymvovo@sahrc.org.za</p>	<p><b>Gauteng Office</b> 2nd Floor, Braampark Forum 3, 33 Hoofd Street, Braamfontein Tel: 011 877 3750   Fax 011 403 0668 Provincial Manager Mr Buang Jones Contact: Nthabiseng Kwaza E-mail: nvkwaza@sahrc.org.za</p>
<p><b>Free State</b> 18 Keller Street, Bloemfontein Tel: 051 447 1130 Fax: 051 447 1128 Provincial Manager Mr. Thabang Kheswa Contact: Alinah Khompeli E-mail: akhompeli@sahrc.org.za</p>	<p><b>KwaZulu-Natal</b> First Floor, 136 Margaret Mncadi, Durban Tel: 031 304 7323/4/5 Fax: 031 304 7323 Provincial Manager Mr Lloyd Lotz Contact: Kathleen Boyce E-mail: kboyce@sahrc.org.za</p>
<p><b>Limpopo</b> First Floor, Office 102, Library Garden Square, Corner of Schoeman and Grobler Streets, Polokwane Tel: 015 291 3500 Fax: 015 291 3505 Provincial Manager Mr Victor Mavhidula Contact: Mahlatse Ngobeni E-mail: mngobeni@sahrc.org.za</p>	<p><b>Mpumalanga</b> First Floor, Allied Building, 34 Brown Street, Nelspruit Tel: 013 752 8292 Fax: 013 752 6890 Provincial Manager Mr Eric Mokonyama Contact: Carol Ngwenyama E-mail: cngwenyama@sahrc.org.za</p>
<p><b>Northern Cape</b> 45 Mark and Scot Road, Ancorley Building, Upington Tel: 054 332 3993/4 Fax: 054 332 7750 Provincial Manager Ms Chantelle Williams Contact: Zukiswa Louw E-mail: zlouw@sahrc.org.za</p>	<p><b>North West</b> 25 Heystek Street, Rustenburg Tel: 014 592 0694 Fax: 014 594 1069 Provincial Manager Mr Osmond Mngomezulu Contact: Poppy Mochadibane E-mail: pmochadibane@sahrc.org.za</p>
<p><b>Western Cape</b> 7th Floor ABSA building, 132 Adderley Street, Cape Town Tel: 021 426 2277   Fax: 021 426 2875 Acting Provincial Manager Ms Bahia Sterris Contact: Shafeeqah Salie E-mail: ssalie@sahrc.org.za</p>	



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