

REGIONAL BASELINE ASSESSMENT ON FORCED LABOUR, UNFAIR AND UNETHICAL RECRUITMENT PRACTICES IN THE SOUTHERN AFRICAN AND IOC REGION

March 2022



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ACRONYMS AND ABBREVIATIONS

APLTP	Agency for the Prevention and the Fight Against Trafficking in Persons	DRC	Democratic Republic of the Congo
ATIMC	Anti-Trafficking Inter-Ministerial Committee	ELS	Employment and Labour Sector
BLA	Bilateral Labour Agreement	FARDC	Armed Forces of the Democratic Republic of the Congo
BNLTEH	Bureau National de Lutte contre la Traite des Etres Humains	GoM	Government of Malawi
CGLS	Community of Great Lakes States	ICAT	Inter-agency Coordination Group Against Trafficking in Persons
COMESA	Common Market for Eastern and Southern Africa	IDMC	International Displacement Monitoring Centre
CPWA	Children's Protection and Welfare Act	IDP	Internally Displaced Person
CSO	Civil Society Organization	ILO	International Labour Organization
CTDC	Counter-Trafficking Data Collaborative	IOC	Indian Ocean Commission
DOJ	Department of Justice and Constitutional Development	IOM	International Organization for Migration
DPP	Directorate of Public Prosecutions	IPC	Immigration Permits Committee

ACRONYMS AND ABBREVIATIONS

IRIS	International Recruitment Integrity System	TIP	Trafficking in Persons
LGBTQIA+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and Asexual People	UAE	United Arab Emirates
MoL	Ministry of Labor	UASC	Unaccompanied and Separated Children
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo	UN DESA	United Nations Department of Economic and Social Affairs
MoU	Memorandum of Understanding	UNDP	United Nations Development Programme
NAMPOL	Namibian Police Force	UNESCO	United Nations Educational, Scientific and Cultural Organization
NGO	Non-Governmental Organization	UNHCR	United Nations High Commissioner for Refugees
PNC	National Congo Police	UNICEF	United Nations Children's Fund
REPS	Royal Eswatini Police Service	UNODC	United Nations Office on Drugs and Crime
RSA	Republic of South Africa	UNTOC	United Nations Convention Against Transnational Organized Crime
SADC	Southern African Development Community	USAID	United States Agency for International Development
SAP-FL	Special Action Programme to Combat Forced Labour	VoT	Victim of Trafficking
SAPS	South African Police Service	WLSA	Women and Law in Southern Africa
TEBA	The Employment Bureau of Africa		



EXECUTIVE SUMMARY

This report presents the findings of a baseline study on the current situation of trafficking in persons, forced labour and unfair/unethical recruitment practices in the Southern African and Indian Ocean Countries (IOC) region. The research report draws on the International Recruitment Integrity System (IRIS) standards and International Labour Organization (ILO) guiding principles on ethical recruitment as the analytical framework to examine labour recruitment practices, forced labour, migrant smuggling and trafficking in persons. Data for this report were obtained from desk research, involving the collection and analysis of documents gathered from international organizations and government agencies. In addition to the secondary data sources, the researchers conducted in-depth interviews with a total of 241 respondents, including government officials, formal and informal recruitment agents, migrant workers, return migrants, representatives of non-governmental organizations (NGOs), and international organization officials (ILO, IOM) who were purposively selected from 16 countries within the Southern African region.

The findings indicate that the labour market of many countries in the Southern African and IOC region is mainly informal, with a significant proportion of workers being women and children working on farms and domestic settings. Wages in the informal sector are lower than the minimum wages of the various countries. As a result of poverty and lack of job

opportunities in many of the countries, some labour migrants use the services of recruitment agencies to seek both formal and informal jobs. While some labour migrants are fortunate to have better conditions of employment, others become victims of smuggling, forced labour and trafficking.

Although data on labour exploitations are scanty, the findings indicate that trafficking in persons, forced labour and migrant smuggling are highly prevalent in the Southern African region. The most vulnerable sociodemographic groups that are susceptible to trafficking in persons and forced labour are women and girls, who are usually trafficked for sexual exploitation and domestic servitude. Trafficked men and boys are forced to work in the mines and on farms. The socioeconomic groups that are vulnerable to trafficking in persons and forced labour include the poor, the illiterate, orphans, the unemployed and internally displaced persons (IDPs). The key sectors in which trafficking in persons and forced labour are prevalent in these countries include the agriculture, construction, illegal mining and domestic sectors. Other sectors include industry and trade, the informal economy and food service activities.

The risk factors that contribute to trafficking in persons and forced labour in the Southern African region include unregulated labour markets, lack of adequate employment and income-earning opportunities in some

countries, job insecurity, limited formal educational opportunities, poverty, and the desire of many people to seek greener pastures elsewhere. Other risk factors include political unrest, climate change, increasing demand for cheap labour, flourishing commercial sex work, weak surveillance systems, porous borders and corruption.

The inability of the State to enforce existing labour laws and the lack of effective systems for monitoring recruitment agencies tend to expose prospective migrants to exploitation and abuse by informal labour recruitment agents and employers. The exploitation of migrants often begins in the country of origin and extends through to the country of destination. Some migrant workers suffer debt bondage, long hours of work without breaks, restriction of movement and physical abuse. While some migrants are unaware of their rights, the recruiters have less incentive to protect migrants. Additionally, only a handful of countries have bilateral labour agreements that offer guidelines for protecting migrants outside their own countries.

What is clear from the assessment is that most Member States are still in the early stages of developing an understanding of the nature, magnitude and scale of the problems of trafficking and forced labour, and in implementing measures to combat these criminal activities. While all Member States have enacted Trafficking in Persons Acts and established coordination mechanisms (except for Madagascar), many of the legal and institutional frameworks are recent, dating from 2008 onwards. In this regard, most Member States in the region have less than 10 years' experience of implementing comprehensive response mechanisms and legislation to identify, prosecute and prevent human trafficking and forced labour, and protect its victims. Despite

designing mechanisms to combat human trafficking, challenges such as inadequate human resource capacity, funding bottlenecks, and weak cooperation and coordination mechanisms serve as major hindrances to addressing trafficking and forced labour in the region. The findings also reveal that many of the efforts to address human trafficking and forced labour situations are geared towards prosecution and conviction of traffickers, with minimal support for victims and survivors.

Based on these findings, the following recommendations have been put forward to help address the current situation of forced labour, trafficking in persons and unfair or unethical recruitment of labour in the Southern African region:

- (a) Develop systems to enhance data collection on all recruitment agents and their activities for evidenced-based policymaking.
- (b) Ratify and reinforce the implementation of available international legal and policy frameworks, such as the IRIS and ILO guidelines on fair and ethical recruitment.
- (c) Strengthen the human and financial resource capacity of existing institutions to deal with forced labour and trafficking situations in the region.
- (d) Review, amend and strengthen existing policy and legislative instruments to incorporate innovative and victim-centred approaches to investigate and prosecute trafficking in persons cases.
- (e) Strengthen inter-agency and inter-State cooperation and coordination in combating the phenomenon of trafficking and forced labour in the region.

- (f) Raise awareness on risk factors, as well as on existing legal instruments to empower communities to understand fully the importance of existing legal instruments.
- (g) Develop comprehensive victim response mechanisms and protection plans.
- (h) Establish bilateral and multilateral cooperation with origin, transit and destination countries to identify, rescue and provide support to victims and to prosecute perpetrators.
- (i) Work with research institutes to carry out periodic research at national and regional level on trafficking in persons, forced labour and unethical recruitment practices.

1. INTRODUCTION

Although human mobility is an age-old livelihood strategy adopted by individuals and households to improve living standards (de Haas, 2010), the flow of migrants across international borders has increased in recent years (IOM, 2020a). This can be attributed to the interaction of various drivers, including globalization, technological advances, improved transportation, demographic changes, economic inequalities and political conflicts (Van Hear, 2012; IOM, 2020b). The global stock of international migrants increased from 173 million in 2000 to 281 million in 2020, which represents 3.6 per cent of the world's population (UN DESA, 2020; IOM, 2020a). However, the COVID-19 pandemic and its related restrictions on mobility have affected migration flows in recent years (IOM, 2021). Moreover, COVID-19 has contributed to pushing nearly 5 million workers and their families into extreme poverty in Africa, because of labour market crises manifesting in job losses (Paul, 2020). The closure of markets and workplaces, as well as the suspension of economic activities and associated decline in goods and services brought about by COVID-19, have exacerbated the already dire unemployment situation with potential implications on the uptake of irregular migration pathways, trafficking, smuggling and unethical recruitment of labour migrants in Africa (Danquah et al., 2020).

Despite the growing concerns over forced migration (DeJesus, 2018; IDMC, 2020; UNHCR, 2020), voluntary labour migration is still the dominant type of migration. Globally, labour

migrants constitute about 62 per cent of all international migrants (IOM, 2022). According to the most recent figures provided by IOM, despite the recent increase in the migration of women for work in 2019, male migrant workers exceeded female migrant workers by 28.8 million, with 98.9 million males (58.5%) and 70.1 million females (41.5%) (IOM, 2021). The labour force in developing countries has expanded significantly and at a faster rate than the expansion in employment opportunities, while the demand for migrant labour in the developed world has also increased. This situation has contributed to an increased number of employers seeking workers globally to fill labour gaps in all sectors and at all skill levels (ILO, 2018). In the SADC region, South Africa has been the destination of many labour migrants. In the IOC region, countries such as Mauritius, Seychelles and Comoros have recently been attracting increasing number of immigrants, although their populations also migrate internationally, especially to Europe.

A combination of the quest by employers in developed countries to recruit cheap labour and the desire of young persons in developing countries to seek greener pastures abroad has contributed to the important role of recruitment agencies/agents, brokers and middlemen in the recruitment of migrant labour (Deshingkar, 2019). According to Maher (2018), in the Southern African region, recent strict border controls, especially along some migration routes (e.g. the Mozambique–South African border) and inadequate regular migration pathways have

resulted in an increasing reliance on intermediaries, smugglers and trafficking in persons for irregular migration. The global recruitment landscape has become increasingly complex and characterized by serious deficiencies. This is a result of the emergence of a wide range of regulated and unregulated recruitment actors that are largely motivated by economic gains from trafficking in persons and labour exploitation (UNODC, 2020). Loopholes in existing labour laws and the inability of countries to detect cases of forced labour, trafficking and modern slavery has also contributed to exploitative recruitment practices (Deshingkar, 2019; UNODC, 2020). In many parts of the world, including the SADC and IOC regions, recruitment through private employment agencies, unscrupulous employment agencies, informal labour intermediaries and other actors operating outside of legal frameworks is on the rise. This has resulted in serious violations of migrants' rights in migration pathways (Bauloz et al., 2021). These intractable exploitations include forced labour, trafficking in persons and modern slavery (ILO et al., 2017a).

Globally, an estimated 24.9 million persons are thought to be engaged in forced labour, with 18.7 million experiencing exploitation in the private economy by enterprises or individuals. Of the 18.7 million, 14.2 million encounter forced labour exploitation, whereas 4.5 million are victims of forced sexual exploitation (ILO, 2021). A recent ILO report shows that both adults and children were victims of forced labour in many parts of the world. The report shows that the largest share of adults who were in forced labour engaged in domestic work (24%), followed by the construction (18%), manufacturing (15%), and agriculture and fishing (11%) sectors. The report further shows that many of the victims of forced labour suffered multiple forms of coercion from employers or recruiters as a way of preventing them from being able to leave the situation. The forced labour situation in the Southern African

and IOC regions is similar to the global trends, with both adults and children being identified as victims of various forms of exploitation (ILO, 2017).

“Modern slavery”, which refers to “severe exploitation of persons for personal or commercial gains” (Anti-Slavery International, 2021) is also a serious challenge globally (Allain, 2020). “Modern slavery covers a set of specific legal concepts including forced labour, debt bondage, forced marriage, slavery and slavery-like practices, and human trafficking” and “refers to situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power” (ILO et al., 2017a:10). In 2016, about 40.3 million people were in modern slavery, including 24.9 million in forced labour and 15.4 million in forced marriage (ILO, 2017a). Africa has the highest rate of modern slavery (7.6 per thousand of the population) and also the highest rate of forced marriage (4.8 per thousand). According to data provided by ILO et al. (2017a), Africa had the highest vulnerability score (62%) regarding modern slavery at the time. Within the Southern African region, the Democratic Republic of the Congo had the highest absolute number and accounted for over one quarter (26.3%) of all victims of modern slavery in Africa. Mauritius had the lowest levels of vulnerability in the region (1.0%) (Walk Free Foundation, 2018a, 2018b). New figures have since been released in a report dating from September 2022.

Trafficking in persons, which entails the “recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the

purpose of exploitation” (UNODC, 2008:1), has also been increasing globally. Recent data (UNODC, 2018) indicate that the number of trafficking cases reported by countries around the globe increased from fewer than 20,000 in 2003 to about 25,000 in 2016. Data provided by the Counter-Trafficking Data Collaborative (CTDC) unit of IOM also show similar trends of increasing numbers of reported trafficking cases between 2002 and 2018 (CTDC, 2018). Data provided by UNODC on Trafficking in Persons (TIP) in the Southern African region indicate that from 2004 to 2017, the region recorded a total number of 1,542 victims of TIP from nine out of the 15 countries, comprising Angola, the Democratic Republic of the Congo, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe. It needs to be stated, however, that the increasing number of detected trafficking cases does not necessarily imply an increase in the incidence of trafficking. The detection of increasing numbers of trafficking victims may either reflect an increased number of countries collecting data on trafficking or enhanced capacity to detect and report trafficking cases nationally (UNODC, 2018). Nevertheless, there is no doubt that exploitation of migrants is a serious developmental challenge.

The violation of migrants’ rights was identified as a global development challenge in the 2030 Agenda for Sustainable Development, which highlights the eradication of forced labour, modern slavery and human trafficking in its target 8.7. Preventing, combating and eradicating forced labour, modern slavery and human trafficking in migration pathways is also a key focus of the Global Compact for Safe, Orderly and Regular Migration. While these global level initiatives and existing international labour standards governing migration for employment, such as the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and Migration for Employment Convention (Revised), 1949

(No. 097), seek to offer protection to labour migrants, the domestication and implementation of these laws and agreements are often difficult in several parts of the world. As part of the numerous responses to these disturbing human right issues, the IOM, in 2014, developed the International Recruitment Integrity System (IRIS), a multi-stakeholder voluntary certification system intended to reduce risks of exploitation linked to the recruitment industry.

Smuggling of migrants, which entails “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident” (United Nations, 2000:2) is also a global concern. It is recognized that growing levels of conflict and insecurity, especially in some parts of Africa and the SADC member countries, and the need for safety, compels migrants/workers and other persons to use smugglers as a means to flee conflict, persecution and violence. Additionally, lack of regular migration pathways forces many labour migrants within the SADC region to use the services of smugglers. Nonetheless, there is the potential for smugglers to violate the human rights (physical and sexual abuse, access to basic necessities of life) of those being smuggled (United Nations, 2000). As in other parts of the world, there is a conflation of trafficking and smuggling in migration pathways in the Southern African region, as smugglers sometimes end up trafficking migrants (Maher, 2018).

As in other parts of the world, the Southern African and IOC region experiences various labour and human right issues, as a result of poorly regulated recruitment industries, exploitative recruitment practices and forced labour, as well as limited ratification of international and regional conventions aimed at promoting the rights of migrant workers. In addition, the recent

COVID-19 pandemic and travel restrictions are worsening the human trafficking situation in the region (Masson, 2021).

While some countries in the region are said to have adopted the various global and regional frameworks to address forced labour, modern slavery, trafficking in persons and migrant smuggling, there is little understanding of how international and other recent regional initiatives being adopted to protect labour migrants are being implemented in individual countries. Against this background, this baseline assessment, commissioned by IOM and its partners, seeks to enhance our understanding of the forced labour situation and implementation of international labour instruments and national policies to promote fair recruitment and protect migrant workers' rights throughout the labour migration process. This project aligns with key global and regional development objectives in the Southern Africa and IOC region to achieve international standards and guidelines on fair and ethical recruitment.

The remainder of the report is structured as follows: the next part outlines the research aims, objectives and research questions guiding the baseline study. This is followed by a review of related literature, including an outline of the key concepts and framework used for the assessment. The subsequent section outlines the research methodology and data collection procedures. We then provide a country-by-country analysis of the current situation of trafficking and forced labour, followed by a synthesis of the findings for the SADC region. The last part concludes by offering some recommendations for combating forced labour and trafficking in the SADC region.

1.1 AIM AND OBJECTIVES OF THE ASSESSMENT

This study is a baseline assessment of forced labour that aligns with output 2.2 of the SADC Labour Migration Action Plan (2020–2025) and the decision of the SADC Employment and Labour Sector (SADC ELS) to prioritize fair and ethical recruitment in the region. The assessment seeks to provide useful baseline data that can be relied upon by IOM and its partners to develop more recruitment-specific tools to limit the prevalence of unethical recruitment practices in the region.

The objective of this research is therefore to support IOM and partners to ascertain and analyse specific indicators of forced labour and unfair/unethical recruitment practices that appear to be most relevant in the Southern African and IOC region, particularly in the main migration corridors. This baseline assessment provides a regional report containing country-specific reports and situational analysis on forced labour and best practices, identifying those that need a review to improve their ethical/fair recruitment procedures and practices, as well as providing key recommendations.

1.2 RESEARCH QUESTIONS

The following research questions guided the research:

- What are the gendered trends and patterns of exploitations in labour migration pathways (i.e. forced labour, trafficking in persons and modern slavery) in the SADC and IOC region?
- Which demographic groups are vulnerable to the different forms of exploitation related to forced labour, trafficking in persons and modern slavery?
- How do the different forms of forced labour and trafficking in persons manifest in the different sectors?
- What are the prevalent risk factors of forced labour and trafficking of human beings; and which specific industries and sectors are prone to labour exploitation and unfair/unethical recruitment practices?
- What are the implementation records and outcomes of different international frameworks, national policies and mechanisms adopted by various countries to deal with forced labour, trafficking in persons, migrant smuggling and modern slavery?
- What mechanisms and joint actions can be adopted by governments in the SADC and IOC region to promote fair and ethical recruitment, as well as reduce the incidence of forced labour, trafficking in persons, smuggling of migrants and modern slavery?



2. CONCEPTUALIZING EXPLOITATION IN MIGRATION PATHWAYS

Given the fact that various definitions have been provided by different organizations and researchers, this section provides an overview of the conceptualizations that will be adopted for this assessment.

2.1 CONCEPTUALIZING FORCED LABOUR

While forced labour has been defined differently by various scholars, this assessment will adopt the definition provided by the Forced Labour Convention (No. 29), which defines forced or compulsory labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” The ILO definition shows that forced labour can occur in different forms, found in different sectors and may expose the victim to diverse vulnerabilities.

Forced labour can be categorized into the following:

- (a) Forced labour imposed by private individuals, groups, or companies in all sectors, except the commercial sex industry;
- (b) Forced sexual exploitation of adults and commercial sexual exploitation of children;
- (c) State-imposed forced labour (ILO, 2017:10).

Recruitment practices and unethical issues resulting in forced labour include: “the trafficking or forced migration of workers, knowingly promising a job that does not exist, charging illegal or unreasonable employment fees – sometimes leading to debt bondage, not disclosing or misleading workers about terms of employment, such as wages and working hours, recruitment processes that are unclear and not documented, failure to provide written contracts” (TFT, 2021).

2.2 CONCEPTUALIZING TRAFFICKING IN PERSONS

Although trafficking in persons overlaps and is often used interchangeably with forced labour and smuggling, it is conceptually distinct from both forced labour and smuggling as defined by international law. The conceptualization of trafficking of persons adopted for this baseline study follows the definition provided by the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000 (Palermo Protocol). Article 3(a) of the protocol provides three key essentials that are central to understanding human trafficking, which comprise:

- (a) **Act:** Recruitment, transportation, transfer, harbouring or receipt of persons (ILO, 2020);
- (b) **Means:** Focuses on modes or mechanisms deployed to realize one of the forbidden acts, including but not limited to the use of threats or other dimensions of coercion,

of deception, of fraud, of the abuse of power, of taking advantage of vulnerability, or of giving or receiving of payments or incentives to achieve the consent of a person who is essentially under the power and influence of another person (ILO, 2020);

- (c) **Purpose:** Where the said act, through any of the mechanisms described above, is done with a clear intention of exploitation. The protocol highlights that exploitation in this sense encompasses “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” (ILO, 2020:4).

Figure 1 provides an illustration of the act, means and purpose elements described above to help frame and enrich our understanding of trafficking in persons for this baseline assessment.

FIGURE 1: Elements of the offence of trafficking in persons



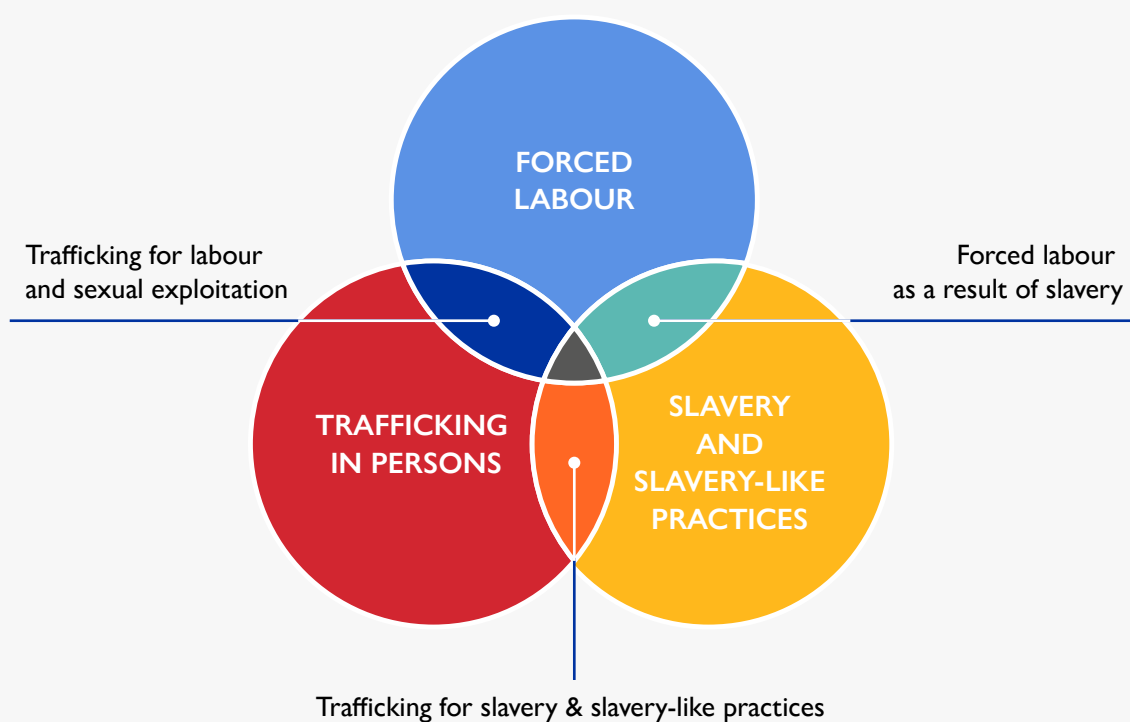
Source: Adapted from ILO, 2020.

2.3 CONCEPTUALIZING MODERN SLAVERY

The conceptualization of modern slavery adopted also follows the definition provided by Article 1(1) of the League of Nations Convention to Suppress the Slave Trade and Slavery (the Slavery Convention), 1926, which defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (Allain, 2020:2). It entails severe exploitation of persons for personal or commercial gains (Anti-Slavery International, 2021; ILO et al., 2017b). Individuals or persons can become entrapped in serving food, working in factories or working as domestic workers in a home. As a practice, individuals who are subjected to slavery are controlled by the slave owner, who takes all major decisions for the enslaved, including for example work, education and even private life. Individuals, particularly migrant workers, can be made to face severe violence or threats, forced into inescapable debt, have documents seized or be threatened with deportation. Persons who are subjected to modern slavery will often find themselves in conditions of economic, psychological and social dependence; and the fact that they have little agency or no option other than to work for their superiors suggests that victims’ experiences will fall under the definition of forced labour provided by Convention No. 29 (Anti-Slavery International, 2021; ILO, 2020).

2.4 INTERSECTIONS OF FORCED LABOUR, TRAFFICKING IN PERSONS AND MODERN SLAVERY

While forced labour, trafficking in persons and modern slavery have been conceptualized as distinct forms of exploitation that will be examined, the baseline assessment adopts the ILO (2020) assumption that these exploitations intersect, as demonstrated in Figure 2. In other words, forced labour could result from modern slavery, whereas trafficking in persons could give rise to forced labour, which, in turn, could bring about servitude (modern slavery), suggesting a dynamic interplay among the three forms of exploitation.

FIGURE 2: Trafficking for forced labour and slavery-like practices

Source: ILO, 2020.

2.5 INDICATORS OF FORCED LABOUR

Until recently, the extent and ways in which forced labour manifested were poorly understood and there were no globally recognised indicators for systematically detecting forced labour risks in particular economics sectors, either at macro, meso and micro scales (McDonald et al., 2021; Ruwanpura and Rai, 2004). Ruwanpura and Rai's report provides a detailed account of the

various forms of forced labour in existence, the available indicators, summaries and methodologies for measurement, as well as guidelines for future work. Building on this and following the first global report on forced labour in 2001, the ILO established a Special Action Programme to Combat Forced Labour (SAP-FL), as part of the broader efforts to promote the 1998 Declaration on Fundamental Principles and Rights at Work and its follow-up (Ruwanpura and Rai, 2004). In addition to raising global awareness on forced labour and the various ways in which it manifests,

SAP-FL has, since its establishment, undertaken localized country-specific case studies, surveys, situational analyses and mapping exercises on the diverse forms of human trafficking, bonded labour, forced prison labour, rural servitude and forced domestic work, as a pathway to strengthen the evidence base on the various forms of forced labour in order to inform policy interventions and enforcement. Based on theoretical and practical experience from this work, SAP-FL developed its forced labour indicators. In light of their global acceptance, widespread use and comprehensiveness, as well as their underpinnings of being derived from theoretical and practical experience in systematically detecting the risk factors of forced labour, our framework for the purposes of this baseline assessment/research in unpacking the forced labour situations in the individual SADC member countries and the entire region draws extensively on the forced labour indicators developed by the SAP-FL. These indicators cover the following factors: debt bondage/bonded labour; abusive working and living conditions; excessive overtime (beyond national average working hours); abuse of vulnerability (i.e. taking advantage of migrants' vulnerable situations to exploit them); deception; restrictions on movement (e.g. use of surveillance cameras, guards, agents to monitor migrants/workers); isolation (i.e. difficulty in identifying recruitment agencies); physical and sexual violence; retention of identity documents; and intimidation and threats (ILO, 2012).

According to ILO (2012), these indicators embody the most obvious signs that highlight the potential existence of forced labour cases. They are based on the definitions of forced labour itemized in the ILO Forced 1930 Labour Conventions (No. 29). For this baseline study, we made efforts to analyse how the various indicators manifest in practice with concrete

evidence and examples. We examined the general trends of each specific indicator, the prevalence of each type of forced labour in specific economic sectors, demographic groups (adult, young people, children) that tend to be vulnerable, gender dynamics and differences, the specific destinations where forced labour occurs, and the regulations, laws and frameworks to tackle each of the different forms, their successes, and gaps in implementation.

2.6 CONCEPTUAL FRAMEWORK FOR ASSESSING UNETHICAL/FAIR RECRUITMENT

For the assessment of the ethical recruitment of labour/workers/migrants, the study relied essentially on the International Recruitment Integrity System (IRIS) standards, which is a global initiative specifically designed to facilitate fair and ethical labour recruitment. The IRIS standards provide a basis for recognizing and supporting ethical labour recruiters by (a) defining and setting a benchmark for ethical recruitment – the “IRIS Standard”, (b) establishing a voluntary certification process for international labour recruiters, which includes creating a list of IRIS-certified labour recruiters to help employers and workers make more informed decisions about recruitment, and (c) ensuring that the IRIS standards are maintained by certified recruiters through a monitoring and compliance mechanism (IOM, 2019:1). The IRIS Standard has five general principles with specific indicators, including: Principle 1: Prohibition of Recruitment Fees and Related Costs to Migrant Workers; Principle 2: Respect for Freedom of Movement; Principle 3: Respect for Transparency of Terms and

Conditions of Employment; Principle 4: Respect for Confidentiality and Data Protection; and Principle 5: Respect for Access to Remedy. For this study we examined aspects of the five principles in order to establish unfair/unethical recruitment practices in the Southern African and IOC region.

We complement the IRIS framework with the ILO's general principles on fair recruitment to examine the state of fair recruitment in the SADC and IOC region. We assess the extent to which recruitment processes are in line with the five principles of the IRIS Standard, as well as the ILO conventions and guidelines on fair and ethical recruitment of workers in general and more specifically, migrant workers within the context of the SADC and IOC region. The ILO framework provides guidelines for assessing responsibilities of the government, enterprises, public employment services, labour recruiters and employers in ensuring fair recruitment practices (see ILO, 2019).

3. RESEARCH METHODOLOGY

This section describes the methodological approach adopted for this study. The section also discusses the methods of data collection, management, analysis and reporting

3.1 DYNAMICS IN THE SADC AND IOC REGION AND LIMITATIONS OF EXISTING DATA

While the scope of the baseline study focuses on SADC countries including Angola, Botswana, the Democratic Republic of the Congo, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe, as well as Indian Ocean Countries (IOC) including Comoros, Madagascar, Mauritius and Seychelles, it is important to highlight the contextual variations within the two interlinked, yet different regional blocs. The developmental impetuses among SADC and IOC nations are varied, given their different geographical boundaries, governance, interconnectedness and existing relations with the main other countries with which they exchange migrant labour. Therefore, obtaining a reliable data set on migration, migrant labour recruitment and practices, the sectors in which migrant labour manifests, and the nature of trafficking, smuggling, slavery and forced labour is problematic, given the irregular nature of the activities and the grey nature of the subject matter within the political and research space. For instance, data sets on cases of trafficking in

persons obtained from UNODC do not cover a number of countries, including Botswana in SADC and Comoros, Madagascar, Mauritius and Seychelles, which are IOC. As in other parts of the world, collection of data on human trafficking, for instance, is negatively affected by the clandestine and sensitive nature of these issues, lack of resources in State organizations and the reluctance of victims to report such cases for fear of victimization by perpetrators.

As a result of the unavailability of reliable data sets, the quantitative data presented in this report are mostly extracted from existing databases (e.g. UNODC data on trafficking; SADC Secretariat trafficking report 2016; trafficking in persons reports by the US State Department) and or secondary data available in relevant offices in some countries. In this assessment, modern slavery was not comprehensively examined, as the definition of what constitutes slavery-like practices is always contested and there is little or no data collection at the country level on slavery. Representatives of the Regional Economic Communities (RECs) and certain Member States at the inception consultative meeting were critical of some of the figures provided by international organizations on modern

slavery. They were of the view that the figures provided by international organizations may have been overreported. Also, given the lack of comprehensive quantitative data on forced labour and trafficking in persons, qualitative case studies have also been relied upon to analyse the nature of exploitation in the subregion.

3.2 METHODOLOGICAL APPROACH

Collaboration forms a cornerstone of the methodological approach in this study. In effect, the Technical Review Panel (TRP) and key stakeholders worked closely with researchers to ensure that the research was strongly aligned with the overall objectives of the engagement. Also, in order to enhance the contextual outlook of this study, country-level research associates who possess better general understanding of migration and practical experience on forced labour and ethical recruitment practices in all 16 countries were engaged to generate country-specific reports that were synthesized into the main report.

The methodology was organized into two parts: (a) desk review and (b) primary data collection and analysis. Details of each pillar of our methodological approach are provided below.

(a) Desk Review

This involved a deep dive into all the relevant literature in the field of forced labour and unethical/unfair recruitment practices. We used an exhaustive coverage strategy to review the full body of academic literature, focusing on peer-reviewed studies published in reputable

journals. We supplemented academic research with a review of relevant literature from non-academic actors, such as development actors working in the area.

(b) Data Collection and Consultations

Data collection

In view of the inherent limitations of dichotomous approaches (Teye, 2012), a mixed-methods approach was used. On the quantitative side, we extracted secondary data available on forced labour and trafficking situations in the SADC and IOC region. The national statistics departments in various countries were approached for data, but some of them did not have information on forced labour. Consequently, data from international organizations (e.g. UNODC data on trafficking) were analysed whenever there were no country-level data. There were no reliable data on modern slavery at the country level and the data used in this report are largely from international sources, which are often contested by governments.

On the qualitative side, primary data were collected through field studies. In view of the COVID-19 pandemic, which made it difficult to travel to other countries, the consultants worked with research associates in each of the countries to collect data. The country researchers used the data collection instruments (interview guides) that were developed by the consultants to collect data. Some key informants were interviewed virtually. The interviews focused on several thematic areas, including the nature of forced labour and the national labour migration governance policies. The qualitative research was conducted among several actors, including migrant workers, return migrants, formal and informal recruiters, government officials of agencies responsible for migration management, non-governmental organizations

(NGOs), civil society organizations (CSOs) and international agencies, among others. Purposive sampling was adopted to select respondents. This report is based on data received from 241 respondents (see Table 1). In addition to the interviews, there were various forms of virtual consultation with various stakeholders.

TABLE 1: Distribution of stakeholders and respondents

Respondents for in-depth interviews	Total for all Countries
Recruitment agencies/Brokers/Intermediaries/Agents (formal/informal)	30
Private business entities that employ low-skilled migrants (COMESA, SADC)	31
Government agencies and non-State actors responsible for regulating the migration industry, including ministries and agencies responsible for migration management, immigration departments, labour and employment ministries. Ministries of Foreign Affairs, Ministries of Gender and Social Protection, national statistics offices, labour migration experts, labour and customs unions, and employers' associations	56
Officials of international organizations (e.g. IOM, ILO, UNHCR, UNODC, UNICEF, UNDP, UN Women) and NGOs/CSOs/community leaders etc.	18
Migrants at destination, victims of trafficking, forced labour and unethical recruitment practices (at destination), return migrants (e.g. from the Gulf region)	106
TOTAL	241

Data analysis

The data were analysed both quantitatively and qualitatively. For our quantitative data, descriptive statistics were used to present data on trafficking with both intuitive and counter-intuitive feedback on the nature of the data, capturing patterns and trends for all 16 countries in the SADC and IOC region. On the qualitative side, we used techniques such as content and discourse analysis to examine data and structure our findings, with case studies highlighting interesting thematic areas and presenting relevant findings from respondents.

Ethical Considerations

Dealing with this category of migrants undoubtedly has significant ethical issues to be taken into consideration, given the fact that some migrants have been exposed to multiple risks and vulnerabilities. We therefore sought explicit consent of respondents right from the outset of the research. In addition, established guidelines for ensuring confidentiality were followed. Anonymization and the use of pseudonyms were adopted and collected data were kept secure, ideally encrypted on site and in transit during all stages of the research to ensure privacy and protection of identity, profiles and portfolios of key respondents.

COUNTRY-BY-COUNTRY ANALYSIS OF FORCED LABOUR, TRAFFICKING IN PERSONS AND RECRUITMENT PRACTICES IN THE SADC REGION



Source: IOM, 2020 Return and Reintegration Key Highlights, 2021.

Note: This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

4. ANGOLA



4.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Angola is seen as a source and destination for trafficking in persons, especially for sexual exploitation and forced labour. However, there is a general paucity of data on trafficking in persons and forced labour in the country. In the year 2016, 91 victims who were being exploited by traffickers were spotted and attended to by Angolan law enforcement and victim support officers. This number included 77 children, 15 men and five women (US Department of State, 2017). The sharp increase in the number of identified victims in 2016 amounted to a 65.5 per cent increment from 2015 (i.e. 55 victims). Government-level data sourced from the Inter-Ministerial Commission for TIP in Angola revealed that 51 victims of trafficking were found in Angola in 2016. In the following year, 91 victims who were being exploited by traffickers were spotted and attended to by Angolan law enforcement and victim support officers (US Department of State, 2021). In contrast, data from the Angolan government that were used in the Trafficking in Persons Report of 2021 showed a decrease in cases of trafficking from 36 in the previous reporting year (2019) to 19 trafficking victims in the current reporting

year (2020) (US Department of State, 2021). The 19 cases involved both children and adults (Angolan and DRC nationals) who suffered from labour and sex trafficking (US Department of State, 2021).

The demand for cheap labour, corruption, poverty, porous borders, political unrest and desires to migrate to pursue better economic opportunities have been reported to be among the key factors that perpetuate trafficking in persons in Angola (SADC Secretariat, 2016). According to SADC Secretariat (2016), trafficking in persons within the country normally manifests in the form of forced child labour in the cattle-grazing lands along the Angola–Namibia border. Female victims were also mostly enlisted into sexual exploitative engagements in and out of Angola. Transnational traffickers also recruit people to foreign countries such as Namibia, South Africa and Portugal among others to engage in work.

An estimated 199,000 persons in Angola were deemed to be living in modern slavery in 2018 and Angola has a modern slavery prevalence index of 39/167. Moreover, Angola has a relatively high vulnerability to modern slavery ratio, estimated to be 62.31/100 (Walk Free Foundation, 2018b). However, these figures have not been authenticated at the country level.

4.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

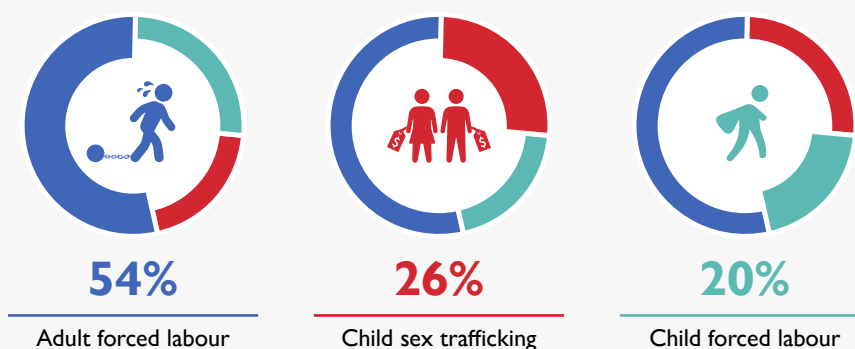
There are multiple sectors in which forced labour and trafficking in persons occur in Angola. These include construction, the artisanal diamond mining sector, the informal economy, domestic service and fisheries. There are reports of traffickers exploiting Angolan children as young as 12 years in the fisheries, agriculture, mining and domestic service sectors. Girls as young as 13 years who are recruited to carry out domestic service in private homes in the country are vulnerable and become victims of sex and labour trafficking in the country. The COVID-19 pandemic has contributed to adults moving poor children to the streets of Luanda to engage in various informal economy activities such as parking assistance, shoe-shining, begging and car washing. These children are subjected to forced labour from their handlers and other unscrupulous persons. Moreover, there are reports of Angolan adults actively using minors (below 12 years in forced criminal activities, particularly with the knowledge that such children cannot be prosecuted for these criminal offences (US Department of State, 2021; Walk Free Foundation, 2018b; Verité, 2020).

poor, displaced populations and the illiterate, which suggest the need for better targeting of interventions towards these groups (SADC Secretariat, 2016).

The data released for the period 2017–2019 point to the fact that forced labour practices might have been the main motivation for trafficking in Angola. As shown in Figure 3, about 54 per cent of the victims were adults who were subjected to forced labour. The quest for labour through illegal means stands to be the reason why 20 per cent of the population who happen to be children were exposed to child labour. The last category of victims were minors who were assaulted sexually, probably for illegal monetary gains.

4.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

According to a report by the SADC Secretariat (2016), women and children (boys and girls) constitute the most vulnerable categories to trafficking in persons and forced labour. The key social groups that are vulnerable to trafficking and forced labour include the unemployed, the

FIGURE 3: Forms of exploitation in Angola

Source: UNODC (2017).

4.4 RECRUITMENT PRACTICES

There are both registered and unregistered recruitment agencies in Angola. Traffickers deploy the strategy of false promises of employment to lure victims. There are also reports of the influence of family members and the promise of education as key tactics deployed by perpetrators of trafficking in persons in Angola. In addition to seizure of documents, restrictions on movement, debt bondage, violence and isolation are key tactics deployed by traffickers to keep victims under control (SADC Secretariat, 2016).

4.5 PROSECUTIONS AND VICTIM SUPPORT

The Government of Angola has trained approximately 350 officials on the established law, including provisions that prohibit trafficking, while increasing its sensitization efforts on anti-trafficking to more than 1,000 private citizens and NGO executives. According to the 2021 TIP report, the government carried out an investigation of 10 potential trafficking cases in 2020. Out of these cases, two were referred for prosecution. The government also stepped up protection efforts by identifying about 55 potential child trafficking victims, but little effort was made with regard to adult victims. Up until 2016, two trafficking in persons cases, involving six Chinese nationals convicted of sex trafficking and a 32-year-old from the Democratic Republic of the Congo, had been heard in Angolan courts. The former resulted in a prison sentence of

between eight and 10 years, while the latter, which concerned the trafficking of four boys from the Democratic Republic of the Congo aged between 13 and 16 years, attracted two years' imprisonment (US Department of State, 2021).

In recent years, the government has demonstrated a steady commitment and increasing efforts in its anti-trafficking activities, even in the face of the COVID-19 pandemic. Impressive strides include convicting five complicit officials and sentencing all of them to imprisonment; providing long-term protective services that encourage victims to take an active part in trials against their traffickers; dedicating funds specifically for anti-trafficking efforts, including for implementation of the national action plan (NAP); and undertaking anti-trafficking sensitization campaigns (US Department of State, 2021).

During the pandemic, the government initiated 10 trafficking investigations, compared with 15 potential trafficking investigations in 2019. One case involved the sex trafficking of Congolese women in Cabinda province, while all the other cases involved child forced labour across multiple provinces. The government also continued 13 investigations initiated in previous reporting periods, including several forced child labour cases and a Luanda sex trafficking case with 11 Vietnamese and Chinese victims. The government prosecuted and convicted 13 suspected traffickers in three cases, a decrease from the prosecution of 27 potential traffickers in the previous reporting period, but an increase in convictions to 10 traffickers. The government convicted and sentenced five labour traffickers to between six and ten years' imprisonment for child forced begging, three Congolese traffickers to more than eight years' imprisonment for child and adult sex trafficking of Congolese women in Angola, and five police officers to

between three and 10 years' imprisonment for sending children abroad for forced labour.

There were numerous reports of official complicity in human trafficking offences, and the government took strong action in some cases. In 2019, the government charged five officers from a specialized police unit with trafficking in persons, forced labour, organized crime and falsification of documents for allegedly conspiring to force six Angolan children to beg in Portugal, Italy and France. In July 2020, it convicted all five for the trafficking of minors to foreign countries. Three of the officials received six-year sentences and one received a three-year sentence, while the leader, convicted in absentia, received a 10-year sentence. Despite this achievement, prosecution of offenders is affected by corruption, lack of resources and the unwillingness of victims to provide information, as highlighted in the statement below by a key informant:

The government has come a long way and the state agencies are doing better today. More traffickers are being prosecuted and the government is offering support to victims. But the main challenge is lack of resources and corruption. Those investigating serious trafficking can be bribed by the traffickers. Also sometimes, the victims do not provide the required information to support prosecution as they are afraid of the traffickers.

4.6 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

Angola has made some strides by establishing legal frameworks to address the issue of trafficking in persons and forced labour. In 2014, the government enacted the Law on Criminalization of Underlying Offences to Money Laundering. Under the Act, trafficking in persons is criminalized as an offence with sanctions for perpetrators (UNODC, 2018). Article 19 of the law specifically addresses trafficking in persons. In addition, there are other relevant articles in the law that speak to the issue of trafficking and forced labour: for example, article 18 speaks about modern slavery, article 20 addresses issues of sex trafficking and article 23 addresses sex trafficking of minors, whereas articles 21 and 22 address pimping and pimping of minors respectively (SADC Secretariat, 2016). The government in November 2020 amended the anti-trafficking articles of the penal code, which took effect in February 2021. These amendments slightly increased the penalties for some trafficking offences.

4.7 NATIONAL COORDINATION MECHANISM

It is worth noting that there are multiple law enforcement agencies that have mandates to address trafficking in persons. In addition to the police, the Criminal Investigation Services and the Court of Minors can investigate child trafficking. In 2014, the Government of Angola established an interministerial commission

to combat the phenomenon of trafficking in persons in the country under the direction of the Ministry of Justice and Human Rights and the Ministry of Social Assistance and Reintegration. The Trafficking in Persons Report of the US Department of State (2021) found that the commission met five times in 2020. With financial support from the government, the commission was able to implement its 2020–2025 National Action Plan in collaboration with NGOs and international organizations. Despite this, reports from the US Department of State (2018, 2021) found that there were no procedures that could guide or regulate recruitment, apart from periodic inspections by labour inspection officers. While the government reported 5,461 labour inspections in 2019, there was no report of the same in 2020. Issues such as financial and human resources challenges continue to hinder efforts to properly supervise, detect and identify trafficking, forced labour and bonded labour. According to the US Department of State (2021), lack of funds meant that labour inspectors could not cover their transportation expenses, and in instances where they managed to conduct inspections, the focus was mainly on the formal sector, where just one fourth of Angolans work.

There have been some efforts to build the capacity of State institutions on combating trafficking in persons. For example, the Ministry of Justice and Human Rights is reported to have trained 50 airport officials on identification of human trafficking in 2020. Moreover, the officers of the national police academy were trained on the 2014 law, whereas an international NGO also provided capacity-building training for 155 police officers on how to identify trafficking cases (US Department of State, 2021).

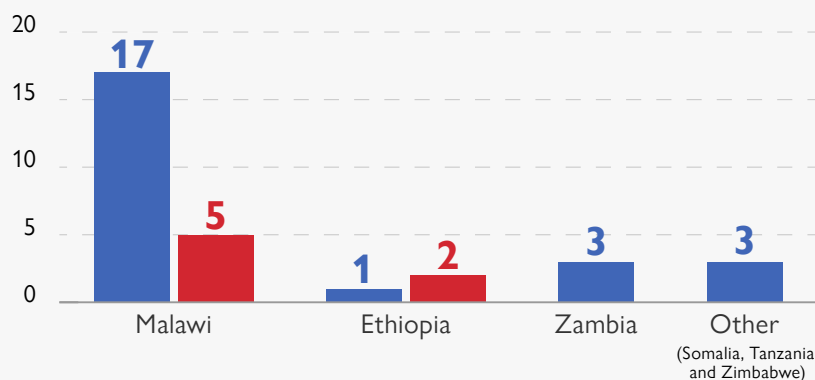
5. BOTSWANA

5.1 PREVALENCE OF TRAFFICKING AND FORCED LABOUR

Data from the Directorate of Public Prosecutions (DPP) show that between 2015 and 2016, approximately 30 people were identified as victims of TIP in Botswana. The data provided by the DPP are quite close to official data obtained from the 2021 Trafficking in Persons report of the Government of Botswana (US Department of State, 2021), which reported a total of 28 trafficking victims over the 2016–2020 period.

Furthermore, Botswana is noted for being a staging region for both trafficking and smuggling from third countries, particularly from Zimbabwe and Namibia to South Africa. There are also Zimbabweans, Ethiopians and Tanzanians who are trafficked into Botswana for the purposes of forced labour in domestic servitude (US Department of State, 2009; 2015; 2018). Figure 4 shows that a majority of victims (73%) are Malawians, while the rest are from Ethiopia, Zambia, Somalia, Tanzania and Zimbabwe. The evidence from the data calls for the need to increase surveillance to track in-country acts of trafficking among Botswana nationals, since no Botswana national was identified as a victim.

FIGURE 4: Number of TIP victims by nationality and sex



Source: Government of Botswana Trafficking in Persons Report (2020).

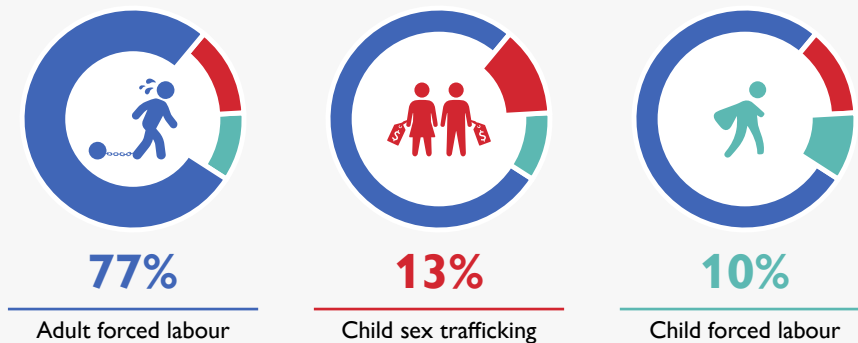
As indicated in earlier sections, smuggling is also very pervasive. Sometimes the same intermediaries facilitating smuggling also end up trafficking some victims. One government official explained the situation of trafficking and smuggling in Botswana:

“Smuggling is very common in Botswana, and commonly smuggling occurs through ports of entry and ungazetted points of entry. Mostly those smuggled in are groups that are looking for economic means in Botswana or neighbouring countries. Their ages range from minors to adults. Examples of smuggling in are children who would have been visiting their parents in other countries for their school holidays and do not have proper documentation. Smuggling is increasing due to economic status of some of the neighbouring countries, and control measures in Botswana are in place, but not as advanced.”

There are no data at the country level on modern slavery, but the Walk Free Foundation (2018b) global slavery index estimates that the prevalence is relatively moderate in Botswana, with an index rank of 96 out of 167. Approximately 3.43 victims per 1,000 of the population are thought to live in modern slavery (Walk Free Foundation, 2018b). These figures are, however, not independently authenticated at the country level.

5.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING AND FORMS OF EXPLOITATION

Key sectors in which forced labour occurs include the agricultural sector and domestic work (US Department of State, 2020; ILO, 2015). Although forced labour, particularly in sectors such as agriculture, has been viewed as a possible form of exploitation, the 30 identified victims are believed to have potentially experienced sex trafficking and forced labour. This corresponds with the figures presented in the US TIP report that indicated that four victims experienced child sex trafficking, while others were subjected to child forced labour. As shown in Figure 5, the most common form of exploitation that was reported is forced labour, which affects both adults and children. About 77 per cent of victims of trafficking were adults who experienced forced labour and 10 per cent were children who experienced forced labour. Children are recruited to work in cattle-rearing areas. Women, especially young women, become victims of sex trafficking, farm labourers and domestic workers.

FIGURE 5: Forms of exploitation (2015–2016)

Source: Government of Botswana Trafficking in Persons Report, 2020.

Many children in forced labour situations in Botswana are engaged in the agricultural sector, where the risks of occupational injury are reported to be high, because of the use of dangerous tools and the performance of arduous tasks. Some Botswana boys work in isolated regions shepherding livestock with high exposure to insect and snake bites. They also work for long hours and may cover long distances that have long-term implications for their health and well-being (International Trade Union Confederation, 2009; US Department of State, 2015). There are widespread reports of some children residing in the Dukwi Refugee Camp engaged in commercial sexual exploitation as they await decisions regarding their refugee status (Department of Labour Affairs, 2021).

5.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

Women and children appear to be the key demographic groups that are vulnerable to trafficking and may encounter or experience forced labour in Botswana. One of the

government officials shared his impression about the most vulnerable social groups: “Out of the few cases that have been recorded, the most vulnerable group are females, more especially young ladies.”

Although women and children are generally considered more susceptible to trafficking in Botswana, there is, however, an emerging trend of males falling victims to this disturbing situation. Males are likely to be subjected to trafficking because of the market premium that may be assigned to males who are subjected to forced labour.

A careful observation of the demographic features of victims shows that traffickers were more likely to exploit the youth. As indicated in Table 2, youthful victims between ages 18–34 years comprised approximately 77 per cent of the total number of TIP cases identified from 2015 to 2016. More specifically, this vulnerable population made up 60 per cent of victims, whereas female youth comprised 17 per cent of the trafficking victims. Aside from that, it is worth noting that juvenile trafficking is also an issue that warrants a significant attention, given the fact that 20 per cent of the victims fall below 18 years of age.

TABLE 2: Number of TIP victims by age and sex for which data are available (2015–2016)

Age Group	Male	Female
Less than 18 years	1	5
18–34 years	18	5
35–60 years	1	–

Source: Government of Botswana Trafficking in Persons Report (2020).

Botswana children who work in the domestic work sector are subjected to long working hours and sexual and physical abuse, and many end up becoming street children who engage in highway beggary. Child victims of smuggling in Botswana mostly come from Somalia and Zambia, but the highest concentration is from Zimbabwe. Poverty, poor livelihoods prospects and economic challenges compel many Zimbabwean adults to resort to irregular migration channels to Botswana in search of work. They face the risk of commercial sexual exploitation and vehicular accidents and may be exposed to other forms of abuse and exploitation (Ditshwanelo, 2009). One of the most politically and economically marginalized groups, the San, whose livelihood is dependent upon hunter gathering, are well noted to be particularly vulnerable to forced labour.

5.4 RECRUITMENT PROCESSES

The activities of recruitment agencies/intermediaries in Botswana can be traced to the 1930s, when the South Africa Chamber of Mines' recruiting organizations, including the Native Labour Association and Native Recruitment Corporation, expanded their

activities to source cheap labour from Botswana for South African mines. Recent reports point to low-skilled migrants being recruited by agencies to fill vacancies in tourism and agricultural sectors, as well as in services such as domestic work abroad (IOM, 2020; Morapedi, 2018). There is also evidence that some immigrants rely on support provided by friends and relatives to migrate to Botswana, as highlighted in the statement below by a migrant:

“Friends, relatives and my parents all contributed to the success of my journey. My parents provided moral support, while friends and family provided financial assistance. I never used recruitment agencies or brokers, because most of them had a bad reputation at the time. Friends and family members aided me out by making contributions for the money I needed for the trip. I didn't have to repay the money because it was given to me for free. I was able to raise approximately USD 600 which was satisfactory for the period of my journey.”

Although frameworks exist for regulating the activities of private employment agencies, there are frequent violations of these national laws on recruitment, especially in cases where

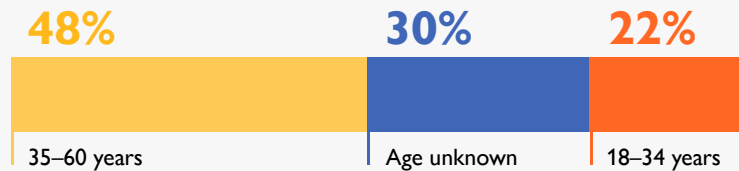
migrants have been recruited for placement abroad. There are widespread concerns of many people, especially women and girls, being forcibly recruited and transported either within the country or across borders for purposes of forced labour, sexual exploitation and slavery (Vhumbunu, 2020). Information gathered from the 2021 Trafficking in Persons report revealed that Botswana law failed to prohibit labour recruitment practices deployed by traffickers, including confiscation of workers' documents, charging of recruitment fees, withholding of wages and unilateral contract switching (US Department of State, 2021).

5.5 PROSECUTIONS AND VICTIM SUPPORT

In light of the implementation of the 2014 Anti-trafficking Act, law enforcement agencies have been making efforts to identify, arrest and prosecute perpetrators of human trafficking crimes. Between 2015 and 2016, 25 persons suspected to be involved in the act of trafficking were apprehended, of whom 60 per cent were males between the ages of 35 and 60 years. Data provided by the DPP revealed that 24 per cent of the suspected traffickers identified were from Malawi, while 20 per cent were from Botswana. Other identified nationals involved were from Zimbabwe, Ethiopia, Nigeria, Jamaica, Kenya, Somalia, South Africa, Tanzania and Zambia. The DPP indicated that 13 cases were before the courts for prosecution, while two of these cases had been finalized. One of these finalized cases led to a sentence of 18 months in prison, of which nine months were suspended on some conditions. The DPP appealed against this verdict, judging it as lenient considering the severity of the criminal act.

There have also been some prosecutions in more recent years. For instance, US Department of State (2021) indicated that the Government of Botswana started to investigate three trafficking cases and continued 10 investigations started in previous years, compared with initiating an investigation into only one potential labour trafficking case in 2019. It is worth noting that all three cases involved Zimbabwean traffickers, who allegedly exploited Zimbabweans in labour and sex trafficking within Botswana. These three traffickers are being prosecuted for forced labour, while prosecutions against 11 alleged traffickers from previous reporting periods are still ongoing. The government has not convicted any of these traffickers, which signifies a decrease from convicting five persons in two cases in 2019.

As indicated in Figure 6, most of the suspected traffickers were between the ages of 18 to 60 years.

FIGURE 6: Age distribution of identified suspects

Source: Government of Botswana Trafficking in Persons Report, 2020.

The government's efforts to seek and offer protection to victims of trafficking were generally low in 2020 compared with the previous reporting year. This is because only three child victims of labour and sex trafficking were identified, as against 24 foreign victims who were identified within the country in the previous reporting period. However, the government started the implementation of the anti-trafficking national action plan (2018–2022), committing approximately USD 92,000 towards implementation.

5.6 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

The Anti-Human Trafficking Act No. 32 was enacted in 2014 to address trafficking cases (US Department of State, 2020). The Constitution of Botswana prohibits and criminalizes all forms of forced labour. Moreover, the government in a bid to deal with the situation has taken steps and ratified some international conventions, such as the ILO

Forced Labour Conventions, that is, the 1930 ILO Forced Labour Convention (No. 29) and the 1957 Abolition of Forced Labour Convention (No. 105). Forced labour is also captured under section 2 of the Anti-Trafficking Act 2014, while section 9 of the Act criminalizes the practice. It is also not allowed under sections 69 to 72 of the Employment Act, but this does not mete out severe punishment to offenders (ILO, 2016; Mokobi, 2019).

Ranked in the Tier 2 category in the US Department of State Trafficking in Persons report (2020), Botswana has ratified the United Nations Convention against Transnational Organized Crime and the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children as part of its commitment to do away with all forms of human trafficking. Agreeing to these international conventions makes it incumbent on the State to design an instrument to tackle the problem locally. In line with this, Botswana adopted the Anti-Human Trafficking Act 2014 to give impetus to the United Nations Protocol to Prevent, Suppress and Punish Traffickers in Persons. The Act seeks to prohibit and combat human trafficking by means of providing measures to protect and help victims of

trafficking and other related issues (Britton and Dean, 2014; Chembe, 2016). The 2014 Anti-Human Trafficking Act treats sex and labour trafficking as a criminal practice and expands the scope of trafficking to include all forms of child labour. The law punishes offenders with up to 25 years' imprisonment, or a fine of USD 46,900, or both. These measures are considered punitive enough to deter people from engaging in the practice (US Department of State, 2019).

The adoption of the Botswana Employment Act in 2010 also affirms the commitment of the government to combating forced labour and child labour. The Act prohibits employers from engaging workers who fall within the ages 14 to 18 years in the work environment. It considers work among such age cohorts to have the tendency to put their lives in danger and potentially cause health risks. The law, however, does not allow children at the age of 14 who are out of school to work for more than 30 hours a week. Thus, these children can be engaged by their own family members in jobs that do not pose any form of harm to their health and development (Department of Labour Affairs, 2012).

The government has also instituted the Penal Code and the Criminal Procedure and Evidence Act to protect children from forced labour and trafficking. The laws punish people who are found culpable of trafficking, child stealing, kidnapping or abduction, as well as those engaged in modern slavery. It also prohibits the use of children, especially girls, for acts of prostitution and protects adopted children from being lured into prostitution and labour exploitation (Department of Labour Affairs, 2012).

The National Action Plan, another such policy, helps to eradicate any forms of child labour. This national plan not only seeks to promote children's rights through key areas as education and health, but most importantly address policy and legislation gaps, creates awareness and produces programmes that target issues of child labour.

5.7 NATIONAL COORDINATION MECHANISM

Botswana has an effective system for coordinating the activities of all State and non-State actors involved in protecting migrants and national against exploitation, especially trafficking in persons. The Counter-Trafficking Unit of the Ministry of Defence, Justice and Security plays a pivotal role in dealing with trafficking issues. The Programme Advisory Committee on Child Labour facilitates and oversees all matters relating to forced labour and child labour among stakeholders. The Ministry of Labour and Home Affairs, whose responsibility is to ensure that child labour laws and policies are enforced through the commissioner of labour, is mandated to halt all employment relationships that involves children (Department of Labour Affairs, 2012).

6. COMOROS



6.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

There is a general paucity of data on trafficking in persons, forced labour and modern slavery in Comoros. The country is still in Tier 3, since it does not fully comply with the minimum standards for elimination of trafficking. While the government is making efforts to address trafficking and forced labour, the absence of up-to-date data hinders the development of evidenced-based policies.

6.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

Both Comorian children and adults are forced or trafficked in agriculture, construction, domestic work and fishing. To seek better opportunities elsewhere, parents sometimes leave their children behind and move on to other countries. Some migrants in the destination areas engage in hawking as their main source of livelihood, while others who go to the Middle East are employed in

domestic settings. Low-skilled migrants who go to the Middle East through the unregulated migration industry are particularly likely to experience exploitation. For instance, Mariama, a Comorian, reported how she experienced exploitation when she migrated to Saudi Arabia for domestic work. She gathered information about the job from a friend. She said, *“The job in Saudi Arabia pays very well and since I was already in a difficult situation, I decided to give it a try.”* In light of this, she was linked to a recruitment agency by her friend and the recruitment agency took care of all her expenses. Unfortunately, all the conditions of work such as salary, work hours, rest hours and mode of payment were different from what she was told before migrating. Mariama narrated her ordeal as follows:

“My passport was seized upon arrival by the family, yes, I was paid an equivalent salary of 100,000 Comorian francs¹ and the agency received a salary, I don’t know if it’s minimum or not, I didn’t have any working hours, I worked almost 24 hours a day. And if there is no work at home, I was sent to the neighbour or another family member to work over there, no rest hours, even if I’m sick, I have to work.”

¹ USD 214 in March 2023.

Migrant workers like Mariama, who find themselves in Middle East countries including Saudi Arabia, often go through inhuman treatment. Many of them have their documents seized while at the destination.

6.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

According to US State Department (2021), traffickers exploit both domestic and foreign nationals by luring them into forced labour and acts of trafficking. Both Comorian and Malagasy women who either move or transit to the Middle East are exploited by traffickers. The US Department of State (2021) estimated that between 3,000–4,000 unaccompanied Comorian children in Mayotte are vulnerable to domestic servitude and sex trafficking. Children between the ages of three to seven years, sometimes up to 14 years, are susceptible to trafficking. Children exposed to informal settlements and education may be exploited. These situations of vulnerability are created as a result of several factors, including the management of informal neighbourhood education by private inspectors, who may subject the child to debt bondage, corrupt government officials and porous borders (US State Department, 2021).

Other categories of vulnerable migrants to trafficking and all forms of forced labour include asylum seekers whose claims were rejected, unaccompanied and separated children, stranded migrants in need of protection assistance, stateless migrants, the unemployed, poor people and orphans.

6.4 RISK FACTORS AND CAUSES OF TRAFFICKING, FORCED LABOUR AND MODERN SLAVERY

Several factors have been identified as the root causes of trafficking in Comoros. They include poverty, unemployment and lack of opportunities, among others. On the other hand, other migrants anticipate good opportunities such as better livelihoods in Comoros. One of the respondents, whom we have named Alice, explained the reasons for her movement to Comoros. Alice is a Congolese whose parents were killed by rebels and had to flee from the Democratic Republic of the Congo. Alice had to seek refuge first in Tanzania and then in Comoros, where she lives currently. She fled through the forest to Tanzania and settled in a refugee camp for two years and later came to settle in Comoros. While in the camp, she met a Comorian who promised her a better life in Comoros. According to Alice, the Comorian acquaintance facilitated her migration to the Comoros once she agreed to follow him. Alice narrated how dishonest her agent was, saying:

“He’s not at all honest. He made me come here and then abandoned me. He had promised me that he would take me here to open a hairdressing salon. He seduced me and slept with me many times before I came. And when I came, I realized that he had no intention of doing anything for me, but rather he wanted to keep me as his sex slave. And I decided to leave him to try my luck elsewhere.”

Just like Alice, many other migrant workers who are desperate become vulnerable and are exploited by traffickers and smugglers.

Recruitment through the unregulated recruitment industry thus exposes migrants to various forms of abuse.

6.5 RECRUITMENT PROCESSES

Labour recruitment is not effectively managed in the Comoros (UNODC, 2017; US Department of State, 2021). The government has not made any comprehensive efforts to regulate labour recruitment agencies since then. A firm that employs migrants explained the processes his firm uses to recruit migrants from and to the Comoros:

“We have been working in the food, trading and wholesale business for 30 years already. Today, we have seven stores employing 52 people. Nowadays, our company employs 28 international migrants out of 52 employees, mainly of Malagasy and Tanzanian origin. We prefer migrant workers for two main reasons: the first is that the absenteeism rate is low compared to nationals. The second reason is that the salaries of foreigners are relatively lower than that of nationals. ... We prefer to recruit migrants who are already there in the Comorian territory and who already have a regular situation. This allows us to avoid the problems related to their regularization and their accommodation, especially since these are employees who fall into a field that requires little qualification (e.g. cashier, warehouse worker, delivery man etc.).”

6.6 PROSECUTIONS AND VICTIM SUPPORT

The Government of Comoros in February 2021 modified the existing criminal code that criminalizes sex and labour trafficking. The US Department of State (2021) TIP report states that the Article 266-11 of the amended criminal code provides for between seven and ten years’ imprisonment, which is considered very punitive. This punishment is in addition to a fine of 30 million Comorian francs (equivalent to USD 74,880) for an adult victim offence. Additionally, offences involving child victims also attract a fine of 30 million Comorian francs.

6.7 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

Besides Article 266-11, the Government of Comoros acceded to the 2000 United Nations TIP Protocol. The country also has a National Action Plan to fight against trafficking and collaborates with other international organizations to build the capacity of law enforcement officials on trafficking crimes (US Department of State, 2021).

6.8 **COORDINATION MECHANISM**

The Comoros has instituted the interagency Anti-Trafficking Task Force, which comprises relevant government agencies such as listening centres and international organizations. The task force continues to lead the government's anti-trafficking efforts. In 2015, the task force adopted the anti-trafficking national action plan with a set of responsibilities for partner government agencies (US Department of State, 2021) ■

7. ESWATINI



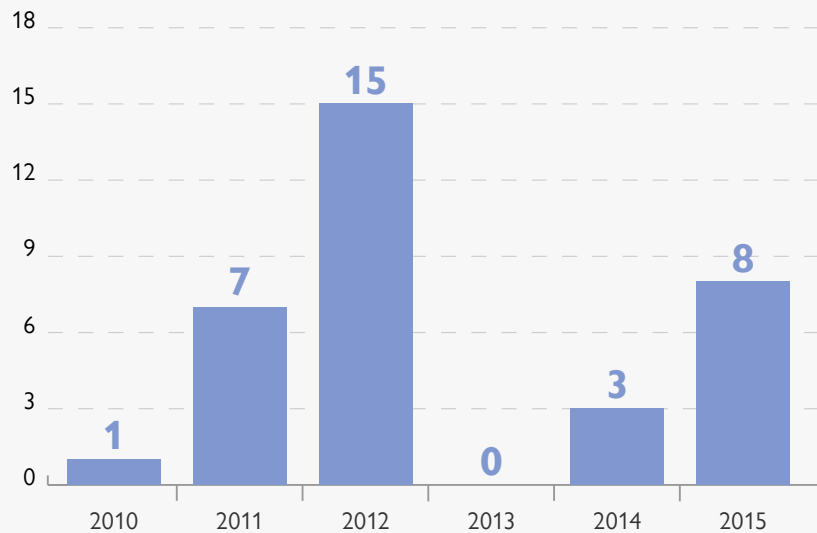
7.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Eswatini is a source and transit country for trafficking in persons and forced labour. According to a report by the US Department of State (2021), human traffickers in Eswatini subject local and foreign victims to various forms of exploitation, including forced labour and sexual exploitation within the country and abroad (ILO et al., 2019). The report shows that trafficked Swati girls, in particular, are subjected to forced domestic work, with their employers sexually and physically abusing them (Bureau of International Labor Affairs, 2020). In addition, the report also found that most orphaned Swati girls are coerced into what the report calls “survival sex” in order to get food and money to keep body and soul together. Mozambican boys are trafficked into Eswatini and subjected to forced labour (US Department of State, 2021). Using Eswatini as a transit country, the traffickers move Mozambican women and boys to South Africa, where they are subjected to sexual exploitation

and forced labour. Moreover, Eswatini nationals are recruited and subjected to forced labour in the South African mining and timber industries.

With reference to the nationals of Eswatini, young Swati boys are usually recruited into commercial agriculture and cattle ranches. Data provided by the United Nations Office on Drugs and Crime (UNODC) TIP 2014–2016 report show that a total of 34 TIP victims were identified in Eswatini from 2010 to 2016 (UNODC, 2017).

As of the time of compiling this report, information obtained from US Department of State (2019) showed that the number of suspected cases investigated by the government in 2016 was 19 in total, with 18 cases of forced labour and one sex trafficking case (see Figure 7). Comparing the cases recorded in 2016 with those of preceding years, it is imperative to highlight that the annual reduction in trafficking cases is not updated in the data collected.

FIGURE 7: Total number of victims of TIP cases detected in Eswatini

Source: UNODC, 2017

7.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

Most trafficked victims, especially boys, are subjected to forced labour in the agricultural sector, such as marijuana farming and cattle herding in Eswatini or abroad (US Department of State, 2021). Other victims are forced into market vending in Eswatini, with women and girls mostly forced to work in the commercial sex industry. Trafficked Mozambican boys in Eswatini are forced to engage in herding livestock, portering and car-washing. While many Swati nationals trafficked to work in South Africa are exploited in the mining industry, others are subjected to forced labour in the timber industry.

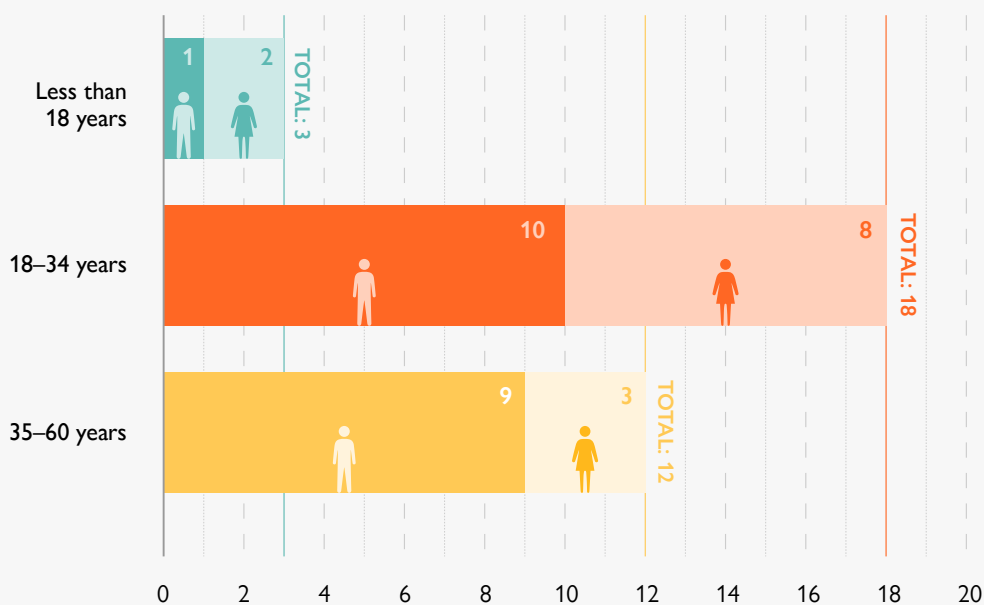
7.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

The most vulnerable groups to human trafficking include people from poor Swati communities known to have high prevalence rates of HIV/AIDS. Note that communities with high HIV/AIDS prevalence rates have high HIV-related deaths, which bring about high numbers of orphans (US Department of State, 2021). Thus, orphaned Swati children, mostly in child-headed households, are vulnerable to trafficking. Both Swati girls and boys are vulnerable to trafficking. For example, Swati boys from marijuana-growing areas in rural Eswatini are particularly vulnerable to trafficking and forced labour on marijuana farms.

A cursory observation of the data available provides evidence that the majority of the TIP victims are young individuals who may be targeted for economic activities without their consent. This category of victims is followed by people between the 35–60 age group, who

are equally exploited for economic gain by their traffickers. With reference to the gender exploitation dimension, there is clear evidence (see Figure 8) that males dominate recorded trafficking cases.

FIGURE 8: Number of TIP victims by age group and sex



Source: UNODC (2017).

The data gathered over the five-year period clearly indicate that Eswatini hosted trafficked persons with diverse backgrounds, including victims originating from regions outside the SADC region, including Asia. The greatest number of victims identified within the reference year period are from Uganda, followed by China, India, Lesotho and Mozambique among others. The fact that both internal and external victims were identified lays credence to the fact that Eswatini is a source, destination and a transit

country for trafficking. There is evidence that Mozambican boys are trafficked to herd cattle in Eswatini. An official with the Ministry of Foreign Affairs and International Cooperation reveals:

“I wouldn’t be sure on this one. But we do have cases where young kids from Mozambique come into the country to look after cattle.”

7.4 RECRUITMENT PROCESSES

The recruitment industry is characterized by both formal and informal recruitment agencies. Nationals from other African countries move to Eswatini through assistance from friends and family members. A migrant interviewed revealed:

“I migrated from Rwanda straight here in Swaziland. I just came once. Okay, I came from home to work here.”

Swati nationals also move to neighbouring countries, such as South Africa. A current migrant confirms this information of Eswatini being a source country for migration:

“When I arrived in Durban, I met fellow Swazis who are now based in South Africa. They are the ones who gave me accommodation. The main issue was with my study permit. I had to first find a residential address where I would be staying when I arrived in the country, since you actually don’t know where you will be staying. So, you have to actually visit the place and find where you will be staying and provide proof that they will accommodate you there.”

An official with the Ministry of Labour and Social Security in Eswatini highlights some of the conditions under which migrants work:

“I may not know because I’m not quite sure of the recruitment agencies. I only know of The Employment Bureau of Africa (TEBA) recruitment agency. Maybe I can make a scenario to answer your question using knowledge I have

of TEBA. TEBA recruits the migrant workers to go and work in the mines. If the mineworker falls sick, the recruitment agency doesn’t take care of that. Also, in terms of their portability of social security benefits, there’s a challenge. Let’s say a migrant mineworker falls sick, he is taken back home to his family, and it is the family that will be responsible for paying for his treatment. After returning home the migrant worker has a challenge to access his wages and other benefits and he or she becomes a burden to the family because maybe he was the breadwinner. So, with TEBA they only recruit but not engage or get involved in the social welfare of the migrant workers. As a ministry or government institution we are working on establishing a social security unit whereby we believe that once the unit is established it will help all migrant workers.”

Recruitment through the unregulated recruitment industry makes potential migrants vulnerable to trafficking and forced labour. The traffickers entrap their victims with promises of good jobs and economic breakthroughs either in Eswatini or in South Africa. They recruit Swati students and promise them sumptuous educational opportunities in the destination country, such as Taiwan, only to coerce them into forced labour in chicken factories in that country on arrival (US Department of State, 2021).

7.5 RISK FACTORS AND CAUSES OF TRAFFICKING

Poverty and unemployment have been identified as key drivers of trafficking. Family instability arising from HIV-related deaths, especially in communities hard-hit by HIV/AIDS, is considered an important driver of trafficking. Some of the pull factors include trafficking-related corruption and bribery involving immigration officials in the issuance of Swati visas to potential foreign trafficking victims.

Aside from the lack of jobs, constraining some people to migrate to Eswatini, the perceived peace and stability in that country seem to act as an important pull factor. Listen to one of the migrant respondents:

“Sincerely, I had friends working here, they told me it’s an interesting place and I can come and work here. So, that’s why I came here because there’s nothing like conflicts and whatever. ... okay let’s say there was some phone contact with the employer on this side. It was XX Clinic in Manzini by then, so, they told me there was someone leaving for the government hospital so there was an opening for one person to join the clinic staff. Then, I only talked to the administrator if I can come, and they agreed to me coming to work for them.”

An official with the Ministry of Labour and Social Security suggests that Eswatini’s porous borders seem to be facilitating trafficking:

“In most cases it’s not easy to identify cases of smuggling since there are these informal crossings, so, they use these informal crossings when

they smuggle these people. You will find out that one has been promised a job so he will use the informal crossings...There has been a high rate of using the informal crossings during the COVID-19 period. So, there are a lot of people who have migrated to neighbouring countries to work, but we have no record of where they are working. This has been a problem since we haven’t been able to gather data on such issues in the informal crossings.”

7.6 PROSECUTIONS AND VICTIM SUPPORT

The Government of Eswatini has made efforts to enforce its anti-human trafficking laws and regulations. The government investigated three potential trafficking cases, of which two were prosecuted in 2020. The two prosecuted cases were found to involve internal trafficking, while the other involved transnational trafficking. In 2019, five potential trafficking cases were investigated and prosecuted. The prosecutions led to convictions. For example, in 2020, the Director of the Children’s Unit in the Deputy Prime Minister’s office was found culpable of sex-trafficking a girl between 2017 and 2019 and was sentenced to 55 years’ imprisonment (US Department of State 2021).

Further, the government has a shelter facility where care and support services are provided to most victims of trafficking and crime. The government has other facilities that are used for training and residential needs of victims. For example, reports show that the government had provided care, including food, clothing, medical

care, psychosocial support and toiletries for four and six trafficked girls in 2020 and 2019, respectively. Following this care, the government made efforts to reunite the victims with their families. Besides, the government is providing the necessary assistance to an international organization to construct a new shelter for the victims of trafficking. The Department of Social Welfare also provides rehabilitative services to victims of trafficking and child labour.

7.7 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

The Government of Eswatini has enacted and ratified the following laws and legislative frameworks to prohibit, punish, and fight trafficking in persons, forced labour and sexual exploitation (ILO, 2021; International Commission of Jurists, 2020):

- The People Trafficking and People Smuggling (Prohibition) Act of 2009, which criminalizes sex trafficking and labour trafficking;
- The Sexual Offences and Domestic Violence Act of 2018, which prescribes penalties for commercial sexual exploitation of children and adults;
- The Children’s Protection and Welfare Act of 2012;
- The Crimes Act of 1889.

Other relevant legislation includes the following:

- Prohibition of Forced Labour: Article 75 of the Children’s Protection and Welfare Act;

Sections 144 and 145 of the Employment Act; Article 13 of the People Trafficking and People Smuggling (Prohibition) Act; Articles 17 and 29 of the Constitution.

- Prohibition of Child Trafficking: Article 75 of the Children’s Protection and Welfare Act; Article 13 of the People Trafficking and People Smuggling (Prohibition) Act.
- Prohibition of Commercial Sexual Exploitation of Children: Sections 42–46 of the Crimes Act; Sections 13–15; Sections 23–28 of the Sexual Offences and Domestic Violence Act.

An official with the Ministry of Labour and Social Security confirmed the availability of important laws and legislation aimed at fighting trafficking and forced labour:

“On legislative frameworks there is the Constitution of the country, the Employment Act of 1980, there is the Immigration Act No. 17 of 1982, the Citizenship Act of 1982, People Trafficking and People Smuggling Act of 2009, and then the Refugees Act 142 of 2017. Then in terms of labour and employment legislation, there’s the Industrial Relation Act and code of good practice employment discrimination that prohibits discrimination, but doesn’t explicitly refer to nationality and citizenship or migrant status as a prohibitive criterion. Then we have Wages Order, which has regulations that include domestic employees and security personnel. We also have the Work Compensation Act of 1983 and the Occupational Safety and Health Act. So, these are the frameworks that apply to migrants and also to nationals.”

The promulgation of the People Trafficking and People Smuggling (Prohibition) Act of 2009 was a great step towards eliminating this heinous crime. The arrangement for training sessions on investigation techniques and judicial processes for police and labour inspectors on victim identification and protection is commendable. That notwithstanding, there is a need to intensify awareness creation and prosecution of culprits of human trafficking. Finally, the provision of financial support and logistics for the anti-trafficking task force, as well as NGOs that are fighting trafficking, is essential for the reduction and eventual elimination of trafficking in the country.

workers, prosecutors and immigration officers. The government also made the training in anti-trafficking legislation a part of the curriculum at the police training college. In addition, the government has established a bilateral cooperation agreement with the Taiwanese authorities to facilitate the repatriation of Swati victims trafficked to Taiwan.

7.8 NATIONAL COORDINATION MECHANISMS

The Government of Eswatini has made efforts to establish institutional mechanisms to coordinate the enforcement of laws and regulations criminalizing human trafficking and forced labour (Bureau of International Labor Affairs, 2020). The government's Anti-Human Trafficking Task Force shares information on potential cases of trafficking with immigration, police, prosecutors and social services. For example, the Trafficking in Persons Secretariat and Department of Social Welfare work closely with the Ministry of Labour and Social Services as well as the Royal Eswatini Police Service (REPS) to prohibit trafficking and child labour. REPS, in turn, refers investigated and confirmed cases to the Director of Public Prosecutions to prosecute. The Director of Prosecutions sometimes refers child victims to social support services, such as the Department of Social Welfare. Moreover, the government has invested in training on anti-trafficking for social

8. DEMOCRATIC REPUBLIC OF THE CONGO



8.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Trafficking in persons is highly prevalent in the Democratic Republic of the Congo, particularly the recruitment of children for armed group activities. UNODC (2016) shows that between December 2013 and March 2014, 268 children were recruited, comprising 221 males and 47 females, and were taken away to join armed forces. Between March and June 2014, 21 children, comprising 17 boys and four girls, of whom eight were below the age of 15 and were used as escorts, cooks, porters and fighters, were rescued. Within the same period, the United Nations Children's Fund (UNICEF) and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) confirmed that 233 other children, made up of 221 boys and 12 girls, had been recruited into armed groups. During the early months of 2015, MONUSCO again identified 298 children, involving 280 boys and 18 girls, who had been rescued from armed groups. This information shows that young children, particularly boys, are victims of trafficking for the purpose of being recruited into armed groups (UNODC, 2016). In a related account, the 2016 US Department of

State TIP report indicated that 491 children were forcibly recruited into armed groups in 2015, while 2,102 were separated from armed groups (US Department of State, 2016).

In 2019, MONUSCO stated that armed groups recruited 601 new children, against sustained efforts by the government to curb the recruitment and use of children into the Armed Forces of the Democratic Republic of the Congo (FARDC). This indeed represents a decline in child recruitment compared with confirmed cases of 631 in 2018 and 1,049 verified cases in 2017 (US Department of State, 2020). Despite reaffirmation by the Defence Minister of a zero tolerance policy for FARDC support for armed groups that illegitimately recruit children, officers of the Congolese National Army (FARDC) used three children illegally and continued to coordinate with armed groups to recruit and use children even in 2020. Thus, the government's inability to report investigating more cases has kept the country on the Tier 2 Watch List for the second year running (US Department of State, 2021).

The 2018 Global Slavery Index provided by the Walk Free Foundation (2018b) indicated that an estimated 1,045,000 people were living in modern slavery in the Democratic Republic of

the Congo in 2018, and the country is ranked 12/167 on the modern slavery index. The vulnerability to modern slavery score for the nation stood at 91.72/100 in 2018. During the interviews, government officials perceived that modern slavery and trafficking in persons are on the rise in country:

“Yes, it is on the rise, since the advent of the Community of Great Lakes States (CEPGL), it has diminished the restrictions that were in place in the past and this has allowed people to go about their lives in peace, which is their recognized right to come and go, to move freely within the Community of Great Lakes States, but also with their goods. So, to put it briefly, the scale has increased since the advent of the CEPGL.”

In the Democratic Republic of the Congo, men and women who began working as children in the unlicensed artisanal mining sector have been reported to have been subjected to forced labour including debt bondage by authorities in the mines, other miners, armed groups, government officials, family members and government forces. Thus, men and women who work in the mining sector are subjected to bonded labour, forced to work to offset constantly accumulating debts for cash advances, food, tools and other necessities at hidden interest rates. The situation contributes to intergenerational debt, as some miners are made to inherit debts of deceased family members. The situation in the Democratic Republic of the Congo has been that many women and men, as well as children, are subjected to exploitative and forced labour in the illegal mining of gold, copper, diamonds and tin, as well as the smuggling of precious minerals.

8.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING IN PERSONS

One of the key sectors in which trafficking victims are exploited is the armed forces. Children are particularly recruited into armed groups and used as escorts, cooks and sex slaves (UNODC, 2016). Moreover, not only has the artisanal mining sector contributed to fuelling the conflict in the country through providing financial resources to rebel groups in recent times, but also the sector serves as a hotspot mostly utilized by traffickers in exploiting their victims. The sector, which is poorly governed with little regulatory control and is further complicated by widespread corruption, offers many opportunities for sexual exploitation and labour trafficking (USAID, 2014).

8.3 GROUPS VULNERABLE TO TRAFFICKING

Men, women and children all constitute vulnerable gender groups to trafficking in persons. The Democratic Republic of the Congo is noted to be one of the easiest locations where men, women, and children are sourced and brought to be engaged in the various activities of trafficking. For instance, the USAID (2014) survey revealed that a significant number of men and boys who work as artisanal miners without a licence are reported to be exploited by businesspeople and supply dealers in instances of debt bondage. These people provide tools, food, cash advances and other services at extremely high prices and

exorbitant interest rates. The miners are as a result compelled to stay and work to defray the constantly accumulating debts that are virtually impossible to clear, and some miners take up the debt of deceased family members (USAID, 2014). Also, the 2016 United Nations Global TIP Report on the account given by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) indicated that children were forcefully recruited into armed forces. These children were mainly used as cooks, porters and sex slaves (UNODC, 2016). There are assertions that some Congolese women are forcibly prostituted by loosely organized networks, gangs and brothel operators in brothels or informal camps, including markets, bars and bistros in mining areas (USAID, 2014).

“Unfortunately, a high percentage [of recruitment agencies] do not meet the criteria required by the legislative regulation before recruiting migrant workers. Many work informally, and there are others who somehow meet the requirements of the country before entering this or that job or profession...Most of those who work in the formal category are qualified cadres, so in NGOs, community-based organizations like the CEPGL for not talking about SADC since DRC, Burundi and Rwanda are part of SADC [Burundi and Rwanda are not actually in SADC]. On the other hand, those who work in the informal sector are less equipped with the required knowledge, the required scientific capacities to access this or that political-administrative function.”

8.4 RECRUITMENT PROCESSES

The recruitment industry in the Democratic Republic of the Congo is characterized by unscrupulous and unregistered agents who mostly do not meet the criteria set out in legislative instruments and therefore have little or no capacity to undertake fair and ethical recruitment of migrant workers. Intimidation, threats, violence and the lure of employment are mechanisms or strategies used by recruitment agencies and armed groups to force migrant workers and/or children into forced and exploitative labour. A government official interviewed stated that the recruitment industry in the country is composed of agents who have little awareness of existing frameworks that guide labour recruitment in the country, as seen in the narration below:

What appears worrying is that our interviews with government officials revealed that there exist no data on recruitment agencies, and this has implication on planning programmes and interventions to enhance the knowledge and capacity of recruitment agencies to carry out fair and ethical recruitment of workers/migrants:

“No, we don’t have data on recruitment agencies. I don’t have in-depth knowledge of the agencies that recruit migrant workers. Here in the DRC, we do not really have in-depth knowledge of the existence of these agencies...”

One government official, however, recognized that there do exist some recognized recruitment agencies that engage in labour recruitment, as follows:

“In any case, agencies like SODEICO, they are recognized, they must have the necessary documents. If an agency is not recognized, it cannot function.”

Due to concerns about possible human trafficking, the Minister of Labour temporarily closed 116 labour recruitment and placement agencies. To combat predatory recruitment, the government imposed new requirements for establishing a labour recruitment and placement agency, including obtaining a National Business Identification Certificate, a business licence and a tax ID number, as well as receiving official recognition from the Ministry of Labour. However, Congolese law does not make it illegal to engage in fraudulent labour recruitment, limiting the government’s ability to punish companies for doing so (US Department of State, 2020).

8.5 PROSECUTIONS AND VICTIM SUPPORT

With regard to anti-trafficking efforts embarked upon by the government, there was continued prosecution of officials who were complicit in child-soldiering and exploitation. This included the investigation of six members of the Armed Forces of the Democratic Republic of the Congo (FARDC) in 2015. According to the same report, some officials were charged with sexual violence, although there was not a clear connection with trafficking. In this instance, 13

National Congo Police (PNC) and 55 FARDC officials were charged (US Department of State, 2016).

This number increased in 2016 to 319 FARDC members, 135 PNC members and 18 civilians, though it is not clear how many of the charged persons were convicted or whether they were involved in sex trafficking crimes. The government in June 2016 convicted and sentenced a colonel of the FARDC to seven years for raping a minor. An international organization stated that the government convicted 41 persons including several officials in a military court in 2016, but it was unclear whether punishments were meted out and sentences imposed (US Department of State, 2017).

Even though the courts were closed for five months due to the COVID-19 pandemic restrictions, civilian and military courts reported investigating six cases that involved more than 100 victims who were subjected to forced labour, sex trafficking and domestic servitude by multiple traffickers; and initiated 13 prosecutions that were still ongoing at the end of the year 2020. The 13 prosecutions include the military courts adjudicating three cases of child soldier recruitment and use, three cases of forced labour involving two adults and one child, and seven cases of sexual exploitation.

The government has continued in its efforts to protect victims of human trafficking. According to some non-governmental organizations, the Ministry of Social Affairs and the General Directorate of Migration identified and referred an unspecified number of potential trafficking victims to NGOs for support on an ad hoc basis, while the government continued to identify and to refer victims to foreign organizations. Separately, two NGOs in Kinshasa reported

identifying 25 trafficking victims, six of whom were subjected to forced labour by traffickers. In 2019, the APLTP referred victims to and monitored conditions in three shelters – two in Kinshasa and one in Bunia, Ituri province’s major eastern city – where NGOs provided protective services to an estimated 650 trafficking victims. Again, the Ministry of Defence identified 3,107 former child soldiers in collaboration with the United Nations Peacekeeping and Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and referred all victims to care in coordination with the Ministries of Health, Education and Social Affairs (US Department of State, 2020).

The government offered trafficking victims housing for up to three months, as well as reuniting children separated by armed groups with their families. It also provided assistance regarding the socioeconomic integration of victims of sexual violence. The government reportedly worked with the Republic of Congo’s government to combat cross-border trafficking by prohibiting all unaccompanied minors from entering the country. During 2019, the government helped with logistics so that an international organization could successfully negotiate with 27 commanders of armed groups, resulting in the voluntary release of 920 children. All 27 commanders signed pledges to stop recruiting children in the future and to release any children who were currently in their ranks (US Department of State, 2020).

8.6 LEGAL AND LEGISLATIVE FRAMEWORK ADOPTED IN THE COUNTRY

The absence of a comprehensive anti-trafficking legal framework continues to hamper the country’s effort to make meaningful progress in dealing with this menace, as it limits officials’ ability to understand issues of trafficking and how it fuses into other crimes. However, provisions in certain legal frameworks help in somewhat tackling the problem. For instance, article 174(j) of the 2006 Sexual Violence Law criminalizes child sex trafficking and provides for legal sentences of between 10 and 20 years’ imprisonment. Again, section 174(e) disallows sexual slavery and offers offenders a prison term of five to twenty years, as well as a 200,000 Congolese francs fine.² Forced prostitution of adults is dealt with by article 174(c), which prescribes prison terms of three months to five years (US Department of State, 2021).

The 2009 Child Protection Law 09/001 is also used to deal with child trafficking issues. Specifically, articles 182 and 183 of the law frown on the “procurement” of children and on sexual exploitation of children. Individuals found culpable of the two aforementioned crimes are handed prison sentences of 5–20 years and 10–20 years, respectively, with a fine ranging from 8,000 to 1 million Congolese francs (equivalent to USD 4 to US\$ 509). Article 187 of this same law criminalizes child labour, which also includes forced child labour, and prescribes a sentence of one to three years imprisonment and a fine between 100,000 and 200,000 Congolese francs, equivalent to US\$ 51 and US\$ 102 (US Department of State).

² USD 97 in March 2023.

Furthermore, article 326 of the 2002 Labour Code treats criminalizes adult forced labour and gives a sentence of up to six months' imprisonment or 30,000 Congolese francs fine, equivalent to US\$ 15. Finally, Congolese law also criminalizes the enlistment of persons younger than 18 years of age into the armed forces and the police, which carries penalties of 10 to 20 years' imprisonment. The hope of having a stand-alone law to deal comprehensively with issues related to trafficking remains elusive, as the law that was prepared by the Agency for the Prevention and the Fight Against Trafficking in Persons (APLTP) together with the Ministry of Human Rights, in partnership with a foreign organization, remains unworkable for the second consecutive year (US Department of State, 2021).

A government official interviewed reiterated the existence of legislation and laws that prohibit forced labour and protection for workers, as follows:

“Yes, there is the law, which regulates the work (the labour legislation). It recommends to the workers how they can behave towards their employer and vice versa. Congolese labour law prohibits forced labour. This is why the legislator provides that there are working hours in companies, and this schedule is posted on the wall...so that each worker knows that work begins, for example from 8 a.m. to 3 p.m.; and this is why the law provides that there is also the system of contracts in companies, and in these contracts, there are various obligations which are enumerated there. According to article 46 of the labour code, the employee is supposed to be given a contract which can be verified before he signs it (contract) within 48 hours after reading.”

8.7 NATIONAL COORDINATION MECHANISM

The Government of the Democratic Republic of the Congo in April 2019 established the APLTP, a national coordinating body that is an integral part of the Office of the Presidency. It is made up of officials from the government, local NGOs and foreign organizations that formulate, monitor and evaluate government anti-trafficking policy. The APLTP prepared and launched the government's first national anti-trafficking action plan during 2019, which would later guide anti-trafficking actions until 2024 (US Department of State, 2020). Furthermore, during 2020, the government's APLTP-led interministerial committee held 50 meetings. The committee had five technical working group meetings that enabled it to partially implement the country's first national action plan, as well as an awareness campaign (US Department of State, 2021).

Although the COVID-19 pandemic slowed down the hearing of criminal cases, the APLTP in 2020 capitalized on this period to develop a judicial training programme, which was coordinated by a foreign body. The maiden session was launched by the APLTP in February 2021 and trained 60 magistrates, comprising 15 from Kinshasa, five from the public prosecutors' office, five from the Tribunal de Grande Instance and five from the children's courts (US Department of State, 2020).

9. LESOTHO

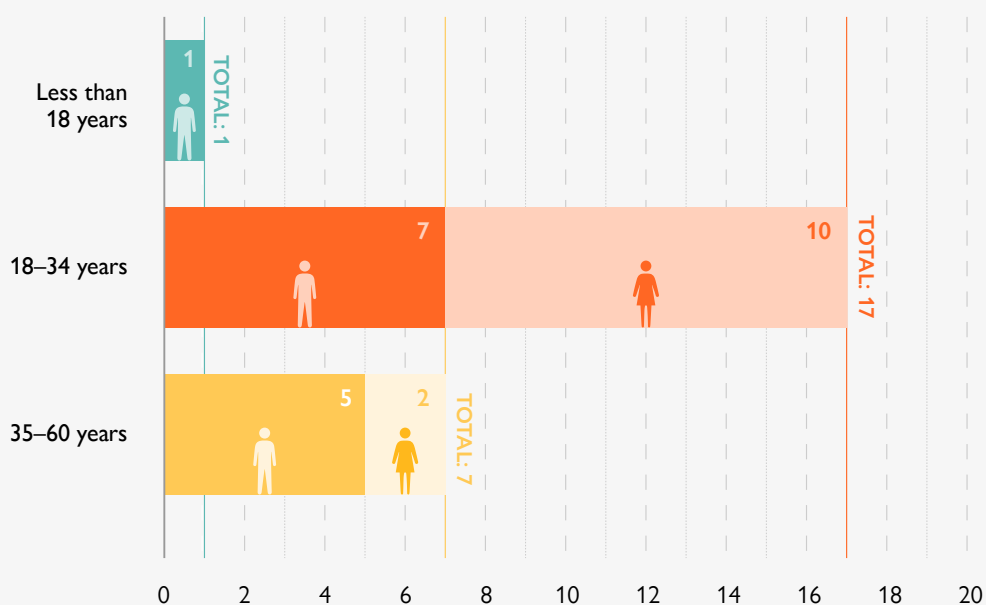


9.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Lesotho's geographical location with regard to South Africa makes it an easy transit zone for traffickers and their victims from other countries to South Africa, who usually travel through the O.R. Tambo International Airport in Johannesburg. Thereafter, they enter Lesotho through the Moshoeshe International Airport. Once they enter Lesotho, it becomes easy for them to obtain temporary travel documents that enable them to re-enter South Africa as though they are nationals of Lesotho. Trafficking victims identified were mostly Lesotho citizens, even though some Ethiopians, Chinese, Pakistani, South Africans and Nigerians were also in the mix. The victims are usually taken to South Africa and subjected to sexual exploitation and domestic servitude (SADC, 2016). Thus, there

is an emerging trend over the past five years of traffickers exploiting domestic and foreign victims in Lesotho, while victims from Lesotho are exploited abroad. Although there are no standardized operating procedures for identifying trafficking victims, the government in 2020 identified two victims of child trafficking, the same as in the previous year (US Department of State, 2021).

In line with anecdotal observations, a larger number of the victims rescued from trafficking were young individuals who fell within the 18–34 year age group. By implication, it can be observed that young individuals are more likely to be trafficked. The second category of individuals that is more susceptible to trafficking per the evidence from the data is adults below the ages of 60 years (see Figure 9).

FIGURE 9: Trafficking in Persons victims by age and sex in Lesotho

Source: UNODC, 2017.

9.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING IN PERSONS

The industrial sector in Lesotho is known to be a preying ground for some traffickers. There were reports of widespread sexual harassment in textile factories owned by Taiwanese, mainland Chinese and South Asians, including widespread reports that managers and supervisors coerced female workers into sexual relationships in exchange for keeping their jobs, improved working conditions and avoiding further sexual

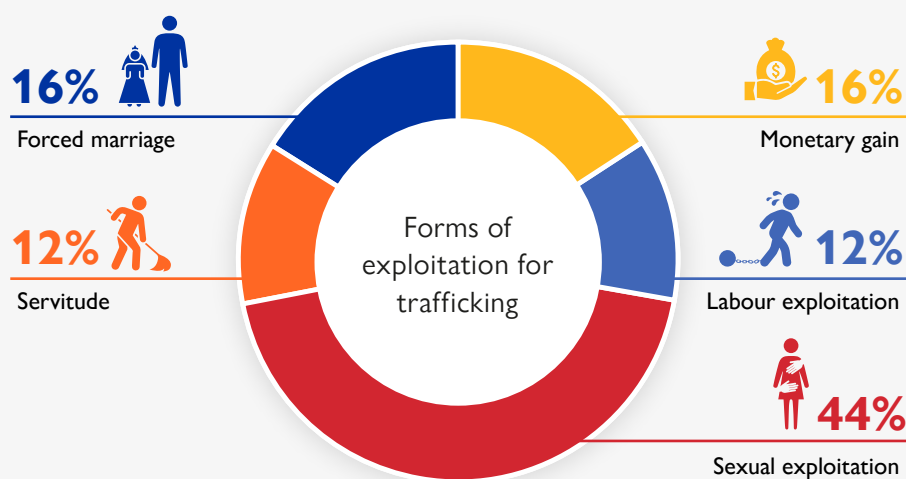
harassment. In addition, traffickers exploit victims in the mining and agriculture sectors. Some male Basotho migrants who voluntarily migrate through illegal channels to South Africa in search of work, often without proper documentation, are exploited in agriculture and mining through forced labour. They are exploited for long periods, sometimes weeks or months, before they are handed over to South African authorities by their employers to be deported to avoid paying them (US Department of State, 2021). There are also claims of victims, especially women and girls from rural areas, being recruited and subjected

to domestic servitude and commercial sex exploitation (SADC Secretariat, 2016).

Unlike victims from most SADC Member States that were subjected to labour exploitation, most victims in Lesotho were subjected to sexual exploitation. As shown in Figure 8,

44 per cent of the victims were sexually exploited. Also, 16 per cent of individuals underwent forced marriage, and by extension were more likely to undergo all forms of sexual exploitation against their will. Other forms of exploitation include servitude and forced labour.

FIGURE 10: Forms of exploitation for trafficking



Source: UNODC, 2017.

9.3 GROUPS VULNERABLE TO TRAFFICKING

Many women and children who fall prey to these criminal acts are subjected to sex trafficking and forced labour, while their male counterparts are often taken into forced labour. Available information for the period between period 2011–2016 indicates that more than half of trafficking victims identified in the country were male, representing 52 per cent of the

25 victims. Again, males aged 18 years and below and between 35–60 years have a high risk of being trafficked, notwithstanding the vulnerability of women (UNODC, 2017).

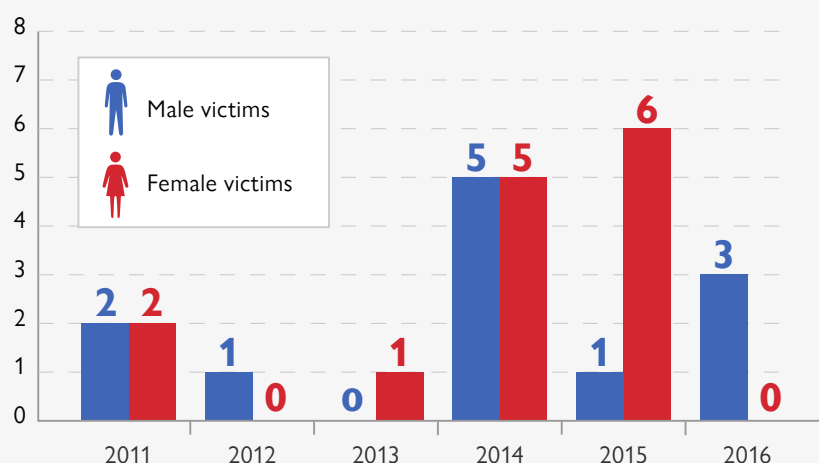
The patterns of flows of trafficking in persons are also of a domestic nature, where female victims from rural areas are recruited and trafficked to urban areas purposely for domestic servitude and commercial sexual exploitation, while males are mainly exploited as livestock herders. Again, the elderly stand the risk of

falling victims to these crimes. Traffickers are cited as luring this group of persons by promising them “old-age grants” in South Africa. However, the nature of exploitation to which they are subjected in South Africa is not clear. The poor and the unemployed were among the social groups vulnerable to trafficking, as well as orphans (SADC Secretariat, 2016).

The unique geographical positioning of Lesotho with reference to South Africa accounted for

historical emigration attempts by Basotho women towards South Africa (UN Women, 2006). Given that women and children are more vulnerable to trafficking and exploitation, trafficking practitioners capitalize on the vulnerabilities of these population groups and sexually exploit them. Based on trafficking data provided by the Lesotho government (see Figure 11), it can be observed that women formed the majority of the recruits that were identified, especially between 2014–2015.

FIGURE 11: TIP cases detected in Lesotho (2011–2016)



Source: UNODC, 2017

9.4 RECRUITMENT PROCESSES

There are both registered and unregistered recruitment agencies in Lesotho. Interviews with government officials revealed that the registered recruitment agencies mostly recruit labour migrants for the agricultural and mining sectors in South Africa:

“The country that recruitment agencies recruit for is mainly South Africa, particularly when recruited by the registered recruitment agencies, mainly for agricultural and mining sectors.”

Interviews further revealed that there are mechanisms in place for monitoring the plight of migrants who are recruited by registered recruitment agencies. This is seen in the words of a government official interviewed:

“We have agreements between the Ministry of Labour and Home Affairs in South Africa. So based on this agreement there are field visits where the official from the Ministry of Labour inspects the conditions in which migrants are settled at their workplace.”

However, the assessment found that traffickers are known to recruit victims through the help of family members and guardians. There were reports of traffickers kidnapping their victims. While the kidnapping method is less common, it is common in cases of internal trafficking, particularly forced marriage. Additionally, some traffickers used violence and threats to exert control over their victims, retaining or destroying their travel documents. Isolation, debt bondage and limiting the movement of victims are all methods used by traffickers to keep victims under control, while in some cases drugs are used on them. False promises and deception were also used by traffickers to recruit unsuspecting victims, particularly the promise of providing jobs, a good education, or an attractive lifestyle (SADC Secretariat, 2016).

Our interviews revealed that some recruitment agencies do not have valid licences to operate in Lesotho to migrant destination countries. Moreover, recruitment agencies, including even the registered ones, do not fully comply with commitments, policies and procedures such as the law prohibiting the recruitment of migrant workers under 18 years of age, nor do they perform due diligence on employers and end-user employers to ensure compliance with

laws and labour standards. Moreover, they do not show respect for transparency of terms and conditions of employment. However, a government official mentioned that there is full compliance regarding respect for confidentiality and data protection relating to migrants. A private sector employer interviewed suggested that moral degeneration, hardship and unemployment among the youth meant that it was difficult to practise fair and ethical recruitment. The official noted that while there are mechanisms to promote ethical recruitment, in the end fair and ethical recruitment relies on the subjectivity of the firm/organization in question:

“Due to many challenges of lack of resources, moral degeneration and high youth unemployment rate, it is highly impossible to think of fair or ethical recruitment. There are systems in place for one to follow when it comes to recruiting fairly and ethically. It becomes a subjective matter which a firm may decide to do or not.”

9.5 PROSECUTIONS AND VICTIM SUPPORT

As of 2016, 11 suspected trafficking offenders had been arrested. Many of the offenders were males between the ages of 19–35 years. Prosecutions have rather progressed slowly, with only two cases finalized in 2012. However, 10 cases identified between the period 2013–2016 have since been moved forward to the following year, awaiting a trial date (UNODC, 2017).

Meanwhile, the US TIP 2017 report showed that the government started investigating one case of sex trafficking and four cases of labour trafficking, and prosecuted six cases (four labour trafficking cases and two sex trafficking cases) during the course of 2016. All of these cases were tried under the Anti-trafficking Act. There were five prosecutions pending in this reporting period. The government was unable to convict any offender in 2016, as against the previous year, when there was one conviction (US Department of State, 2017). In recent times, the government started investigating four trafficking cases in 2020, continued three from past reporting periods and prosecuted four cases, with just one conviction. This signified an improved effort from zero new investigations, prosecutions or convictions in 2019 (US Department of State, 2021).

The government continues to make efforts to identify and protect victims. The government does not provide direct assistance to the victims of human trafficking, but instead refers them to an NGO for care. There was a memorandum of understanding (MoU) signed between the government and the NGO to provide emergency shelter, medical care, counselling, job skills training and legal assistance to female and child victims of human trafficking, sexual assault and domestic violence. In addition, the government paid for the shelter's utilities for the first time, totalling LSL 147,000,³ including reimbursements for previous years' utilities. It did not provide any other financial or in-kind assistance to victims of human trafficking (US Department of State, 2021).

Over the years, the Child and Gender Protection Unit (CGPU), a unit of the Police Service, has been responsible for the identification of trafficked victims and onward referral of such individuals to NGOs for assistance. Inspection

of worksites by the Ministry of Labour and Employment to ascertain possible occurrences of trafficking activities was also conducted to check the exploitation of vulnerable individuals within the country. Creating public awareness has also been a key tool that the government and its agencies employ in addressing the challenge.

9.6 LEGAL AND LEGISLATIVE FRAMEWORK ADOPTED IN THE COUNTRY

The Anti-Trafficking in Persons Act, No. 01 of 2011, was the first instrument enacted by the Parliament of Lesotho to disallow and punish all forms of trafficking crimes. The Act detailed protective measures for trafficking victims, but until 2021 the law was not consistent with international law. Thus, a trafficking in persons crime in the country attracts a prison sentence of up to 25 years or a fine of one million maloti, which is equivalent to USD 67,000, while the crime of child trafficking attracts a life sentence or a fine of two million maloti, which is equivalent to USD 134,000 (SADC Secretariate, 2016).

The government in January 2021 amended the Anti-Trafficking in Persons Amendment Act of 2021 and this move amended the definition of trafficking to criminalize all forms of sex trafficking and removed the option of a fine in lieu of imprisonment for trafficking offences. As a result, these punishments were comparable to those imposed for other serious crimes, such as rape. Child sex trafficking offences were made illegal under Section 77 of the Children's Protection and Welfare Act (CPWA), which

³ USD 7985 in March 2023.

did not require the use of force, fraud, or coercion. Nonetheless, the CPWA provides for punishments of a fine that does not exceed LSL 30,000 (USD 2,040) or 30 months' prison sentence, or both (US Department of State, 2021).

This Act was complemented by the Sexual Offence Act, No. 29 of 2003, and the Labour Code Act, No. 2 of 1992, as supplementary pieces of legislation (UNODC, 2017). In addition to these regulations, the government official interviewed in Lesotho mentioned that a bilateral agreement exists between the Governments of Lesotho and the Republic of South Africa on recruitment and protection of labour migrants against exploitation:

“Lesotho has ratified the ILO Forced Labour Convention. We also have a Memorandum of Understanding between Lesotho and RSA and the Bilateral Labour Agreement Treaty between Lesotho and RSA.”

Commenting on the challenges associated with the implementation of specific frameworks to protect labour migrants and workers, a government official mentioned the following:

“It is difficult in the country as the frameworks in the country are not explicit in protecting the rights of migrant workers within the country. There are no specific frameworks, but rather issues of forced labour, for example, are intertwined in the main legislation and not elaborated enough. Lesotho has recently ratified the forced labour convention and as such we are yet to develop frameworks that would be aligned to the convention hence, we would, in future, have specific frameworks that protect the rights of migrants.”

9.7 NATIONAL COORDINATION MECHANISM

The Government of Lesotho has over the years stepped up anti-trafficking prevention efforts in the country. This is evident by the establishment of the multi-sectoral committee (MSC). The committee is spearheaded by the Ministry of Home Affairs and has the mandate to lead anti-trafficking legal and policy efforts (US Department of State, 2021). Following the completion of the legislation on human trafficking, the MSC developed the National Anti-Trafficking in Persons Strategic Framework and Action Plan (2014–2016), which among other things acknowledged the lack of information on human trafficking in Lesotho (SADC, 2016).

The committee's efficacy was hampered by systemic deficiencies. It lacked formal processes, such as administrative procedures, for determining action items and tracking progress toward national anti-trafficking goals, as well as coordination among members and consistent participation from some high-level officials. The Prime Minister in a bid to address this lapse formed a cabinet-level subcommittee on human trafficking, comprising six ministers. The MSC and the cabinet subcommittee collaborated to draft new anti-trafficking legislation, created with the trafficking and smuggling unit of the Lesotho Mounted Police Service (LMPS), and drafted and enacted a new national action plan that had been pending since 2018 (US Department of State, 2021).

10. MADAGASCAR

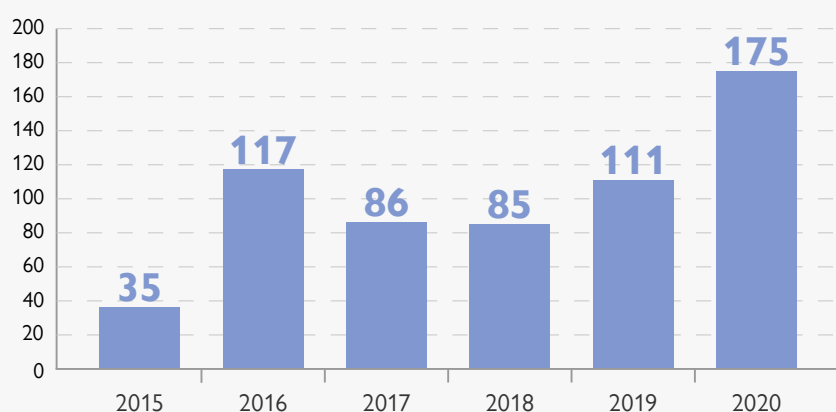


10.1 PREVALENCE OF TRAFFICKING AND FORCED LABOUR

Data from the National Office on the Fight Against Trafficking in Persons identified 146 trafficking victims during 2015. The number of victims identified decreased to 17 in 2016,

but increased once again to 98 between January–September 2017. As seen in Figure 12, there was a sharp increase in the number of TIP cases between 2015 and 2016. Recent trends from 2018 onwards also show a consistent annual increase in the number of victims, indicating that issues of trafficking persist in Madagascar.

FIGURE 12: Prevalence of trafficking over 2015–2020



Source: National Office on the Fight Against Trafficking in Persons.

Although the information given on trafficking victims prior to 2017 was not disaggregated by sex or age, the 2017 victim data indicate that women were disproportionately affected

by trafficking. There were indications from Madagascan government sources suggesting that victims were trafficked to Lebanon during 2015 and subjected to domestic exploitation

and labour and sexual exploitation in the Arab States, as well as commercial sexual exploitation. There were attempted trafficking cases to China. Again, other data from the government indicate that some victims were trafficked to Kuwait and subjected to labour and commercial sexual exploitation in 2016 (SADC Secretariat, 2016).

The data on trafficking indicate that a total of 46 trafficking offenders were arrested in 2015, which declined to 40 in 2016 and rose once more to 53 in 2017. The 2017 data, which are disaggregated by sex, show that 29 men and 24 women were arrested for trafficking. It is worthy of note that traffickers identified in 2015 were of different nationalities, including Madagascans, Mauritians, Zimbabweans, Chinese and Pakistanis. In 2016 the apprehended traffickers were Madagascans and Comorians, while in 2017 only Madagascan traffickers were reported.

Modern slavery prevalence is relatively high in Madagascar, with an index rank of 34 out of 167. An approximated 7.51 victims per 1,000 of the population live in modern slavery, while out of every 100 persons, 61.99 per cent are vulnerable to modern slavery (Walk Free Foundation, 2018b).

10.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

The US State Department TIP report described Madagascar in 2015 as a source country for trafficked victims and noted cases of child trafficking, especially rural children, who were subjected to exploitation in prostitution, domestic servitude, sex tourism and forced labour in sectors such as agriculture, mining and fishing (US Department of State, 2017).

Although the report did not specifically state the actual number of victims identified in 2014–2015, it noted that sexual exploitation of minors between the ages of five and 18 years reported during that year was 187, including cases of trafficking. Again, there were reported incidents of domestic sector exploitation of many Madagascan women in countries such as Lebanon, Kuwait, Saudi Arabia, and to a lesser extent, Jordan, Seychelles and Mauritius. There were reports of women victims exploited in forced marriage and labour, while men were mainly used on Chinese fishing vessels (US Department of State, 2016). Investigation of trafficking cases according to the 2016 US TIP report decreased from about 187 in 2014–2015 to 8 cases in 2015–2016. However, 10 convictions in 2015–2016 were recorded, compared with six convictions in 2014–2015 (US Department of State, 2017).

10.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

Populations vulnerable to trafficking and forced labour include child labourers, women exploited in commercial sex, migrant workers and Chinese nationals working on Chinese government-funded infrastructure projects. The US State Department Report for 2021 explains that due to a lack of coordinated data collection at the national level, the government did not report comprehensive data (US Department of State, 2021). Of the 175 victims recorded, 172 were female, three were male; 171 were adults, four were children. All of the victims were Madagascan nationals.

10.4 RECRUITMENT PROCESSES

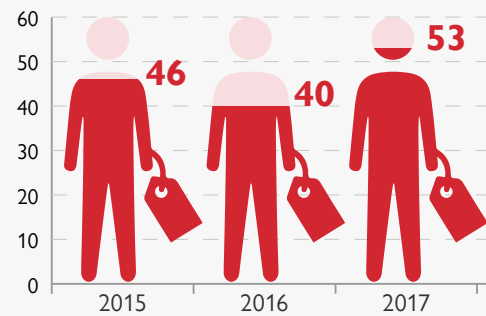
The US State Department Report (2021) shows that in 2013, the government imposed a ban on migrant workers travelling to Middle Eastern countries, because of the increasing rates of abuse and exploitation. Despite this, some illegal recruitment agencies still managed to traffic workers through Comoros, Ethiopia, Kenya, Mauritius and Seychelles. According to reports from government officials, as indicated in US State Department (2021), the government suspended all accreditation to recruitment agencies recruiting workers abroad. Many of these workers migrate through irregular means without the requisite documentation and these conditions expose them to all forms of exploitation and abuses (US Department of State, 2021).

The factors contributing to trafficking, smuggling and forced labour include poverty, unemployment, lack of opportunities and specific cultural practices.

10.5 PROSECUTIONS AND VICTIM SUPPORT

Overall, there was a total of 23 convictions, six of which happened in 2015, 11 in 2016, and another six in 2017. Consistent efforts have been made to ensure that national laws that seek to eliminate trafficking activities are enforced. Data obtained from the government reveal that 46 convictions occurred in 2015, 40 in 2016 and 53 in 2017 (see Figure 13).

FIGURE 13: Trafficking in Persons cases



Source: US Department of State (2021).

Nonetheless, most judicial processes have ended up in acquittals. For instance, the data from the US Department of State (2021) show that in 2020, there were only six convictions and 138 acquittals out of 144 trafficking cases taken to the courts. The government reported investigating 24 potential trafficking cases involving at least 30 suspects. There were approximately 20 suspected traffickers and eight trafficking cases, with about eight suspected traffickers being prosecuted (US Department of State, 2021). It was further indicated that 13 suspected traffickers who were nabbed in 2019 and 2020 are undergoing prosecution in line with the anti-trafficking criminal code. The report also shows that victims trafficked to the Middle East, Saudi Arabia, Kuwait and Lebanon were rescued and repatriated to their home countries.

10.6 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

The Government of Madagascar created the Bureau National de Lutte contre la Traite des Etres Humains (BNLTEH) with the aim of coordinating the national counter-TIP response. BNLTEH completed the updated draft National Action Plan, which was awaiting approval by the Prime Minister in 2020 as indicated in the US Department of State's TIP Report of 2021. The government outlined the following penalties with the aim of combating trafficking, smuggling and all forms of forced labour:

The government maintained anti-trafficking law enforcement efforts. Law No.2014-040 criminalized sex trafficking and labor trafficking and prescribed penalties ranging from two to five years' imprisonment and a fine of one million to 10 million Malagasy Ariary (MGA) (USD 260 to USD 2,610) for offenses involving an adult victim, and five to 10 years' imprisonment and a fine of two million to 20 million MGA (USD 520 to USD 5,230) for those involving a child victim. These penalties were sufficiently stringent. For offenses involving children, with respect to sex trafficking, these penalties were commensurate with those prescribed for other serious crimes, such as rape; however, offenses involving adult sex trafficking were not commensurate with those prescribed for other serious crimes (US Department of State, 2021:364).

The national legislation on trafficking in persons instituted by Madagascar to combat trafficking is Loi N° 2014-040 du 20 janvier 2015 [Anti-Trafficking in Persons Law No. 40 of 2014] amending LOI N° 2007-038 du 14 janvier 2008

[Anti-Trafficking Law No. 38 of 2007]. The country ratified the United Nations Convention against Transnational Organized Crime on 15 September 2005, while the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children was also ratified on 15 September 2005.

10.7 COORDINATION MECHANISM

The government does not have a national coordination mechanism that allows all stakeholders to interact and share ideas on how to combat trafficking and its associated problems. Most of the efforts are undertaken on an ad hoc basis, leading to duplication of tasks and waste of resources. All these factors do not allow for effective management of trafficking in the country. The government report cited in US Department of State (2021:366) reads:

"The Ministry of Labor, Employment, Civil Service, and Social Laws (MOL) continued to oversee the process of migrant workers travelling to non-Gulf countries by requiring contract approval by the relevant Malagasy embassy. The MOL and Ministry of Youth, in partnership with an international organization, established fair recruitment focus groups in the Analamanaga, Diana and Sava regions; these groups met regularly to assess employment opportunities abroad, identify alternatives to professional migration, and raise awareness on the risks of illegal work migration."

11. MALAWI



11.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Malawi is a source, transit and destination country for human trafficking. Men, women and children are forced into labour and sexual exploitation. The countries that serve as both source and destination countries for trafficked victims from Malawi include Mozambique, South Africa, Zambia, Kenya, Tanzania, Iraq, Kuwait and Saudi Arabia. The reported cases in Malawi are unreliable, with some years recording higher numbers while other years recorded lower numbers. The reported cases of forced labour and trafficking in persons were very high in 2012 and 2013, representing 96 and 119 cases, respectively. However, in 2014, only 30 cases were reported, while in 2015 and 2017, 58 and 64 cases were reported, respectively (UNODC, 2021). A year-to-year statistical analysis shows that there was an increase in the number of trafficked victims over the 2014–2015 reporting period (see Table 3).

TABLE 3: Number of TIP cases detected in Malawi (2014–2016)

Year	Male	Female	Total
2014	30	-	30
2015	54	4	58
2016	29	25	54

Source: US Department of State (2021).

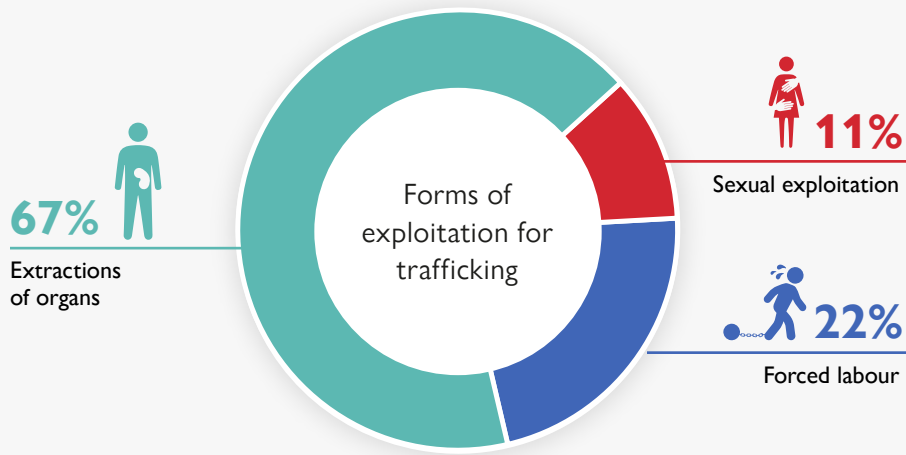
The 2021 TIP Report shows that the Government of Malawi identified 199 trafficking victims. Of these, 144 victims were in forced labour, while the experiences of the remaining 55 were unknown. About 57 of the victims were also children. In 2020, the Malawi Police Service (MPS) reported anti-trafficking law enforcement data from five of Malawi's 34 district-level police stations. The government reported investigating 44 trafficking cases and arresting 54 suspected traffickers. Of the 44 cases, 35 involved forced labour, but the other nine cases were unknown. The majority of the alleged traffickers were reported to originate from Malawi, while others were foreign nationals from Zambia, Mozambique, Pakistan and China.

Modern slavery is widely prevalent in Malawi, with an index rank of 37 out of 167. Approximately 7.46 per 1,000 of the population live in modern slavery, while out of every 100 persons, 63.38 are vulnerable to modern slavery. The migration route is mainly the southern route from Ethiopia into Kenya, Tanzania, Malawi, Mozambique, Zambia, Zimbabwe and finally into South Africa, as narrated by a key informant:

“Malawi is transit country for illegal [sic.] migrants from DRC, Ethiopia and Burundi and Somalia. It is a growing concern based on the cases that the police have had to intercept. These people enter the country through the northern region, Karonga district and pass through the central region through Dedza border to go into Zambia. So, when they leave DRC and Ethiopia, they pass through Kenya and Tanzania into Malawi. From Malawi they transit through Mozambique and Zimbabwe into South Africa. The trend is highly increasing, and Malawi should be worried because as we are talking now, we have a projection that in Ethiopia alone, by 2030, there will 130 million people and by having Indian countries that have placed tight restrictions in their borders, most of these people will migrate to South Africa through Malawi. Additionally, smuggling also occurs in the border areas like Mchinji and Karonga.”

11.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

Most trafficking occurs within the country's borders and involves traffickers exploiting girls and women; they are forcibly recruited into prostitution, while some adults are compelled to work on farms and in industries in the northern and central parts of Malawi. Men, women and children are trafficked for forced labour and sexual exploitation in countries such as South Africa, Zambia, Kenya, Tanzania, Iraq, Kuwait and Saudi Arabia. Further highlighting intracountry trafficking situations, it is worth noting that most traffickers lure naïve victims (mostly women and young girls) from rural areas to cities in Mozambique or South Africa under the pretext of offering them better job opportunities, and then exposing them instead to sexual exploitation and domestic servitude, while their male counterparts are exploited on agricultural plantations and farmlands, as highlighted in Figure 14.

FIGURE 14: Forms of exploitation for trafficking

Source: US Department of State (2021).

Child labour is also a problem in some in farming areas and urban centres, where vulnerable immigrant children are exploited. One official shared this experience:

“Based on the information gathered from return migrants from countries of destination who were under labour exploitation, most of the Malawian emigrants – young men to be precise – go to South Africa and Kuwait. But a few are sent to Mozambique and Zambia to work in tobacco estates, and these are usually men and children. The majority of these workers that go to these mentioned countries don’t have the professional skills so they get very low-profile jobs.”

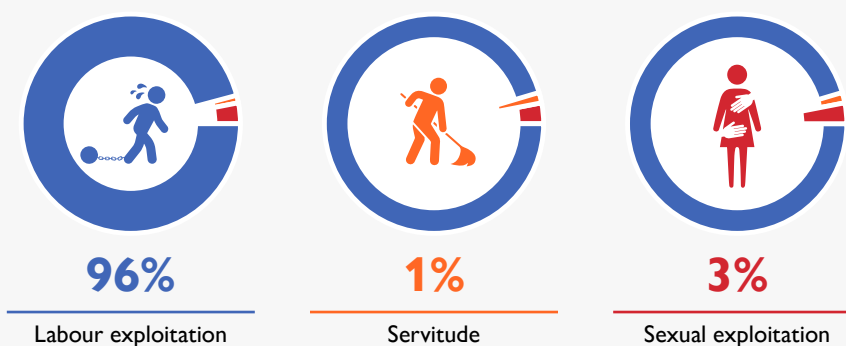
Most recruitment agencies recruit for Asian and European countries and the migrants at the destination work in different sectors, depending on the person’s expertise and experience. The skilled mostly go to the United Kingdom and some to the United Arab Emirates, but most of the unskilled go to South Africa. One of the officials gave insight into the various sectors:

“For example, a number of Malawians who are living in Asia are working in hotels and other manufacturing industries. The statistics indicates that 60 per cent are men and the other 30 per cent are women and the remaining 10 per cent are children. The other good number of skilled migrants go and work in European countries where they work in hospitals and as drivers.”

There is a greater likelihood of deploying the male victims (approximately 81%) to work in the agriculture and construction sectors for meagre wages (see Figure 15). Four of the

rescued victims identified as individuals that were sexually exploited and the remaining two served as domestic servants.

FIGURE 15: Forms of exploitation of TIP



Source: UNODC, 2017.

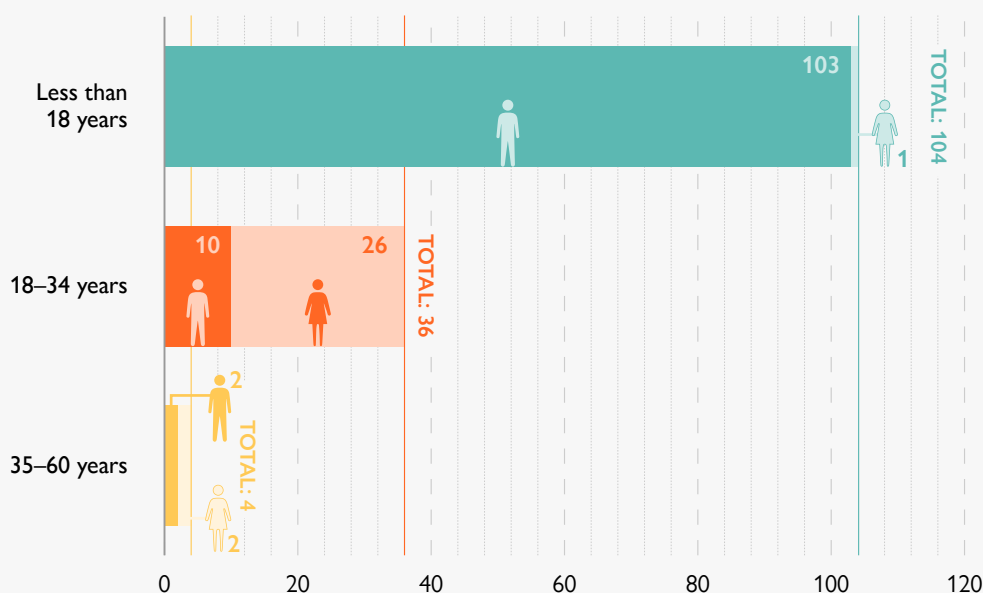
11.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

Both adults and children of different sexes are involved in the act of trafficking; however, the most vulnerable group in Zambia is children, both boys and girls. Other categories of migrants vulnerable to trafficking and forced labour include rejected asylum seekers, unaccompanied and separated children (UASC), stranded migrants in need of protection assistance, stateless migrants, the unemployed, poor people and orphans.

Statistical evidence garnered indicates high levels of child trafficking in Malawi, in that 73 per cent of victims (of whom the majority

were males) were below 18 years of age (see Figure 16). There has been a historical record of male juvenile trafficking, where young boys from the south of Malawi are usually transferred to the central and northern regions for commercial purposes, such as tobacco farming, goat and cattle herding, and construction work, among others.

Another interesting piece of statistical evidence that calls for probing and deeper inference is the predominance of females among victims that fall within the 18–34-year-old age bracket. Aside from local victims, immigrants who hailed from neighbouring countries, such as Mozambique, Tanzania, Zambia and Kenya, were prominent as victims of sex and labour trafficking in Malawi.

FIGURE 16: Trafficking in Persons by age and sex

Source: UNODC, 2017.

Of the various destinations, the Gulf Cooperation Countries (GCC) are the main destination for the agencies. Labour migrants to the GCC include both males and females (mainly young). Some of the potential emigrants go for professional jobs, since the GCC are attractive; others are hired for casual work. One of the officials noted that, “With the 2022 FIFA World Cup Games in Qatar, there is a lot of job opportunities attracting labour migration in the GCC.” Although this presents the unemployed and poor with opportunities to better their lives, the unregulated nature of the employment makes them vulnerable. An official from one of the international organizations explained the vulnerabilities of the labour emigration processes; he said:

“Payment of processing fees for their recruitment as opposed to the employer covering the costs; lack of a Bilateral Labour Agreement (BLA) with recruiting countries, which leaves labour migrants on their own in terms of their protection from unfair labour practices; often, the labour migrants find themselves in trafficking rings; no database where prospective workers can view opportunities, but information is privy to the recruitment agencies, which leave them less empowered to make decisions on employment opportunities; The Employment Act of 2000 does not provide for regulation of the employment agencies, which leaves the labour migrants at the mercy of the recruitment agencies and companies soliciting for labour; cases of trafficking in persons is another big vulnerability that workers find themselves with burden of protection once they become victims of trafficking.”

In the case of women, they become sexually exploited. There are also cases of child labour, as children are forced to work for jobs that don't match their age.

11.4 RECRUITMENT PROCESSES

Employment agencies in Malawi usually recruit for business in the following countries: Botswana and South Africa in minimal numbers, but mostly in the United Arab Emirates, Qatar, Kuwait and Saudi Arabia. Migrants work mostly in the following sectors: hospitality industry (hotels), security sector (guards), construction industry, warehousing, sales and administrative work.

Labour migration is currently unregulated in Malawi, leading to exploitation of migrants as indicated by one of the government officials: *“These people pay huge sums of money to the recruitment agencies with the hope they are going to find greener pastures wherever they are going, but when they reach their destination, they end up being dumped or paid much less than what was promised.”* Labour export is through employment agencies that have lists of job opportunities in countries of destination. The Government of Malawi (GoM) has little role in the process as individuals do not register with the Ministry of Labour when they leave the country. The Ministry of Labour is unable to supervise the work of the employment agencies, because the country is yet to ratify the Employment Agencies Convention, which mandates that employment agencies be regulated. This situation urgently needs to be addressed, because some labour migrants find themselves exploited as there are no protection mechanisms available to them, except for the

contract they sign with the foreign employer as coordinated by the employment agency.

In Malawi, migrant recruitment agencies are not registered as recruitment agencies, but rather as a business registered with the Ministry of Trade. Even so, Malawi has very few recruitment agencies that are formal and licensed; most of them are unlicensed and are not easy to trace. The unregistered are quite numerous and operate illegally.

This stems from a lack of labour migration policies and regulations in the country. Mussa (2012) in a study entitled “Mapping study for public and private employment agencies in Malawi” found that there were 21 employment agencies in Malawi. However, in 2017, a similar study by IOM and the Ministry of Labour established that the number had increased to 26 employment/recruitment agencies.

Despite the unregulated nature of recruitment activities, some of the private sector employers indicated that their activities were monitored by the Ministry of Labour, as noted below:

“Yes, government through the Ministry of Labour came some seven months ago to inspect how we work with our colleagues and working conditions. Also wanted to see if we are paying the government-recommended minimum wage to the workers. The migration department also came to see if we are keeping the migrant workers without documents.”

Some of these unregistered recruitment agencies are families, friends and agents who are not recognized or registered with the Ministry of Trade. The data shows that recruitment agencies

are spread all over the country, although they are not aware of the ethical recruitment processes and have little capacity in the field of employment.

11.5 RISK FACTORS AND CAUSES OF TRAFFICKING

Poverty, unemployment, lack of opportunities and certain cultural practices are the major factors contributing to trafficking, smuggling and forced labour. Most of the victims come from a less privileged background; they have faced challenges in their lives and are quite vulnerable in society, as explained:

“One of the major factors that contributes to this is economic problems that people face in this country. The government has placed strict measures for legal entry, so people have resorted to illegal means of leaving and entering the country. They mostly use the northern borders to enter Malawi, such Songwe and Chitipa. But there also those that come through the lake. They exit Malawi through the southern region using the Mwanza border. People have been found dead in the tracks and boats, among others.” (Official interview, 2021).

Additionally, anecdotally, the COVID-19 pandemic has also increased the rate of unemployment, leading to many desperate youths falling into the trap of traffickers and smugglers. This situation is further explained by one of the officials from the Ministry of Labour:

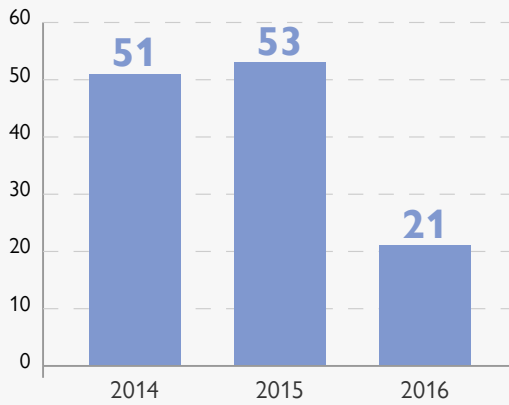
“Covid-19 has created a lot of unemployment situations, because most of the employed people lost their jobs due to the pandemic, thus the demand for employment has increased. Secondly, the current government call of creating one million job opportunities has also offered the need for the employers in different sectors to open doors for jobs and the agenda has thus raised high expectations for the unemployed to get employed.”

Some of the interviewees also explained factors which drove them into such vulnerable situations. A key informant said, “Due to insecurity challenges that I had in my country, I decided to move to Malawi.” Another key informant also explained that “Out of the many neighbouring countries, I chose Malawi because it is a peaceful country.” Another victim also noted that, “I went to look for job. I knew I could not earn a better living here considering that I didn’t go that far with my school.”

11.6 PROSECUTIONS AND VICTIM SUPPORT

The Government of Malawi has made arrests, investigations and prosecutions involving trafficking in persons, which is a positive development leading to the country being ranked in Tier 2. The total number of TIP cases documented between 2014 to 2016 was 125. Specifically, 51 victims were rescued in 2014, 53 in 2015, and 21 in 2016. The significant decrease in flagged victims over the 2015–2016 reporting period (as shown in Figure 17) may have signalled a downward trend in the number of reported trafficking cases.

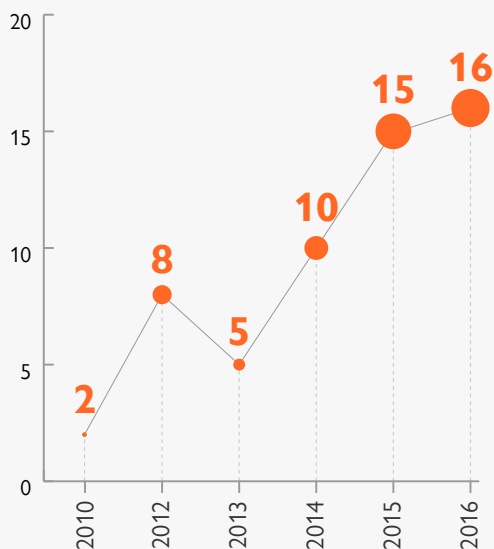
FIGURE 17:
Total number of TIP cases detected



Source: UNODC, 2017.

Inasmuch as intensifying law enforcement efforts is necessary, a careful observation of the graphical evidence provided in Figure 18 shows that there is steady progress in bringing trafficking perpetrators to book.

FIGURE 18:
Number of traffickers arrested over time



Source: UNODC, 2017.

According to a representative of the immigration department, some arrests have been made, as can be found in this narration:

“We have cases of people from Ethiopia in particular being smuggled into Malawi. Some are here as their final destination, others are in transit to South Africa through Mozambique. As I speak now, we have 141 Ethiopians whom we intercepted in their quest of being smuggled to various countries and our suspicion of their final destination is South Africa. So that’s how bad the situation is. From my own perspective I find it that this is a syndicate, there are groups of people that fuel or facilitate these acts. We hear that money is involved so people take this as a business. So that’s the main reason why we have rampant cases of smuggling in this country. Mostly, their final destination is South Africa, but some end up in Europe. These people don’t use our established border posts, they mostly use uncharted routes. They enter the country through the northern region, go through the central and the exit the country through the southern region to Mozambique.”

According to the US Department of State (2021), the Government of Malawi initiated prosecutions of 33 cases involving 39 suspected traffickers. The government reported convicting 29 traffickers. Ten prosecutions remained ongoing at the end of the reporting period. Courts sentenced convicted traffickers to prison terms ranging from one to five years’ imprisonment. The government reported that 13 traffickers received suspended sentences; four did not serve any prison time. Courts acquitted

two alleged traffickers for unspecified reasons. The government reported that pandemic-related restrictions, such as travel limitations and the spread of the virus among law enforcement officials, may have inhibited or slowed some efforts, particularly investigations, during the year.

11.7 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

The 2015 Trafficking in Persons Act criminalized sex trafficking and labor trafficking, and prescribed punishments of up to 14 years' imprisonment for offences involving an adult victim and up to 21 years' imprisonment for those involving a child victim. These penalties were sufficiently stringent and, regarding sex trafficking, commensurate with punishments prescribed for other serious crimes, such as kidnapping. In order to combat trafficking of migrants, in particular, the Government of Malawi has ratified relevant international protocols, including (a) the 1989 Convention on the Rights of the Child, ratified in 1991; (b) 1990 United Nations Migrant Workers Convention, ratified in 1991; (c) the 2000 Human Trafficking Protocol, ratified in 2005; and (d) the 2000 Migrant Smuggling Protocol, ratified in 2005. Malawi also enacted legislation on Trafficking in Persons (Act No. 3 of 2015), with an elaborate implementation plan. In 2017, Malawi launched its National Plan of Action against Trafficking in Persons which adopted a human rights, victim- and child-centred, and gender-responsive approach.

As an example, the Trafficking in Persons Act, 2015 (No. 3 of 2015) makes provision for the prevention and elimination of trafficking in persons; provides for the establishment of the National Coordination Committee against Trafficking in Persons or the coordination and management of matters related to trafficking in persons; and provides for matters incidental thereto and connected therewith. The Employment Act 1999 (No. 6 of 2000) establishes the Office of the Labour Commissioner under the Ministry of Labour, as well as detailing the duties of the Commissioner and labour officers to enforce the provisions of the Act. This includes the publication of an annual labour report that must include statistics on the labour market.

The Ministry of Labour in August 2016 issued Labour Export Guidelines for private employment agencies and migrating individuals. The guidelines seek to protect the welfare and interest of migrant workers migrating either through private agencies or by themselves. However, the challenge is how to enforce the law. In recent years the country has made progress with the negotiating and signing of bilateral labour export agreements with some countries, especially in the Middle East. In 2013, the Government of Malawi signed a memorandum of understanding for four years with the United Arab Emirates to export labour (AUC, 2021). According to a representative from IOM, the Government of Mauritius also received support from IOM:

“IOM has assisted the GoM with the development of BLAs that would ensure the protection of migrants recruited for labour abroad and is also currently helping the government with the development of the first-ever Labour Migration Policy that will lead to the regulation of employment agencies going forward.”

In addition to all the above efforts, the government official from the Department of Immigration explained other strategies by the Government of Malawi to curb trafficking, smuggling and forced labour:

“In trying to address some of these challenges that migrant worker face, we have a five-year strategic plan in handling issues of human trafficking. This is done by carrying out public awareness programmes in some districts where there are a lot of victims of human trafficking, for example, districts such as Mangochi, Salima, Mzimba. Another strategy is to ensure that our borders are properly managed. We have projects aimed at establishing additional border posts so that people use established borders, because most of the human traffickers use the uncharted routes. The review of the Immigration Act will also help to solve issues of human trafficking, as it stipulates that people whether Malawians or non-Malawians who use the uncharted routes will be penalized.”

Despite these efforts, sparse resources and low technical capacity affect the full implementation of the international and national legislative instruments. There is also a general lack of awareness among rural parents on the negative consequences of child labour, trafficking and smuggling of migrants. Malawi has not ratified the United Nations Employment Agencies Convention, while the National Employment Act of 2000 is silent on protection of labour migrants.

11.8 NATIONAL COORDINATION MECHANISM

In 2017, Malawi launched its National Plan of Action against trafficking in persons, which adopted a human rights, victim- and child-centred, and gender-responsive approach. The National Coordination Committee Against Trafficking in Persons, led by the Ministry of Homeland Security, is charged with overseeing national anti-trafficking efforts (US Department of State, 2021). It also adopted Malawi Networks Against Trafficking to raise awareness among the community on human trafficking in different districts, consisting of government officials, religious leaders, NGOs and international stakeholders. In addition, IOM has established the Global Policy Network on Recruitment; Malawi was invited to be one of the founding members of the network and accepted the invitation. These platforms will assist Malawi to share its experiences on recruitment with other Member States and learn from the experiences of the other Member States as it seeks to address the challenges associated with the recruitment of migrant labour (interview with representative of IOM, 2021).

12. MAURITIUS



12.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Mauritius is a source, transit and destination country for human trafficking. Men, women and children are coerced into forced labour and sex trafficking (UNODC Baseline, 2016). Countries where these victims are identified include United Kingdom, Belgium and Canada. Some of them who seek domestic employment in the Middle East are reported to be in forced labour and sex trafficking (ibid). According to the crime records from the Mauritius police force (UNODC, 2016), the reported child trafficking cases numbered five in 2014 and five in 2015, while only three cases were recorded in 2016. On the other hand, the SADC TIP baseline report also recorded a total of 64 cases from 2010–2015 (SADC Secretariat, 2016).

The other forms of offences identified by the UNODC report included inciting a child to be sexually abused, causing a child to be sexually abused, child labour, debauching youth, brothel keeping, procuring prostitutes and abducting a child. According to the Global Slavery Index 2018 provided by Walk Free Foundation (2018b), modern slavery prevalence is relatively

low in Mauritius with an index rank of 161 out of 167. Approximately 0.96 victims per 1,000 of the population live in modern slavery, while 21.19 per cent are vulnerable to modern slavery (Walk Free Foundation, 2018b).

12.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

Mauritius employs migrants mainly from Bangladesh, India, China, Sri Lanka and Madagascar in the textile and construction sectors. For example, one of the recruitment agencies said, “I recruited about 10 skilled workers from India to work in Mauritius in the construction sector and all of them were males.” Mauritius’ manufacturing and construction sectors employ approximately 45,000 foreign migrant workers from Bangladesh, India, Sri Lanka, Nepal, China and Madagascar, some of whom were subjected to forced labour by traffickers.

Additionally, nationals from Mauritius also emigrate to work in primary and secondary sectors such as manufacturing, agro-industry, food industry, mechanical industry as electricians, butchers and cooks among

others. The nature of their job is dependent on their backgrounds, as narrated by this recruitment agent:

“The majority of recruited migrant workers are men and are low-skilled; they are recruited to work in manual and low-skilled jobs, such as manufacturer, butcher, cook, electrician. A very little proportion has a background related to the service...others are also recruited to work between 6–18 months in the hospitality and tourist industry. About 90 per cent of such workers are recruited to the USA.”

12.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

The UNODC Global TIP report (2016) identifies about 52 per cent of children as the major victims, while adults constitute about 48 per cent. Girls are usually coerced into sex trafficking by friends, relatives and employers, although both adults and children of different sexes are involved in this act. Comparatively, Mauritian females work in more exploitative sectors than their male counterparts. As discussed in section 12.2, the Mauritian emigrants are mainly males and young between the ages of 20 to 30 years; however, in terms of skills, they are mainly low-skilled, but a few of them are also high- or semi-skilled. Compared with other Southern African countries, where most of the labour migrants are less skilled, some emigrants who are skilled can secure jobs in the hospitality and tourism sectors abroad. Although some of them are exploited, the rate is minimal compared with Malawi

and Zambia, because of the relatively high educational backgrounds. Other vulnerable groups susceptible to trafficking are the unemployed, stranded migrants, orphans and the poor (SADC Secretariat, 2016).

12.4 RECRUITMENT PROCESSES

Mauritius makes provision for the legislation of recruitment agencies, both for foreign recruiters or employers recruiting Mauritian nationals, through the Recruitment of Workers Act 39 of 1993. The Act provides for licensed organizations and individuals to facilitate employment avenues for Mauritian workers abroad. In order to reduce exploitation and protect the rights of migrant workers, Mauritius has signed some bilateral agreements with major labour destination areas, including: Technical Cooperation Agreement with Seychelles (1990); Agreement between the Government of the Republic of Mauritius and the Government of the People’s Republic of China on bilateral labour service cooperation (January 2005); Agreement between the Government of the Republic of Mauritius and the Republic of France relating to the stay and circular migration of professionals (2008); Agreement with Canadian employers – since 2007 a total of four tripartite agreements have been signed between the Government of Mauritius, IOM and employers in Canada; Joint declaration between the Italian Ministry of Labour and Social Policy and the Mauritian Ministry of Labour, Industrial Relations and Employment on the matter of cooperation in the sector of circular migration (2012); Labour Migration Agreement between the Government of Mauritius and the State of Qatar (2014).

The National Employment Department conducts inspections related to applications for work permits and the enforcement of the Recruitment of Workers Act 1993. The Employment Division is responsible for the issuance and renewal of work permits, as well as the issuance of recruitment licences. Specifically, the Special Migrant Workers' Unit, set up in 2001, aims to provide services to migrant workers. The unit is responsible for: vetting of contracts; inspections at workplaces; and investigations into companies regarding conditions of work for migrant workers. The Unit produces brochures in English, Chinese and Hindi that are distributed to disseminate information on Mauritian legislation, which applies equally to migrant workers, and services provided by various ministries and departments. Moreover, two interpreters (one Chinese and one Indian) have been recruited to help facilitate communication between the officers and the Chinese and Indian workers. The National Employment Department conducts monitoring exercises to ensure that private recruitment agencies are functioning within the parameters of the legislation.

Despite these bilateral agreements with the intention of protecting migrants, some obstacles and exploitation still exist, as narrated in the encounter with a government official:

“I believe that the current state of labour migration recruitment industry is definitely failing to address the issues faced by the migrant workers. For example, most often, workers are told upon recruitment that they will be engaged in Job A in Mauritius, but when they come to Mauritius, they are required to do another job. For example, we have one case where Bangladeshi worker were recruited as machine operators for a printing company in Mauritius.

However, when they reached Mauritius, the employer realized that the recruited migrant workers had no experience or know-how on how to operate machines. Therefore, the workers spent over a year trying to learn how to operate the machine. This led to the employer being fed up and paying them less than the minimum salary.”

It is evident from the above narration that the exploitation of migrants is not only at the destination; rather, it begins at the origin during the pre-departure preparations. Traffickers control and exploit victims as they promise them employment, but the process eventually results in victimization. The good living conditions promised to the migrant workers are often not found upon arrival. One of the government officials shared this experience:

“On another case, we realized that workers are often lured by recruiting agents in their countries of origin into believing that they will earn much more than what they will actually receive in the destination country. Sometimes workers mortgage their houses, belongings and even their family to be able to migrate, due to unscrupulous recruiting agents that charge very high rates for the worker to migrate. When they are underpaid in their company, the workers have no other option than to resort to cheap work on the black market to meet ends and pay their loans. Migrants are not protected. The workers are required to come in a new country where the culture and language is different and simply adapt or die... work, work, work and work without any consideration to their well-being.”

As illustrated by the quote and by the government official interviewed, the current labour laws in Mauritius do not take these factors into consideration. In line with the IOM, IRIS and ILO frameworks on fair and ethical recruitment, Mauritius does not allow migrant workers who wish to work in the country to make any payment, but in practice this is rarely the case. Most often than not, workers do buy their own plane tickets to come to work in Mauritius. They are not even given any information about their human and labour rights. Migrant workers are unaware of the stakeholders to whom they can report their abuses. They do not know the authorities available to help them when those rights are being abused. According to one government official:

“Some migrant workers are forced to pay recruitment agencies, which is illegal. They are also requested to pay for medical and visa fees. Some are given false promises regarding salary, lodging, meal provisions and remittance facilities.”

Some of these unregistered recruitment agencies are family, friends and agents who are not recognized or registered. The data show that recruitment agencies are spread all over the country, although they are not aware of the ethical recruitment processes and have low capacity in the field of employment. The factors contributing to trafficking, smuggling and forced labour include poverty, unemployment, lack of opportunities and certain cultural practices.

12.5 PROSECUTIONS AND VICTIM SUPPORT

In 2020, the government reported initiating four investigations into 11 suspected cases, compared with six investigations into nine suspected cases in 2019. Specifically, authorities conducted two adult sex trafficking investigations, one child sex trafficking investigation and one child labour trafficking investigation. All four investigations remained ongoing at the end of the reporting period. The government initiated two new prosecutions in 2020, compared with one new prosecution in 2019 and 15 prosecutions in 2018. The government reported convicting one trafficker, compared with two convictions in 2019. This conviction was of a Mauritian adult female involved in a 2014 child sex trafficking case; courts initially sentenced the trafficker to 18 months' imprisonment, but later reduced the sentence to 240 hours of community service, a common occurrence for first-time offenders of many crimes.

12.6 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

The Child Protection Act 30 of 1994 was amended in 2005 to criminalize child trafficking in Mauritius. The Combating of Trafficking in Persons Act Child Protection Act (Section 13A and 13C) is still being finalized. To ensure the effectiveness of the Palermo Protocol in curbing human trafficking, Mauritius in 2009 enacted the Combating of Trafficking In Persons Act, No. 2. Additionally, child labour is prohibited under the Employment Act of 2008. Young

people under the age of 18 are not allowed to work in situations that can compromise their safety, mental and general development (SADC Secretariat, 2016). The country has acceded to or ratified the following conventions to prevent and protect migrant workers from traffickers and smugglers:

- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950; signed on 24 September 2003.
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 2000; acceded to on 24 September 2003.
- Final Protocol to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950; signed on 24 September 2003
- United Nations Convention against Transnational Organized Crime (Palermo Convention); ratified on 18 April 2003.

Based on the assessment by the SADC Secretariat, Mauritius complies with the mandatory criminalization and victim protection provisions of the United Nations TIP Protocol (UNODC, 2016):

- Criminalization of TIP offences consisting of Act, Means and Purpose, and irrelevance of consent
- Criminalization of child trafficking consisting of Act and Purpose

- Criminalization of attempt, participation as an accomplice, aiding and abetting (in TIP Act or other related legislation)
- Protection of victim identity and privacy
- Provision of information and victim views heard
- Physical safety of victims
- Compensation for damages suffered
- Accept return of victims
- Verify nationality of victims

12.7 NATIONAL COORDINATION MECHANISM

The Inter-Ministerial Committee is responsible for coordination of the national response under the chair of the Attorney-General. The Mauritius Police Force (MPF) maintained an ad hoc internal coordination committee to combat trafficking, as well as a “human rights desk,” which employed two police officers trained on trafficking crimes and served as a resource for other police units (US Department of State, 2021).

13. MOZAMBIQUE



13.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

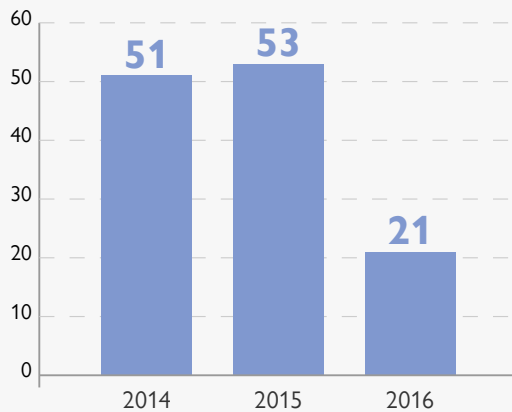
Mozambique remains on Tier 2 of the trafficking in persons index, according to the 2021 Trafficking in Persons Report (US Department of State, 2021). The TIP Report has shown that Mozambique is a source, transit and a destination for victims of trafficking. Most victims are trafficked from Burundi, the Democratic Republic of the Congo, Ethiopia, India, Kenya, Malawi, Pakistan, Rwanda, Tanzania, Uganda and Zimbabwe en route to South Africa, Angola and Europe, through the Resanno Garcia border in Mozambique (Iroanya, 2018). For example, according to the SADC Secretariat (2016) Trafficking in Persons in the SADC Region baseline report, Mozambique recorded a total of 53 cases of human trafficking in 2014, with 89 per cent of the victims being children and 11 per cent being adults. The same report shows that between the year 2011 and 2014, about 114 cases of human trafficking were recorded. Thus, human trafficking remains a crucial problem in Mozambique. A Mozambican returnee migrant from South Africa recounts his experience:

“The person who facilitated my migration journey was my boss. He drove us in his own bus to the border crossing at Ressano Garcia. There were about 15 young guys on the same bus. He offloads all of us to meet the “marehanes” [the people who facilitate crossings to South Africa and labour hires]. Only “marehanes” can make the crossing possible. They know the ways. We hide in the bush and wait for the proper time to cross the border.”

The total number of TIP cases documented between 2014 to 2016 was 125. Specifically, 51 victims were rescued in 2014, 53 in 2015 and 21 in 2016. The significant decrease in flagged victims between the 2015–2016 reporting period (as shown in Figure 19) may have signalled a downward trend in the number of reported trafficking cases.

The observed reduction is reinforced by a similar observation in the values reported by the US Department of State, with evidence showing a persistent drop in the number of reported TIP cases from 2017 to 2020 (US Department of State, 2020).

FIGURE 19:
Total number of
Trafficking in Persons cases detected



Source: US State Department, 2021.

As with trafficking in persons, forced labour is prevalent in Mozambique and is locally referred to as “*chibalo*”, meaning “unpaid, short-term work” (see Allina, 2012). Our respondents’ accounts suggest that forced labour in Mozambique can take various forms such as debt bondage, abusive working and living conditions, long hours of work, intimidation and threat of wage loss, confiscation of identity and travel documents, summary dismissal, withholding of wages without information, and physical and sexual abuse. A respondent explains how debt bondage, a popular form of forced labour, works in Mozambique:

“It is often done through lending of motorcycles and digging tools in the mining companies in the north. Then the victims are forced to work to pay the debt that keeps increasing. Often family members are used as collateral.”

Most respondents narrated that they experienced dehumanizing working conditions very often or occasionally, particularly in South Africa. This situation reflects modern slavery in a country where an estimated proportion of 5.4 victims per 1,000 population already lives in modern slavery (Walk Free Foundation, 2018b). An official of Observatório do Meio Rural (Observatory of the Rural Areas), an organization that collects, analyses and disseminates data related to rural development in Mozambique, confirms the trafficking problem:

“South Africa is by far the largest destination. Recently the northern part of the country has become an interesting case. There were reports from people being recruited to work in informal mining in different places in Mozambique along the border with Tanzania. This included trafficking women for prostitution and drug trafficking. But when some informal mining activities were shut down in the area due to investments in the mining sector, human trafficking continued to places as far as Congo. Most people are promised riches in Congo or elsewhere in the region, but they ended up being brainwashed into radical extremism. That is, in my view, the beginning of the ongoing insurgence in the north of Mozambique.”

13.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

The agricultural sector and the hospitality industry seemed highly prone to forced labour and trafficking. According to the US Department of State (2021), forced child labour in Mozambique is overrepresented in sectors such as agriculture (Verité, 2020), mining, and sales of goods and services, often without pay, following several months of work. Other migrants are made to wash cars and to herd livestock (US Department of State, 2021). While some women and girls work on the farms and in domestic servitude, others are often compelled to engage in forced sex. Aside from working under inhumane conditions, the labour conscripts are often exploited. On the other hand, some nationals of Mozambique are also smuggled to South Africa. Many of them face serious challenges. A Mozambican returnee migrant from South Africa recounts her experience:

“I migrated to South Africa through a friend who was there. At the time, there was no suppression of visas. I left home with a walking guide only to enter South Africa through the border of Ressano Garcia... After crossing the border, I ended up at a farm along the border, together with other young people I had travelled with. I stayed one month on that farm, having left after receiving my first salary to continue the trip to the destination I intended, the city of Johannesburg. My leading destination was Johannesburg; however, I could not reach there because I ended up falling into a roadblock, along with other compatriots. After a day in prison,

we were repatriated to the border post of Ressano Garcia in Mozambique, where we were incarcerated for having violated the border rule. From Ressano Garcia prison, we were taken to a train that was supposed to take us home. I managed to escape from that train and went back across the border to South Africa again. This second time, I went to another farm, along the border, where I stayed for 15 days. After getting paid on that farm, I decided to continue the trip to Johannesburg. I got a lift from a truck that took me up to Johannesburg.”

An official of ALGOS, a registered Mozambican migrant recruiting agency for work in South Africa, explains why the agricultural sector seems to be prone to forced labour:

“The actual situation is worst because the ALGOS Agency was recruiting for mines in South Africa, but those mines do not exist anymore. Nowadays, the agriculture sector supports the company doing legalization and recruiting.”

13.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

Available literature shows that women and children are the most vulnerable groups to trafficking in persons in Mozambique (SADC Secretariat, 2016). Aside from this group, persons with albinism and orphaned children

were also found to be highly vulnerable to trafficking. Further, internally displaced persons (IDPs), arising from armed conflict and violence, are reported to be vulnerable to forced labour and sex trafficking in Mozambique. Moreover, IDPs who live in shelters and resettlement camps are vulnerable to forced labour and trafficking. Children in cities such as Tete, Nacala and Maputo are known to be highly susceptible to trafficking, because there are higher numbers of truck drivers in these cities whose trucks are used to facilitate trafficking activities.

13.4 RECRUITMENT PROCESSES

Considerable evidence shows that the traffickers lure potential victims from neighbouring countries such as Malawi, Zambia and Zimbabwe, as well as from rural communities in Mozambique. They promise them good jobs, educational opportunities and a good life. In addition, they use deception as well as violence and threats to force compliance from their victims. Other evidence shows that the traffickers mostly operate in communities where they are well known to avoid detection of their real motives. This makes it easier for unsuspecting victims to trust them. The traffickers succeed in bribing border control authorities to assist them to move victims across the border. Other reports show that unsuspecting victims are recruited through social media platforms using fake identities. Women and girls are also recruited from salons. A Mozambican returnee migrant recounts how he was recruited to work in South Africa:

“I migrated to Daveyton, a suburb of Johannesburg, South Africa. I migrated in the year 2007. A former neighbour

of Chilembene invited me to go to South Africa to work with him as he convinced me that South Africans are too lazy and do not want to work, beyond rioting and demanding for work rights.”

A Mozambican immigration officer identifies recruitment practices:

“Most of the cases of Mozambicans whom we suspect to be under trafficking are masked as marriages. Fortunately, the Government of Mozambique adopted the Law against early marriage [Article 178, number 1]. Early marriage is no longer accepted. The Law against early marriage stipulates that no one shall marry before the age of 18 years. Those who promote that kind of marriage will be put in jail for 12 years. Early marriages are common in the southern provinces of Mozambique, namely Inhambane, Gaza and Maputo. Early marriages are performed by the so-called “madjonidjoni” [labour migrants] whom the parents look up to as their saviour. They sell their girls as a way of getting income. The places where this practice is common are where labour migration has a longstanding occurrence. Also, of late, they are found in dry areas such as Magude and Moamba (in Maputo), Chicualacuala, Chibuto and Guija [Gaza Province] and Panda, Funhalouro and Mabote [Inhambane Province]. These are the drier areas of southern Mozambique. Taxi drivers are responsible for trafficking, and young people are trafficked by the “marehane” [those who promise jobs in South Africa but use fake documents] , who entice them.”

The major drivers include abject poverty and unemployment, which compel most young people from rural Mozambique to seek greener pastures in the major cities in Mozambique or in neighbouring countries such as in South Africa. A Mozambican returnee migrant provided the explanation below:

“In Chilembene, here in Mozambique, there are no jobs. People do the same work. Imagine, I am a bricklayer, and like me, there are many others. All of us a doing the same thing. The competition is very high. We were starving and my wife was pregnant. Then I agreed to follow my boss to South Africa.”

In addition, the demand for cheap labour on farms and mines in Mozambique and in South Africa is fuelling trafficking in persons (SADC Secretariat, 2016). The domestic and international commercial sex industry in Mozambique is another fertile ground for trafficking in women and girls. Limited formal education is also considered a push factor, as it makes it easier for potential victims to be convinced by conmen and traffickers.

Other drivers include famine, insecurity, lack of access to health care and lack of social support systems (Baulch, 2012; Groes-Green, 2015; UNESCO, 2006). A respondent revealed:

“The number of women crossing borders to South Africa is increasing. Some of them crossed the border to visit their husbands, but end up working there. Other women cross the border as traders, and some remain there or return, and the last group of women is that made up of younger girls who cross the border to do braids and dreads in streets or work

as maids of Mozambican students or for Mozambican workers who are well established and to expatriate Portuguese.”

Other risk factors include being orphaned and having no one to serve as a caretaker. Our respondents' accounts suggest that complicity by officialdom and corruption by border authorities within Mozambique are fundamental contributory factors to trafficking in persons across the Ressano Garcia border. An official of Women and Law in Southern Africa (WLSA) confirms this problem:

“There are accusations against government officials, highly ranked police officers that are suspected of belonging to networks of human trafficking in Mozambique. They are accused of facilitating and even intermediating illegal [sic.] movement of migrants from and to Tanzania, Somalia, Ethiopia and South Africa. These countries appear to be the most common destinations. South Africa used to be the popular destination. But in the northern part of the country the military instability has shown that people were recruited to be trained and radicalized in the countries in east and central Africa and later brought into Mozambique where they act as radical insurgents.”

Some of the pull factors include inhumane working conditions and exploitation in the host cities and countries. Other reports show that organ harvesting in Mozambique's neighbouring countries seems to pull some migrants back home for fear of being victims (SADC Secretariat, 2016).

13.5 PROSECUTIONS AND VICTIM SUPPORT

In Mozambique, there is evidence of prosecution of individuals involved in the trafficking of persons. Available evidence shows that the Mozambican government investigated six suspected cases of trafficking in 2020, prosecuted two traffickers found culpable, and convicted one of them (US Department of State, 2021). Further, in 2019, the government investigated 13 suspected cases of trafficking, and prosecuted and convicted two traffickers. Prosecution of other trafficking cases is ongoing, while convicted traffickers are serving jail sentences.

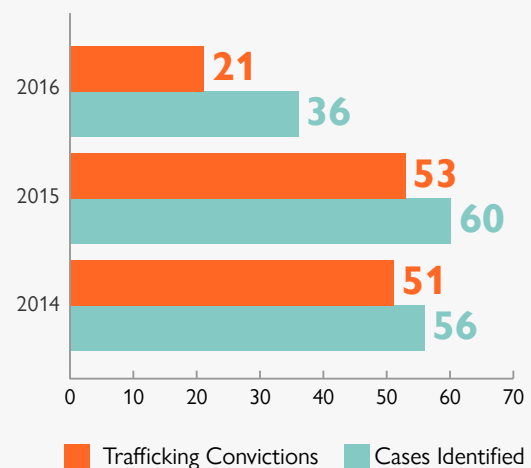
There are, however, few support services for victims of trafficking (Nhatave et al., 2021). The Ministry of Gender, Children and Social Action has established three units tasked to provide medical and psychological care, legal assistance to trafficking victims, short-term shelter and family reunification (US Department of State, 2021). Moreover, some local and international NGOs are providing support to the police service to facilitate identification and investigation of suspected cases of trafficking and to coordinate the referral of trafficked victims to service providers. For example, in 2020, an NGO established a hotline in Manica for people to report potential cases of trafficking. This hotline identified 17 suspected cases of trafficking and referred the victims for assistance (US Department of State, 2021). One of the local NGOs providing support service to trafficked victims is Women and Law in Southern Africa (WLSA).

In an attempt to control the occurrence of trafficking crimes, an anti-trafficking law was passed in 2008. As part of the tenets of the

law, labour and sexual exploitations were prohibited, with defaulters liable to 16 to 20 years' imprisonment.

Between 2014 to 2016, a total of 182 suspected human traffickers were apprehended by law enforcement officers. Unsurprisingly, a greater proportion of the culprits (163) were males. Judicial processes were also initiated and 152 cases in connection to trafficking were prosecuted within the period under review; 56 cases in 2014, 60 cases in 2015 and 36 cases in 2016 (see Figure 20). A number of convictions were also undertaken, with 51 convictions registered in 2014, 53 in 2015 and 21 in 2016. Checks from recent data released also indicated that six trafficking cases were investigated in 2020 (US Department of State, 2021).

FIGURE 20:
Trafficking cases subject to judicial
prosecution



Source: US State Department Trafficking in Persons Report, 2021.

13.6 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

Mozambique has enacted and ratified the following legal and legislative frameworks to prohibit, punish, and fight trafficking in persons and its attendant forced labour and forced sex:

- (a) The 2008 Law on Preventing and Combating the Trafficking of People
- (b) The 2000 Palermo Protocol, supplementing the United Nations Convention against Transnational Organized Crime (UNTOC)
- (c) The 1999 Worst Forms of Child Labour Convention
- (d) The 2000 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

An official of Women and Law in Southern Africa confirms the availability of legal frameworks in Mozambique:

“The law has been designed to prevent and stop human trafficking, particularly focusing on children and women.”

The country has also enacted other important laws and regulations to prohibit child trafficking and forced labour. They include the following: Prohibition of Forced Labour; Prohibition of Child Trafficking; Prohibition of Commercial Sexual Exploitation of Children; Prohibition of Using Children in Illicit Activities; Minimum Age

for Voluntary State Military Recruitment; and Prohibition of and Compulsory Recruitment of Children by (State) Military.

However, the laws are not being implemented to the letter. An official with the ILO in Maputo makes the following observations:

“Mozambique has done so well in the creation of legislation against human trafficking and labour exploitation. The existing problem is the implementation. In the meantime, the syndicalization is relatively high, but is applied only in big organizations. As ILO, we are leading the conscientization of labourers about their rights, duties and obligations. What is happening among workers is the negligence of their rights in the labour market. For them as long they have a job and a salary, it is more than enough.”

13.7 NATIONAL COORDINATION MECHANISMS

There are monitoring mechanisms established to coordinate the identification and investigation of potential cases of trafficking and forced labour in Mozambique. For example, there is a National Action Plan (NAP). Efforts have been made to equip 250 front-line, provincial and district responders with skills to identify and investigate potential case of trafficking in the Zambezia province, as well as in the Cabo Delgado, Manica, Nampula and Sofala provinces. Government formed a Drama Forum against Child Trafficking in Zambezia and Rede Came

(Network against Child Abuse and Trafficking) to raise critical consciousness regarding trafficking in persons. There is also evidence of collaboration with authorities of neighbouring countries to clamp down on traffickers of persons (US Department of State, 2021).

14. NAMIBIA



14.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

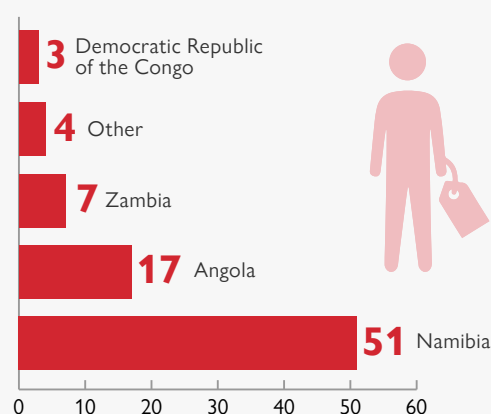
Namibia may be described as a source, transit and a destination country for trafficking in persons and forced labour. While research in Namibia has acknowledged a lack of data on TIP in the country, blaming this on the lack of a specific anti-TIP Act, data from the Namibian Police Force (NAMPOL) show that 82 victims were identified in the country, the majority of whom (58.5%) were adults, while 62 per cent were Namibians. The Namibian Police observed that 21 per cent of the victims identified in Namibia between 2010 and 2017 were of Angolan origin and were all exploited in the domestic labour sector, with a six-month-old baby reportedly sold in 2017. Forced labour, labour exploitation and sexual exploitation are among the other forms of exploitation identified in Namibia. Also, the Ministry of Gender Equality and Child Welfare in separate research undertaken in 2009 stated that the charcoal production, construction and fishing industries were areas where victims were often exploited.

A look at the population of victims by nationality shows that intracountry trafficking activities persist within the Namibian jurisdiction.

As shown in Figure 21, 51 out of the 82 identified victims were nationals of Namibia. This corroborates the general information that Namibians from poor backgrounds (mostly rural and poor households) are often exploited economically through agricultural, hospitality and housekeeping activities.

Aside from the local victims, the identification of foreign nationals from neighbouring countries such as Angola, Zambia and the Democratic Republic of the Congo may be an indicator that Namibia serves as a destination and a transit country for trafficking activities.

FIGURE 21: TIP victims by nationality



Source: UNODC (2017).

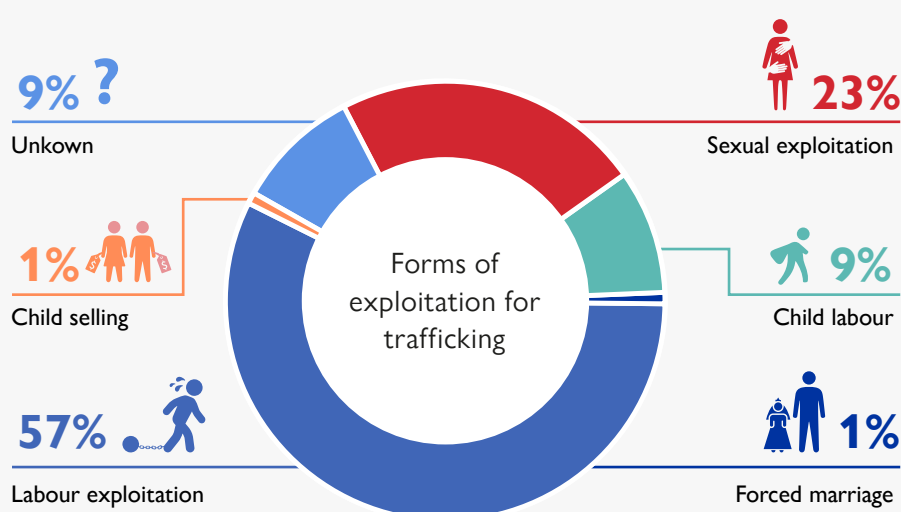
14.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

There is evidence that traffickers exploit both foreigners and nationals of Namibia. Most victims are subjected to exploitative activities such as adult labour abuse, child labour, sexual exploitation and domestic servitude. Figure 22 shows that the major form of exploitation is labour exploitation.

According to US Department of State (2021), the agricultural and fishing sectors are prone to trafficking in persons and forced labour. For example, trafficked children are made to engage in street vending in the capital

Windhoek (US Department of State, 2021). Trafficked Namibian children engage in forced labour in the agricultural sector, including cattle herding, while others are subjected to sexual exploitation and domestic servitude. Trafficked victims come from Angola, Kenya, Zambia and Zimbabwe (SADC Secretariat, 2016). Other forced labour conscripts are trafficked for the purpose of herding livestock within Namibia. The domestic work sector is another area where forced labour and trafficking thrives in Namibia. Reports indicate that other sectors such as charcoal production and construction are equally prone to trafficking and forced labour (Ministry of Gender Equality and Child Welfare, 2009; SADC Secretariat, 2016).

FIGURE 22: Forms of exploitation for trafficking



Source: UNODC (2017).

14.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

Data gathered on TIP cases detected in Namibia between 2010 and 2015 indicated that 64 victims of trafficking were identified within the five-year period (see Table 4). During the period under consideration, the data-driven evidence points to the fact that males are more liable to be subjected to human trafficking than their female counterparts; 89 per cent of the victims were males, while the remaining 11 per cent were females. It can be deduced that the assigning of greater premiums to males who were exploited in the labour market might have accounted for this observed gender-trafficking dimension.

TABLE 4:
Total number of TIP cases
detected in Namibia

Year	Male	Female	Total
2010	0	5	5
2011	0	13	13
2012	1	14	15
2013	4	12	16
2014	2	8	10
2015	0	5	5

Source: UNODC (2017).

Compared with other ethnic groups in Namibia, ethnic San and Zemba Namibian children are the most vulnerable to trafficking in persons and forced labour on farms or in domestic service (New Era, 2014; US Department of

State, 2021). For example, 12 men were found by NAMPOL to have been trafficked from the San community to work on farms in South Africa (Ministry of Gender Equality and Child Welfare, 2009; SADC Secretariat, 2016). In addition, children from poor households and rural communities in neighbouring Angola have been identified to be vulnerable to sex trafficking and forced labour. Moreover, orphans, illiterate and unemployed youth have been found to be vulnerable to trafficking and forced labour (Bureau of International Labor Affairs, 2020).

14.4 RECRUITMENT PROCESSES

Traffickers promise their potential victims' employment and educational opportunities to enable them to live a good life. Sometimes, traffickers win the trust of potential victims by using the victim's family as a decoy. Aside from deception, most traffickers recruit their victims using social networking sites such as Facebook, Instagram and WhatsApp. Available reports show that traffickers sometimes abduct their victims (Ministry of Gender Equality and Child Welfare, 2009; SADC Secretariat, 2016). Domestic and foreign victims are trafficked within Namibia and abroad. Victims are mostly lured into good jobs to hide the real intentions of the traffickers, and after a short stint, victims are coerced into forced labour on farms (US Department of State, 2021). One of the victims shared his experience working in Namibia:

"The journey from Zimbabwe to Namibia is about 2000 km. A Namibian national whom I encountered on my journey was kind

enough to explain all I needed to know, he even helped me get accommodation and connected to someone where I easily got employment. I believe my rights were violated simply because I work under conditions that are not favourable such as unfair conditions at work, risk of losing our jobs, and unequal pay opportunities” (Migrant from Zimbabwe).

and also it is quite attractive because of its low crime rate as compared with our neighbouring country of South Africa” (Migrant, male, from Lesotho).

14.5 RISK FACTORS AND CAUSES OF TRAFFICKING

Illiteracy, poverty, unemployment and family instability have been found to be important push factors driving the trafficking in persons and forced labour (SADC Secretariat, 2016). Kiremire (2010) has reported that booming commercial sex work and the high demand for cheap labour are some of the pull factors. Our respondents reveal some of the push and pull factors that influenced their decision to migrate:

“The job market especially for my field is very limited in my home country, so I came here to advance my career prospects” (Male migrant from Botswana).

“I migrated from Zambia, I specifically chose this country because of its low crime rate, I was so tired of staying in misery in my parent’s house back home in Zambia. I came here by road” (Migrant, male, from Zambia).

“I migrated from Lesotho, I explicitly chose to come to this country so as to seek for a better future for my family

14.6 PROSECUTIONS AND VICTIM SUPPORT

There is evidence of prosecution of traffickers found guilty of the act. In Namibia, 31 cases were reported between 2010 and 2017. The number of cases reported to NAMPOL has increased from two in 2014 to eight in 2017. This is most likely a result of UNODC-led capacity building initiatives for criminal justice practitioners in the country. In 2015, seven cases were examined, with two being prosecuted, and in 2016, eight cases were investigated, with two being prosecuted.

According to US Department of State (2021), the Namibian government investigated a total of 54 potential cases of trafficking between 2019 and 2020. Of the 10 cases investigated in 2020, four were cases of forced labour and the remaining six were cases of sexual exploitation. In 2020, the Namibian government commenced prosecution against 18 traffickers and had one trafficker convicted. In 2019, prosecution against 15 traffickers were initiated, one trafficker was convicted and the remaining cases are ongoing in court. In addition, in 2018, a South African trafficker was convicted for child sex trafficking.

The Namibian government has been providing support services to victims of trafficking and forced labour for some time now. The support services available include shelter, medical care, psychosocial care and basic necessities for victims of trafficking. Child victims are usually

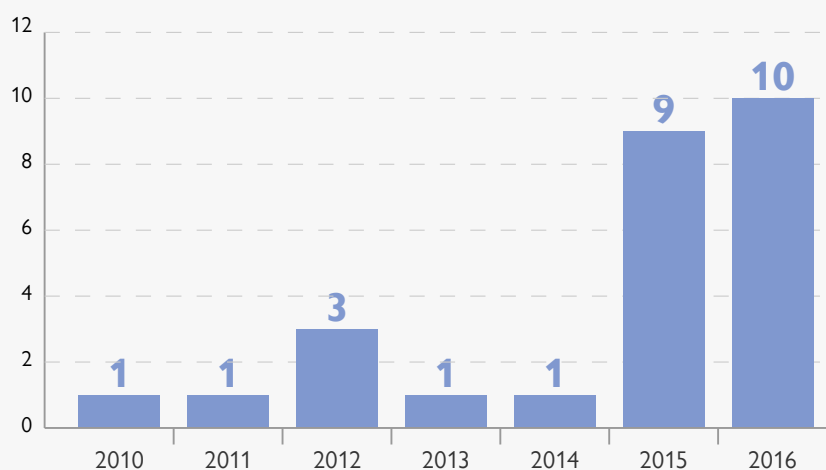
placed in residential childcare so that they could have access to education. Both local and foreign victims benefit from the same support services. To enhance the support services offered to victims of trafficking, in 2020 the government provided financial support amounting to 6 million Namibian dollars (about USD 402,000) to NGOs that are providing shelters to victims (US Department of State, 2021). In total, there are about 17 gender-based violence protection units offering legal, medical and psychosocial support to victims of crime in Namibia.

The Trafficking in Persons Act of 2018, which came fully into effect in November 2019, clearly criminalized human trafficking acts such as sex and labour exploitation. The Act prescribed prison sentences up to 30 years and a fine not more than USD 68,150 for individuals

who have been convicted of human trafficking crimes by a court of competent jurisdiction. Before 2019, other supplementary laws such as the Prevention of Organized Crime Act, 2004 were being utilized to safeguard the rights of individuals from trafficking-related offences.

As shown in Figure 23, before the passage of the Anti-Trafficking Act in 2018, a number of judicial prosecutions that were geared towards combating trafficking occurred. Inspection experts from the Ministry of Labour, Industrial Relations and Employment were also mandated to carry out monitoring activities aimed at preventing child labour and adult labour abuse cases. NGOs and other international organizations were also provided with avenues to operate and offer help to trafficking victims.

FIGURE 23: Cases that underwent judicial prosecution



Source: UNODC (2017).

14.7 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

The Government of Namibia has enacted and ratified many laws and regulations aimed at prohibiting and punishing trafficking in persons and forced labour (Bureau of International Labor Affairs, 2020; ILO, 2017; US Department of State, 2021). The laws and regulations include, but are not limited to the following:

- (a) The Combating of Trafficking in Persons Act of 2018
- (b) Prevention of Organized Crime Act (POCA), No. 29 of 2004.
- (c) Child Care and Protection Act, No. 3 of 2015.
- (d) Labour Act of 2007
- (e) Combating of Rape Act of 2000
- (f) Forced Labour Convention No. 29 of 1930
- (g) Abolition of Forced Labour Convention, No. 105 of 1957
- (h) United Nations Convention against Transnational Organized Crime and the additional Protocol to Prevent Suppress and Punish Trafficking in Humans of 2003.

Other established laws and regulations aimed at criminalizing trafficking in persons and forced labour are as follows:

- (a) Minimum Age for Voluntary Military Service
- (b) Prohibition of Hazardous Occupations or Activities for Children
- (c) Prohibition of Forced Labour
- (d) Prohibition of Child Trafficking
- (e) Prohibition of Commercial Sexual Exploitation of Children

14.8 NATIONAL COORDINATION MECHANISMS

There is evidence of coordination among Namibian stakeholders in the fight against trafficking and forced labour. For example, there are specialized prosecutors attached to the Office of the Prosecutor General's Sexual Offences Unit whose duties involve prosecuting all investigated and confirmed cases of trafficking. They do their work in tandem with the police and the courts.

In addition, about 17 gender-based violence protection units nationwide coordinate with the police,

the Ministry of Health and Social Services, the Ministry of Gender Equality, Poverty Eradication and Child Welfare (MGEPECW), as well as NGOs to provide needed assistance to victims of trafficking. The Government of

Namibia has signed a bilateral law enforcement agreement with the Governments of Angola and Zimbabwe to fight trafficking networks across their countries.

The government has made efforts to train about 30 social workers across the 14 administrative regions of Namibia to act as front-line responders to cases of trafficking in persons and forced labour. Namibian immigration officials and labour inspectors often work closely with the NAMPOL in identifying and investigating suspected cases of trafficking.

15. SEYCHELLES



15.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Data on the prevalence of forced labour and trafficking in persons in Seychelles is scant. This makes it challenging to assess the magnitude, scale and extent to which the phenomenon is widespread. However, the United Nations Special Rapporteur's report demonstrate that the Seychelles is increasingly becoming a destination country for sex trafficking of women. The UNODC (2018) report found that there were four victims of trafficking in 2016, comprising of male adults from Bangladesh. Three of the victims were aged between 18–34 years, while one was aged 35 years. These victims were trafficked for purposes of labour exploitation (UNODC, 2018). With regard to forced labour, the Special Rapporteur's note reported several cases of exploitation of both semiskilled and unskilled migrant workers from India, China and Bangladesh. The commonly reported abuses of forced labour included substandard housing, underpayment and late payment of wages, poor working conditions and withholding of passports and other documents (UN Special Rapporteur, 2014).

15.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

The various sectors in which trafficking in persons and forced labour are prevalent in Seychelles include fishing, construction, tourism, the commercial sex industry and domestic servitude. Different social groups are likely to encounter exploitation in specific sectors. For example, unskilled labour migrants are likely to encounter exploitation in the construction and fishing sectors, whereas poor women and young girls are exploited in domestic servitude (SADC Secretariat, 2016). The conflation of migration and trafficking has been reported to have led to clear cases of exploitation involving migrant workers in the fisheries and construction sectors. These migrants were thought to have originated from India, China, Bangladesh, Sri Lanka, Kenya and the Philippines. Evidence also points to suspected cases of trafficking on fishing vessels following the case of nine Pakistanis who were abandoned in a port in Victoria (UN Special Rapporteur, 2014). Female migrants from Sri Lanka, Nepal, Madagascar and the Philippines engaged as domestic workers encounter exploitation in domestic servitude. The increasing demand for unskilled labour, particularly in the fisheries and construction sectors in Seychelles, as well as demand for cheap labour for domestic

work from middle-income households in the country, have been reported as major causes of trafficking in persons. The boom in the tourism sector and the increasing demand for commercial sex services by foreign tourists, Seychelles nationals and male migrant workers also serve as contributing factors trafficking of women and children for sexual exploitation (UN Special Rapporteur, 2014).

15.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

While the SADC Secretariat (2016) identifies women and girls as the gender group that is most vulnerable and may fall prey to the activities of traffickers, the UN Special Rapporteur (2014) identifies all gender groups as vulnerable to trafficking in persons. Seychelles has increasingly become a haven for trafficking for sexual exploitation, particularly of women from Eastern Europe. There are widespread reports of allegations against families and boyfriends/pimps who have lured Seychellois boys for purposes of sexual exploitation. In relation to social groups, the SADC Secretariat (2016) reported that poor, unemployed and illiterate people, as well as orphans and vulnerable children, remain exposed to trafficking in persons. There is evidence to suggest that persons living with disabilities represent another vulnerable category to the activities of traffickers, but the specific exploitation that this group encounters is not all that clear (SADC Secretariat, 2016).

15.4 RECRUITMENT PROCESSES

The government officials interviewed in Seychelles claimed that there are no unlicensed private employment agencies in Seychelles, partly because it is required by law for agencies to register before they can operate. As at the time of conducting this study, government officials mentioned that there were 12 registered licensed private employment agencies in Seychelles, seven of which are active. While recruitment agencies are not regulated by law, any actions by employers or individuals that partake in unlawful recruitment practices such as human trafficking are liable for prosecution under the Prohibition of Trafficking in Persons Act 2014. Our interviews with government officials revealed that there are standard operating procedures that guide the recruitment of foreign migrant workers for employment in Seychelles. Additionally, the country has established and continues to establish bilateral agreements with migrant-originating country governments to ensure that proper recruitment procedures are undertaken by local employers. Regarding recruitment itself, it is important to note that there are established private employment agencies (such as the Seychef Limited) in Seychelles. The Employment Department for local employers also encourages employers to recruit through reputable private employment agencies. For instance, a government official interviewed narrated:

“Current recruitment process in the country is well established with the ‘Recruitment of non-Seychellois Guideline’ published and followed by all employers in Seychelles. Current procedure dictates that prior to any application for the recruitment of foreign workers in the country, proper labour market testing is undertaken on the local labour

market, after which employers may make application for recruitment of foreign labour with proof that the current local labour market does not provide for the skills being requested for. After approval is conveyed and the employer has identified a foreigner worker, the employer will then proceed to the Immigration Department to obtain a work permit to enter the country for work purposes.”

A representative of a private recruitment agency interviewed indicated that his company is aware of the regulatory existing national labour laws and regulations guiding the hiring of workers/migrants:

“Yes, we are aware of existing national labour laws and regulations guiding the hiring of workers/migrants. It is mainly the process that one has to go through to ensure proper recruitment of the workers. ILO is one major one and the Employment [Ministry].”

Despite the existence of these formal procedures, our review of the evidence found that traffickers and recruitment agencies continue to use cruel mechanisms to lure victims of trafficking and forced labour in Seychelles. The strategies reportedly used by traffickers and recruitment agents include abduction, promises of employment and education, and influence of family networks, which have been cited as key strategies used by traffickers and recruitment agencies (SADC Secretariat, 2016). There are also reports of traffickers deploying tactics of violence, drugs, threats and retaining or destroying victims’ travel or identity documents, which, in turn, subjects victims to exploitation, debt bondage, isolation and restrictions on movement (SADC Secretariat, 2016). Eastern European women, particularly from Ukraine,

who are recruited by agencies with promises of modelling jobs, are subjected to forced prostitution in private homes and hotels (UN Special Rapporteur, 2014).

15.5 PROSECUTIONS AND VICTIM SUPPORT

The assessment found a decrease in the efforts of the government to enforce existing laws to combat trafficking in persons. According to US Department of State (2021), compared with 45 trafficking investigations in the previous reporting period, the Government of Seychelles investigated only 18 cases of forced labour in 2019. There was insufficient evidence of trafficking involving nine of these cases, while a lack of victim willingness to cooperate fully with investigations, for several reasons, meant that five of the cases had to be closed. Moreover, compared with three prosecutions that were initiated in previous reporting years which were still ongoing, in 2019, the government did not report initiating any prosecutions. One conviction for trafficking was reported in 2018, but none was reported for 2019. In 2018, the government commenced investigations into an issue involving fraudulent issuance of work permits to labour migrants for the purposes of exploitation into forced labour. The case involved a senior government official at the Department of Foreign Affairs, who was a former employee for the Ministry of Employment, Immigration and Civil Status. All charges relating to trafficking were dropped in 2019 following a plea bargain, although the allegedly complicit official was charged with falsifying documents in contravention of section 339 of the penal code (US Department of State, 2021). In 2017, immigration officials reported

high-level corruption that involved wealthy adults from the Gulf countries facilitating the movement of young women aboard private aircraft. Nonetheless, for two consecutive years the Government of Seychelles did not provide any information on investigations or prosecutions of officials allegedly involved (US Department of State, 2021).

In terms of victim support, evidence shows that the government failed to implement its standard operating procedures for identifying victims and referrals or its victim assistance mechanism. Again, it failed to provide adequate support or assistance to victims; it also had no comprehensive shelters or care facilities for trafficking in persons victims (US Department of State, 2021)

15.6 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

Seychelles is a signatory to several international and regional legislative frameworks, such as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; its supplement (the Palermo Protocol); the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child, including its Optional Protocol on the sale of children, child prostitution and child pornography; the African Charter on Human and People's Rights and its Protocol on the Rights of Women in Africa; the African Charter on the Rights and Welfare of the Child; and the Southern African Development Community Gender and Development Protocol (UN Special Rapporteur, 2014).

At the national level, Seychelles enacted the Prohibition of Trafficking in Persons Act, No. 9 in 2015 (UNODC, 2018). In the same year the country developed the National Strategic Framework and the National Action Plan to Combat Trafficking in Persons (2014–2015). In 2015, the country launched its Standard Operating Procedure and Referral Mechanism for Assistance to Victims of Trafficking (SADC Secretariat, 2016). The Prohibition of Trafficking Act 2014 criminalizes sex and labour trafficking and imposes a fine of 500,000 Seychelles rupees (USD 36,710) for offences involving adult victims, and a maximum imprisonment of up to 14 years in cases where the offences involve adult victims. In instances where it involves child victims, a fine of up to 800,000 Seychelles rupees (USD 58,740) and a maximum 25 years' imprisonment is applied (US Department of State, 2021; SADC Secretariat, 2016). The TIP report found that these penalties were sufficiently stringent. However, while the anti-trafficking law criminalizes sex trafficking involving children, there is no clearly defined age of consent – it is “traditionally” understood as 15 years, which creates ambiguity and confusion between sociocultural understandings of age of consent and the legal definition of a child (up to 18 years). Moreover, while the government in 2017 collaborated with an international organization in developing an implementation regulation for the 2014 anti-trafficking law to cover protective measures for trafficking, there were no reports on the progress of these regulations for 2018–2019 (US Department of State, 2021).

Interviews with government officials also revealed that there are mechanisms for monitoring and inspecting labour recruitment and employment, as seen in the words of a government official interviewed:

“The Employment Department currently has a Labour Monitoring and Compliance Section with labour inspectors who undertake daily workplace visits to ensure that all Employment and related laws are followed by both employers and workers.”

Other initiatives by the Government of Seychelles to combat trafficking include the establishment of a new hotline to report concerns of forced labour; a bilateral agreement with the Bangladeshi government that outlines procedures for employment and repatriation of Seychellois migrant workers from Bangladesh; and the provision of sufficient financial allocations to support the work of the National Coordinating Committee on trafficking in persons.

15.7 NATIONAL COORDINATION MECHANISM

In 2012 the Cabinet of Ministers established an Inter-Ministerial Committee on Trafficking. The Committee was tasked with the specific mandate of supervising the development and drafting of legislation on trafficking in persons, undertaking capacity-building activities for stakeholders, and developing a national action plan for trafficking in persons. The Committee is chaired by the Ministry of Foreign Affairs and the Ministry of Social Affairs. Other representatives include stakeholders from the National Human Rights Commission, Customs, Community Development and Sports, Health, the Attorney General’s Office, Immigration, Public Officers’ Commission, the Media Commission, the Drug and Alcohol Council, the Seychelles National Youth Council, the Police, Employment Department, the Financial Intelligence Unit, the National Bureau of Statistics, the Judiciary,

National Commissions/Councils and civil society organizations. There are also ongoing support efforts and partnerships between the government and IOM. The Special Rapporteur recognized the efforts of the Government of Seychelles in establishing a multisectoral platform to deal with the menace of trafficking in persons, as well as the support from partners IOM and UNODC. However, issues such as weak coordination and lack of financial and human capacity have been reported as key challenges that affect the operations the interministerial committee from performing its stipulated mandate (UN Special Rapporteur, 2014; US Department of State, 2021).

Our interviews revealed that there is a Trafficking in Persons Secretariat whose mandate is to provide various forms of support and assistance to the interministerial committee in developing programmes and strategies to address the issue of trafficking. For instance, a government official interviewed said:

“The TIP Secretariat’s role is to assist the Committee in formulating policies, strategies, guidelines, programmes and other measures relating to identification and referral of victims of trafficking. Its other function is to engage in capacity-building and ensuring coordination among government agencies.”

Available evidence from the recent US Department of State’s Trafficking in Persons report (2021) demonstrates that the Government of Seychelles was proactive in making significant funds in the tune 784,020 Seychelles rupees⁴ for the operational and programmatic activities of the National Coordinating Committee on Trafficking in Persons.

⁴ USD 10,566 in March 2021.

16. SOUTH AFRICA

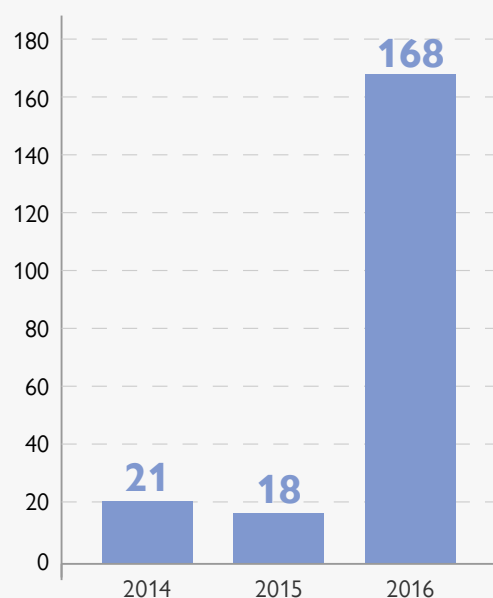


16.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Data provided by the South African Police Service (SAPS) pertaining to TIP cases recorded between 2014 to 2016 show that 207 individuals were exposed to human trafficking within the three-year period. The statistics highlight a sharp increase in the number of TIP victims that were identified in 2016 (see Figure 24). Given that the South African economy is considered as a buoyant economic oasis within the SADC region, immigrants from most countries within the region may aim at moving to the country to explore better economic opportunities. Against this background, traffickers capitalize on vulnerabilities of the poor and marginalized, and lure individuals from neighbouring countries into South Africa. Indigenous and economically disadvantaged South Africans residing in rural areas are also recruited and transferred to urban areas. These recruits (both local and foreigners) are mostly subjected to sexual exploitation in the largest metropolises, such as Johannesburg, Durban and Cape Town.

As with other countries in the SADC region, victims of forced labour exploitation work in the agriculture, mining, hospitality, construction, transport, street-vending and domestic labour sectors.

FIGURE 24:
Cases of TIP recorded



Source: UNODC (2017).

South Africa is predominantly a destination for trafficking in persons and forced labour within the SADC region (SADC Secretariat, 2016). Human traffickers in South Africa recruit local and foreign victims and exploit them in the country (Gould et al., 2010). Within South Africa, the traffickers recruit their victims from poor communities in rural areas such as Gauteng Province. The trafficked victims are then moved to urban areas in South Africa, such as Cape Town, Durban, Bloemfontein and Johannesburg, where they are subjected to sexual exploitation and forced labour. Trafficking syndicates recruit girls aged 10 years and older from rural South Africa and subject them to sex trafficking in urban cities (US Department of State, 2021). Other girls as young as 14 years are subjected to forced marriages in rural communities in provinces such as KwaZulu-Natal, Eastern Cape and Western Cape (Madlala-Routledge, 2010).

According to the US Department of State (2021), the traffickers subject trafficked victims to forced labour on fruit and vegetable farms, on mines, in domestic service, street vending and begging, as well as in commercial sex work. Most victims endure dehumanizing working conditions that may be akin to modern slavery (Gould, 2014; Woolman and Bishop, 2006). Evidence from the 2018 Global Slavery Index provided by Walk Free Foundation (2018b) shows that in South Africa, an estimated 2.80 victims per 1,000 population live in modern slavery.

A respondent reveals aspects of the dehumanizing conditions under which most migrants work in South Africa:

“Regarding restriction of movement, yes, I’ve seen that, but in the De Doorns report [on xenophobic attacks and migrants being confined to camps], it wasn’t just foreign nationals; it was South Africans. If you lived on the farm, the gates are closed at a particular time and you were kept in and not allowed out, you were only allowed out at certain times. Another common thing is the retention of identity documents, yes, that’s a very common one and often justified by the facts of, you know, we need to have you documented so if the police or Home Affairs or anyone comes we can show, you know, you are documented. So this is kind of why things are somewhat regulated, so that should be good, but actually then it increases vulnerability, because then your documents are taken away from you. And also related to that, people are having to sign contracts in languages that they don’t understand. So a contract that’s written in Afrikaans, that Zimbabwean farmworker has to sign. So that sort of thing, and say lack of written contracts, yes, but also contracts that are kind of incomprehensible and provide a veneer of formality. Actually, they don’t provide any protection, that’s more regulatory protection for farms or whatever. Yes, I’ve seen cases where wages are withheld and absence of sick leave.”

The main trafficking syndicates operating in South Africa are from Nigeria, Cameroon, Democratic Republic of the Congo, Bangladesh and Ghana (US Department of State, 2021). The majority of the trafficked victims who end in South Africa originate from countries in the SADC region, western, eastern and central Africa, Asia and Europe. Some victims are trafficked from South Africa to destinations such as Brazil, China, the United States of America, the Middle East and Switzerland (SADC Secretariat, 2016). A migration researcher confirms the influx of migrants to South Africa from countries across Africa:

“I think the data on this will provide the best information for you. And of course, we know that neighbouring countries to South Africa, i.e. Zimbabwe, Lesotho, Mozambique, in particular, provide the highest numbers, but then also Malawians and Zambians and others come through and then, increasingly, you know, Ethiopians and Somalis have been a longstanding group in South Africa. And those from the DRC. And these are probably your strongest areas. West African representation tends to be a bit more limited. Although there is a significant Nigerian community, but in number-wise it's much smaller, even though it's still significant. They are available, I'm sure you will get access to these figures. They'll be available in IOM and UN migration websites and others. These figures are always provided.”

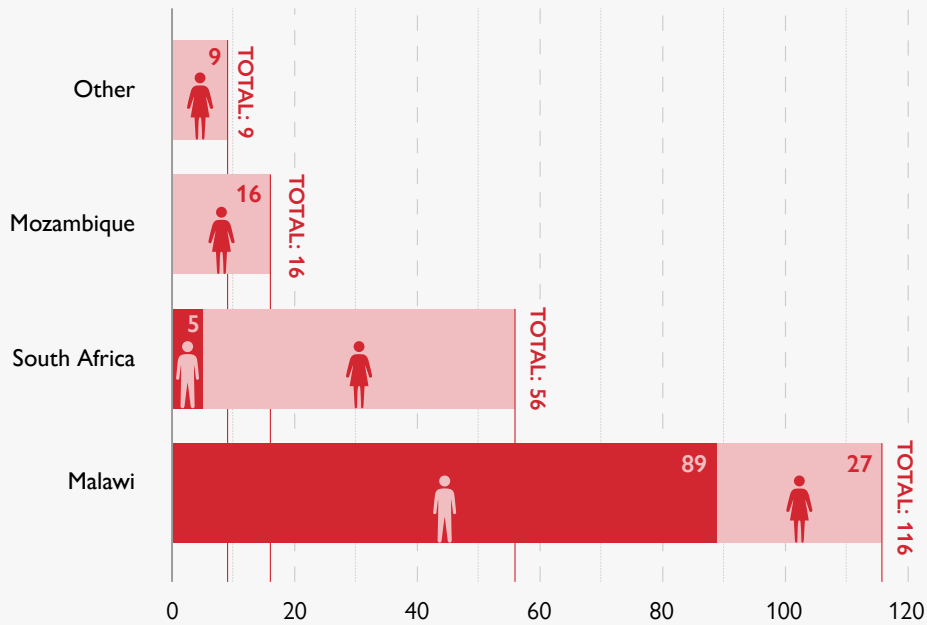
16.2 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

Women and girls constitute the most vulnerable group of trafficked victims in South Africa. For example, available reports from the South African Police Service show that between the years 2012 and 2014, a total of 34 women were trafficked, compared with 22 men. Over the same period (2012–2014), a total of 18 girls were trafficked, compared with zero boys (African Centre for Migration and Society, 2014; SADC Secretariat, 2016).

As seen in Figure 25, Malawians occupy the top spot of victims who are exploited in South Africa. This can be ascribed in part to the conditions of poverty and low economic growth in the country, as well as a lack of educational, entrepreneurial and economic opportunities available to Malawi's growing youth population, which all contribute to fierce competition for resources, often driving young Malawians to South Africa (Beegle and Poulin, 2013; World Bank, 2022). A cursory look at the male–female distribution of Malawian trafficking victims in South Africa shows male dominance, and by inference, one can conclude that most of the males are being exploited in the South African labour market. Aside from Malawi, Mozambique, the Democratic Republic of the Congo and Lesotho are among the African countries from which victims of trafficking hail.

As indicated in Figure 25, South Africans, particularly female South Africans, occupy the second-largest victim by nationality category. This highlights the prevalence of rural female recruitment to metropolises, possibly for sexual exploitation.

FIGURE 25: TIP victims by nationality



Source: UNODC (2017).

Other vulnerability indicators include a lack of educational opportunities and awareness, poor social and economic development, and prevailing societal, family, religious and communal values, among many others. Evidence also indicates that members of the LGBTQIA+ community, orphans and persons with a criminal history are also vulnerable to becoming trafficked (Teresi, 2021).

16.3 RECRUITMENT PROCESSES

The traffickers lure potential victims with employment, educational or lifestyle opportunities in the destination country. In addition, they often employ deceptive methods and violence to recruit potential victims. Some traffickers abduct their victims, especially young girls, and later subject them to forced marriage (Gould et al., 2010). Others lure their victims into drug abuse.

Further, traffickers bribe immigration officials and State actors to facilitate the movement of trafficked victims across borders. Traffickers

also actively use social media platforms such as Facebook to recruit unsuspecting victims. Other recruitment strategies employed by the traffickers include pretending to be in love with potential female victims and arranging to travel with them to South Africa (SADC Secretariat, 2016). Evidence indicates that some traffickers also employ a “second-wave recruitment” strategy, where they use trafficked victims to bait new victims by sending brainwashed victims to their local communities to help recruit potential victims (SADC Secretariat, 2016). One of our respondents shed light on the recruitment practices adopted by traffickers:

“I think this really varies and I think I’m only going to talk about a specific case where I have experience around. Recruiters or, I’m sorry I’m forgetting the word now you’ll find it in our research report that I did on De Doorns, which is a rural farming area in the Western Cape. And there you often have recruiters that are representatives of nationalities and they work with managers and farmers to bring in seasonal labourers and farmworkers and really none of them are licensed. They are the ones who can provide services, they often provide transport. And of course, they are the connection point (intermediaries) between the farmer and the worker. And so, there’s a service there, but they take a significant portion of the salary and the way the daily wage is paid, and this area is not regulated at all. From what I could gather in that research.”

An official with the South African Human Rights Commission details some of the recruitment strategies used by the traffickers:

“I think it’s quite prevalent especially in the Somali community. You will find that, in the Somali and DRC community, one member of the family will come to South Africa, and they will start their life from South Africa, they’ll get documented etc. And then, in two or three years’ time, they will somehow smuggle the entire family through Beitbridge border or some other border. And then they will come in and they will say yes, it’s my wife or it’s my daughter. Yeah, it’s quite prevalent...I think it has increased because the border management is quite terrible, and also the regulation of migrants in terms of DHA [Department of Home Affairs] documentation has made it easy for migrants to be able, especially refugees, to be able to add on more family members. So some of them are exploiting the documentation...I would say it’s the Somali community. They bring a lot of a family members into South Africa, and also say the same with the Congolese. The Congolese have this fascinating thing that they do of bringing in brides, so basically there is an agent or person in South Africa, who they approach to find them a bride at home. And the person would then negotiate with that other person’s family in the DRC for this young woman to be brought to South Africa for marriage. I call it marriage migration.”

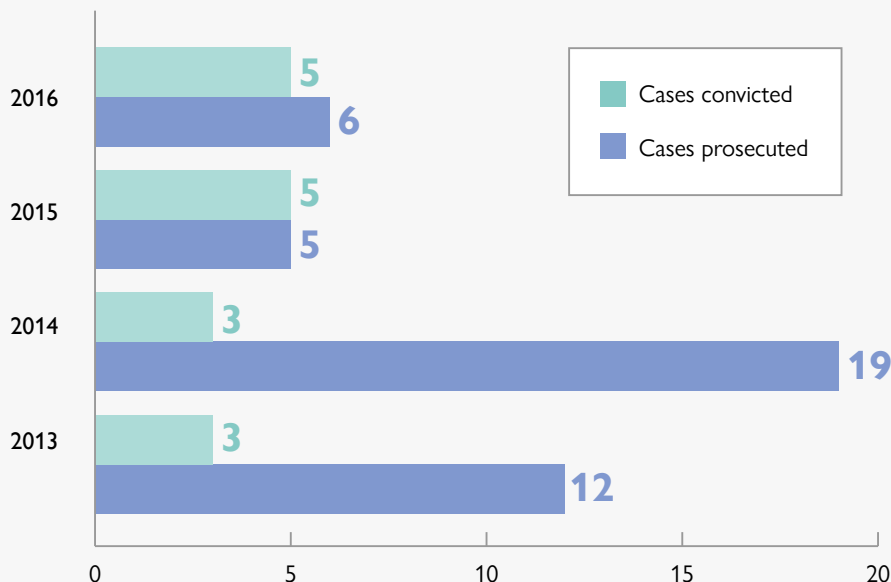
16.4 PROSECUTIONS AND VICTIM SUPPORT

There is evidence of investigation and prosecution of confirmed cases of trafficking and forced labour. The enactment of the Prevention and Combating of Trafficking in Persons Act, No. 7 of 2013, set South Africa apart as one of the countries with a robust policy framework to counter trafficking in persons, which offers maximum prison sentence (up to life imprisonment), or fines for culprits of human trafficking. However there are instances where traffickers have been let go without any sentence. Moreover for eight consecutive years, the Government of South Africa made no effort to implement the regulations for the 2013 Prevention and Combating of Trafficking

in Persons (PACOTIP) act spelled out in the immigration provisions (US Department of State, 2021). This led to South Africa being downgraded to the Tier 2 Watchlist category. Data that spanned from 2014 to 2016 show that 64 suspected traffickers were in the grip of law enforcement agencies. Assessing the data along gender lines unveiled that greater number of the offenders were males. In 2020, 31 suspected cases of trafficking were investigated, which represents an increase compared to the year 2019, when only 24 new cases were investigated (US Department of State, 2021).

A total of 30 culprits were arraigned before courts within the period under consideration and 13 of them were convicted. The details of court prosecutions and convictions are shown in Figure 26.

FIGURE 26: Cases that underwent judicial prosecution



Source: US Department of State, 2021.

Reports from the US Department of State show that government efforts at identifying, investigating and prosecuting trafficking cases seem to have lost steam as of 2020, because many reported cases went uninvestigated. According to US Department of State (2021), the South African government investigated a total of 31 potential cases of trafficking in 2020, compared with the 24 cases it had investigated in 2019. The government initiated prosecutions against all of the 31 cases investigated in 2020, while continuing the prosecution of 14 cases from 2019. About 71 traffickers were also prosecuted in 2019. Of the prosecuted cases, eight traffickers were convicted in 2019 and seven were convicted in 2020. Two convicted traffickers were given life sentences, whereas five other convicted traffickers were handed between 22- and 25-year jail terms. Previous reports show that 34 sex traffickers were convicted for grooming girls for sexual exploitation, sexual exploitation and solicitation, as well as for keeping a brothel (US Department of State, 2021).

Aside from prosecutions, the Government of South Africa made support services available to 105 victims including shelter in 2020, while 210 victims were provided with shelter in 2019 (US Department of State, 2021). NGOs collaborated with government institutions to provide the support services. Nonetheless, available reports show that there were times when the number of victims to be sheltered outweighed the number of shelters available. Further, other trafficked victims, considered to pose security risks and those on drugs, tend to receive less support from government-led support services.

16.5 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

South Africa has enacted and ratified the following legal and legislative frameworks to counter trafficking in persons and forced labour and sexual exploitation (see United Nations, 2019):

- (a) Prevention and Combating of Trafficking in Persons (PACOTIP) National Policy Framework of 2019
- (b) Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007 (CLAA)
- (c) Basic Conditions of Employment Act of 1997 (BCEA), amended in 2014
- (d) Children's Amendment Act of 2005
- (e) Prevention of Organized Crime Act of 1998
- (f) United Nations Convention on the Rights of the Child, ratified in 1993

Other established laws and regulations aimed at criminalizing trafficking in persons and forced labour are as follows (Bureau of International Labor Affairs, 2020):

- (a) Prohibition of Forced Labour (Section 4–5 of the Prevention and Combating of Trafficking in Persons Act of 2013)
- (b) Prohibition of Child Trafficking (Article 141 of the Children's Amendment Act 39)

- (c) Prohibition of Commercial Sexual Exploitation of Children (Article 141 of the Children’s Amendment Act; Chapter 3 of Criminal Law Amendment Act 32, 39, & 41)
- (d) Prohibition of Using Children in Illicit Activities (Article 141 of the Children’s Amendment Act 39)

An official with a South African institution confirms the availability of laws criminalizing trafficking in persons:

“Yeah, absolutely. And I think you can look, the Department of Justice has various laws on all of this. There’s obviously labour law. I think there’s, I can’t remember the name of it, but there’s an anti-human trafficking bill. There are all sorts of formal and legal mechanisms and protocols and labour practices that are supposed to protect against this. And, you know, the law enforcement and various other elements around it are a limited, and exploitation as I’ve already said can happen in various ways, for migrants fairly easily.”

16.6 NATIONAL COORDINATION MECHANISMS

There is evidence of coordination among relevant stakeholders in fighting trafficking in persons and forced labour. For example, the South African Department of Employment and Labour (SADOL) works closely with the South African Police Service (SAPS) and the South African Department of Justice and

Constitutional Development (DOJ) to prohibit and punish trafficking and forced labour and sex crimes (Bureau of International Labor Affairs, 2020). SADOL conducts inspections of worksites to identify cases of forced labour and refers identified cases to SAPS for further investigation. SAPS, in turn, then refers confirmed cases of trafficking and forced labour as well as sexual exploitation to the DOJ for prosecution.

In addition, the DOJ also enforces laws criminalizing sex trafficking and forced labour. The Directorate of Priority Crime Investigation also works hand in hand with the National Prosecuting Authority to record all cases to build up cases with strong evidence for prosecution.

There are also coordinating bodies established by government, such as the Implementation Committee on Child Labour, the Provincial Child Labour Inter-Sectoral Support Groups and the National Trafficking in Persons Task Team, which work in tandem with each other. As an example, the Implementation Committee on Child Labour raises critical consciousness on child labour issues with the aim of influencing government policy (Bureau of International Labor Affairs, 2020). While the National Trafficking in Persons Task Team oversees and coordinates the South African government’s anti-human trafficking activities, the Provincial Child Labour Inter-Sectoral Support Groups focus on the prevention of all types of child labour in the country (Bureau of International Labor Affairs, 2020).

17. TANZANIA



17.1 PREVALENCE OF FORCED LABOUR, MODERN SLAVERY AND TRAFFICKING IN PERSONS

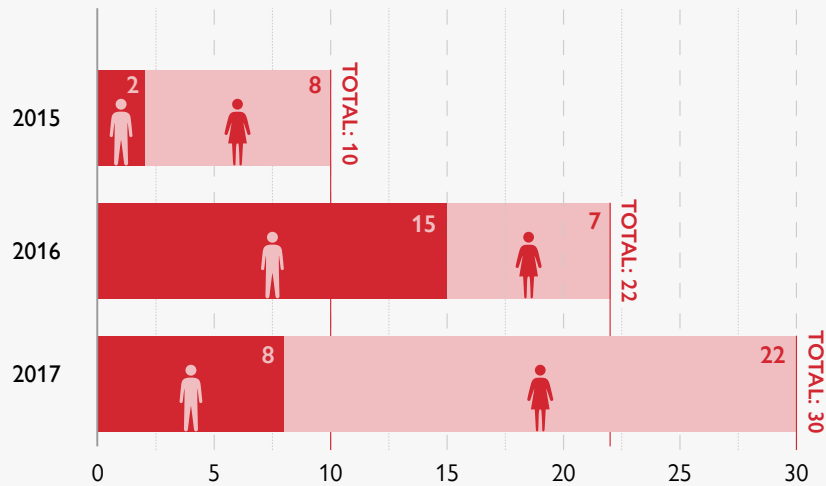
The assessment shows that Tanzania is regarded as a source, transit and destination country for trafficking in persons and forced labour. According to the SADC Secretariat (2016), victims of trafficking are mostly recruited from Tanzania to three main destination areas: Asia, South Africa and the Middle East. Victims of trafficking within the country are trafficked from Asian countries and Burundi. In the same vein, Tanzania serves as a transit country for victims being trafficked from the Horn of Africa to Europe and South Africa. In 2014 there were 74 reported cases of trafficking in persons in Tanzania (SADC Secretariat, 2016). This figure dropped by more than half in subsequent years. Between 2015 and June 2017, a total of 27 cases of TIP were reported, but the number of victims stood at 62 over the same period (UNODC, 2017). Victims of trafficking are mostly Tanzanian nationals: for example, of the 22 victims of trafficking in persons, 18 were deemed to be nationals of Tanzania, while the remaining four were Malawians.

However, available data on TIP shows year-on-year increases in the number of victims that

were identified by the Tanzanian authorities. Within the three-year span, the number of identified victims tripled. This outcome may point to an increase in the prevalence of trafficking in Tanzania, or better, an increase in surveillance by law enforcement authorities that is translating into the exposure of individuals and entities that traffic people in Tanzania.

Another key observation seen in Figure 26 is the significant increase in the proportion of females that were subjected to trafficking over the 2016–2017 reporting years. The higher incidence of female trafficking may reflect deeper women’s vulnerability issues, such as labour market discrimination and gender-based violence.

Apart from the information illustrated in Figure 26, more recent data show that the number of TIP cases identified in 2020 remained at 165, with females accounting for approximately 88 per cent (US Department of State, 2021). Also, 139 of the victims identified were children, thereby implying that female child trafficking may be a common phenomenon in Tanzania. The announcement of in-country family reunion activities and other related repatriation activities to and from Tanzania also indicate that the country is a victim-sending and victim-receiving, as well as a victim-transiting hub.

FIGURE 27: Total number of TIP cases by sex

Source: UNODC (2017).

Interviews with return migrants who were previously recruited for work purposes outside of Tanzania revealed that the types of forced labour experienced include: excessive overtime (beyond national average working hours), physical and sexual abuse, and withholding of wages. One migrant who spoke about sexual and physical abuse said:

“The employer always to talk bad word to me (Matusi). They don’t respect their employee and indirect they ask you to have sex with them. They always give me hard work until I promise to have sex then they will give you light work.”

Another migrant who spoke of excessive work narrated:

“My previous employer always makes me work for additional 8 to 12 hours without being paid.”

A government official interviewed narrated the various constraints and forms of forced labour faced by migrant workers who use the services of recruitment agencies:

“The constraints that migrants faced when they use recruitment agencies including to untruth data of country and employers, deceit, bad action from recruitment agency, to get fake promise of work type and salary to be paid low in the migrate country. In previous/past years, Tanzania domestic workers failed to get their salaries before 2017.”

According to Walk Free Foundation (2018a) an estimated 336,000 persons in Tanzania were living in modern slavery in 2018. Moreover, for every 100 persons, 61 are deemed vulnerable to modern slavery and the modern slavery prevalence index rank for Tanzania is 51/167. Speaking about the prevalence of modern slavery

in Tanzania, a government official interviewed at the Immigration Department said:

“Modern slavery is there, often. The young women go in Asia for selling themselves. Common smuggling routes are many including Tanga (Ethiopians pass there on transit to South Africa), Kilimanjaro region, Indian Ocean zone. Bounded areas like Kagera and Kigoma (Burundi smuggle there). The factors account for smuggling are many, includes seek for livelihood through engaging in cheap labour and small business. In Tanzania smuggling decreasing so much due to high technology used nowadays”

17.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

The main sectors in which trafficking in persons, forced labour and modern slavery occur in Tanzania include the domestic sector, the commercial sex industry and agriculture. For example, young girls who move from rural areas to urban centres to work as domestic servants in Tanzania are noted to experience exploitation and there are widespread cases of child sex-trafficking along the Tanzania–Kenya border. Along the same border, girls are exploited mainly through forced sexual services, whereas their male counterparts are forced to engage in forced labour in farms (US Department of State, 2015). Other sectors in which sexual and labour exploitation have been reported include the mining, fishing and construction sectors (Mhango, 2012).

17.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

The assessment shows that in Tanzania, women and girls are most vulnerable to trafficking in persons, although some men and boys are also vulnerable. Among the different social groups, the unemployed, the poor, orphaned and illiterate people have been reported to be the most susceptible to trafficking. According to the UNODC (2017), between 2016 and 2017 most victims of trafficking in persons per year were younger than 18 years, and this affirms the vulnerability of children to trafficking in persons and forced labour in Tanzania.

The US Department of State’s Trafficking in Persons Report (2021) found that impoverished orphan and vulnerable children with disabilities and those from rural areas, as well as Congolese and Burundian refugees and migrants, are the most vulnerable social groups at risk of trafficking in Tanzania.

17.4 RECRUITMENT PROCESSES

In conducting in-country trafficking, traffickers convince their friends and family members of their victims (mostly rural inhabitants) that they would be offering the victims better employment and education opportunities in their urban areas. As a result of their convincing promises, they win the confidence of their victims and families. However, upon arrival in the urban areas, the vulnerable children, women and men are exploited against their will.

Evidence from US Department of State (2021) shows that traffickers often lure intermediaries, friends and even family members into aiding traffickers in their exploitative tactics by promising assistance with securing employment abroad or in urban areas, education, or better standards of living. The Government of Tanzania notes that brokers sometimes enter local communities to recruit and transport vulnerable victims into trafficking conditions.

17.5 PROSECUTIONS AND VICTIM SUPPORT

The assessment shows that prosecution and conviction of trafficking cases remain essentially low in Tanzania. Of the 10 cases of trafficking in persons cases, only one conviction was obtained in 2015 (SADC Secretariat, 2016). Evidence from US Department of State (2021) suggest that in 2019, the government investigated 19 trafficking cases and further arrested 21 suspected traffickers, compared with 17 cases in 2018. A total of 18 prosecutions were reported, involving 18 alleged defendants. Around 18 prosecutions and eight convictions were recorded in 2019, compared with three convictions in 2020 under the 2008 anti-trafficking law. One offender received a conditional release instead of a prison sentence for allegedly exploiting a child (labour trafficking), one was sentenced to three years' imprisonment, and another culprit was fined fine of TZS 10 million⁵ in lieu of imprisonment for child sex trafficking (US Department of State, 2021). A Somali Tanzanian citizen was charged in December 2020 for allegedly trafficking six Burundian women to Saudi Arabia for domestic work. The case was still ongoing at the end of

the reporting period for the trafficking in persons assessment by the US State Department.

In terms of victim support, information handed over from the government to US Department of State's Trafficking in Persons Report (2021) suggest that the government-initiated referral agreements with vetted NGOs to provide counselling, psychosocial support, medical care and family tracing for victims, with child victims being placed in specialized shelters where they were given vocational training or enrolled in public schools. Separate accommodation was provided for girls and boys. While female victims could seek assistance at shelters allocated to young girls, such shelters were absent for adult male victims (US Department of State, 2021).

17.6 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

Tanzania is signatory to the United Nations Convention on United Nations Convention on Transnational Organized Crime (UNTOC) and the Protocol to Prevent, Punish and Suppress Trafficking in Persons, Especially Women and Children. In order to domesticate the international protocol, Tanzania was among the first SADC countries to enact legislation that criminalizes trafficking in persons and forced labour, following the enactment of the country's Trafficking in Persons Act, No. 6 in 2008. The standard mechanisms for identification, systematic investigation of cases, and provision of support and assistance for victims of trafficking in persons was launched in 2015. Regulations for the setting up of centres for protection

⁵ USD 4,273 in March 2023.

and treatment of victims were also published in 2015 (SADC Secretariat, 2016; UNODC, 2018). A government official interviewed in Tanzania highlighted some regulations and legislative instruments to address the issue of forced labour in the country:

“There are laws of in relation in work. The Children Act of 2010, and Protocol Convention on Child No. 138. We also have Strategic Plans for elimination child labour 2018–2021 in Tanzania.”

As far back as 2008, Tanzania adopted a legal framework that prohibits acts of human trafficking. The Police Department and Immigration Bureau, as well as other government agencies, act as key implementers of the law. Standardized protocols are utilized in identifying victims and perpetrators of trafficking offences. The first Tanzanian National Anti-trafficking in Persons Action Plan (2015–2017) identifies the Children Act, No. 6 of 2011, the Immigration Act 1995, Penal Code Cap 16 (R.E. 2002), Penal Act No. 6 of 2004 and the Law of Children Act, No. 21 are some of the key legislative instruments that criminalize trafficking in persons in the country (SADC Secretariat, 2016). In 2016 the Government of Tanzania launched its second National Anti-Trafficking in Persons Action Plan (2018–2021) with a strategic focus on areas such as improving prevention and public awareness-raising, capacity-building for skills enhancement, victim and witness support, research and information sharing, communication, coordination and cooperation, monitoring and evaluation, and resource mobilization to address trafficking in persons (United Republic of Tanzania, 2018).

17.7 NATIONAL COORDINATION MECHANISMS

It is also anticipated that the adoption of the 2018–2021 national action plan will be a sure pathway to ensure awareness creation and higher compliance to the statutes that guide decent labour engagement in the country. Periodic monitoring of large employers in Tanzania is also one of the legal implementation strategies that aim at discouraging forced labour practices in Tanzania. Information gathered from US Department of State (2021) shows that the government continued to coordinate information-sharing between the Department of Social Welfare and the All-Terrain Service Group ATS, while the social Welfare department worked in close collaboration with designated gender desk officers and the police to identify and refer victims for support and assistance. Moreover, NGOs, CSOs and government officials worked closely to identify and refer victims for care and assistance

18. ZAMBIA



18.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Zambia is a source, transit and destination for trafficking in persons. Victims of trafficking in Zambia are from Malawi, Mozambique, the Democratic Republic of the Congo, Zimbabwe and Asia, while Zambian victims of trafficking are in neighbouring States, South Africa, West Africa, the United State of America and Europe. Forced labour and trafficking are quite prevalent in the border areas, where there are agricultural activities. For example, migrants come from the Malawi–Zambia border in order to find jobs of some kind on the farms, as indicated by a government official:

“What we have discovered is that Zambia is mainly used as a transit country; migrants who have been smuggled from Somalia, Ethiopia, Burundi and on their way to South Africa are kept in Zambia for weeks whilst the smugglers or traffickers prepare for continued movement to South Africa. They use the great north road – Nakonde through Lusaka up to Chirundu border – sometimes, they turn to Siavonga or Livingstone.

Some common smuggling routes include Copperbelt through Kasumbalesa border and Tanzania–Dar es Salaam border.”

According to the UNODC data, while in 2004 Zambia recorded a total of two trafficking cases, the number increased to as high as 27 cases and later in 2006 reduced to eight. The country reports given to the US Department of State (2021) in 2020 also shows that Zambia recorded 17 potential trafficking cases, out of which two were sex trafficking, eight were forced labour and the rest were unknown. This fluctuating nature of the numbers is due to several challenges, including the inconsistent nature of reporting in the country. The prevalence index rank of Zambia is 60 out of 167, which means that the modern slavery is highly prevalent in the country. An approximated 5.74 victims per 1,000 of the population live in modern slavery (Walk Free Foundation, 2018b).

The vulnerability to modern slavery in the country is estimated as 55.22/100, depicting that out of every 100 people, 55.22 are vulnerable to modern slavery (Walk Free Foundation, 2018b). Out of the 199 potential victims, 177 were foreign nationals from Ethiopia, the Democratic Republic of the Congo, Burundi, Malawi, Rwanda, Kenya, Somalia and Zimbabwe.

18.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

Most trafficking occurs within the country's borders and involves traffickers exploiting women and children from rural areas in cities in domestic servitude or forced labour in agriculture, textile production, mining, construction, small businesses such as bakeries, and forced begging (US Department of State, 2020). Different forms of exploitation exist among trafficked victims in Zambia, including abusive working and living conditions and excessive overtime. One of the respondents said she works 14 hours a day and this is normal as part of her daily routine to work. She said, *"This challenge is still going on where I work like someone without feelings. I hope to overcome one day by starting my own business."* On the abusive working and living conditions one of the victims shared her experience: *"I am forced to work on public holidays without any incentive."*

18.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

Both adults and children of different sexes are involved in this act. However, the most vulnerable group in Zambia is children, both boys and girls.

As captured in Figure 28, 97 per cent of the victims are males, whereas the remaining 3 per cent are females. Undoubtedly, the higher representation of males among the victim population may mirror the kind of exploitation that was prevalent within the reference period. With the precedent set from historical practices in which males were exploited for work purposes (in agriculture, mining, construction, textile production and forced begging), one can deduce that most of the victims went through labour exploitation.

The concentration of these victims between the 18–34 age bracket may also reinforce the fact that young males were being exploited in the Zambian labour market. It is also compelling to know that the second most dominant class of victims falls below 18 years (33%), and by extension, it would be rational to conclude, based on the evidence carved from the data, that younger individuals below the legally accepted age for working were being subjected to forced child labour.

FIGURE 28: Number of TIP victims by age and sex

Source: UNODC (2017).

Similarly, the recent US Department of State data also indicate that out of the 17 cases recorded in 2020, there were 199 potential victims, with more males, numbering as high as 166, and 33 female victims (US Department of State, 2021). In addition, there were 73 adults and 126 children; 22 Zambian nationals were victims, while the others were foreign nationals. Apart from the gender composition, Zambia recorded as many as 126 children as potential victims, while adults numbered 73. Other categories of vulnerable migrants to trafficking and all forms of forced labour include rejected asylum seekers, unaccompanied and separated children, stranded migrants in need of protection assistance, stateless migrants, the unemployed, poor people and orphans. A government official further explained the vulnerabilities as follows:

“High fees are charged for the services recruitment agencies offer. More often than not, the workers have to work a number of months if not few years just to repay the cost of the recruitment process. The first two years of a person working abroad are basically zero income, because all the money is being used to repay. Then there is vulnerability that arises from not understanding the contract or the type of work being offered that comes down to language capabilities or not being able understand the type of contract you have been signed, also not understanding the expectations of the contract. There is also the issue of contract substitution, by the time the migrant arrives, the contract that was signed in the country of origin

is modified or torn apart. Migrants have had to sign new contracts with less wages. Then there are all kinds of costs that the worker has to bear in getting the recruitment which aren't necessarily going to be covered by either the employer or the recruitment agency. All these challenges make the potential migrant vulnerable to trafficking and all its forms."

skilled migrants like doctors and nurses use the registered recruitment agencies to facilitate their migration to Europe. Conversely, most unskilled migrants within the subregion use the informal recruitment agencies to migrate into or out of Zambia. It is also important to mention that there are some companies in Zambia that have their own systems in place or departments in charge of recruiting migrants themselves. This arrangement is found in some mining companies.

A government official explained with an example:

18.4 RECRUITMENT PROCESSES

Migrants are recruited by both registered and unregistered recruitment agencies. Some of these unregistered recruitment agencies are families, friends and agents who are not recognized or registered with the labour department. The data show that recruitment agencies are spread all over the country, particularly in cities and border communities, as indicated by a government official:

"Most of the time the agencies are illegal, and you mainly find them in big towns like Lusaka as well as border towns. These towns include Chirundu, Livingstone, talking of Mwami border in Eastern province and above all Nakonde border. Of course, when we talk about locally the town are Lusaka and Copperbelt, but across the borders the target is South Africa."

These agencies are used by different categories of people. On the one hand, skilled migrants from Asia, mainly China and India, use the registered recruitment agencies to facilitate their migration to Zambia. In the same vein,

"There was a case some few months ago when some Ethiopian nationals were smuggled into the country... Some common smuggling routes are on the Copperbelt through Kasumbalesa boarder and Tanzania–Dar es Salaam border. Mostly it is cheap labour, when they smuggle those people into the country it means that they will be loyal to the person bringing them. This means that they cannot talk about their conditions of service, they won't talk about the wages in fear of being sent back to their country of origin or since they do not have permits and they are in the country illegally, so they are not able to speak out. So, it is a way of exploiting those people so that they don't talk about their wages or their conditions of service ... The most prevalent cases are those where these migrants are promised better jobs as domestic workers and then when they reach the country they are made to work under inhumane conditions. Some of them do not even get the minimum wages stipulated by the laws in this country."

18.5 RISK FACTORS AND CAUSES OF TRAFFICKING

The key informants indicated that most of the victims come from a less privileged background; these are people who have faced a lot of challenges in their lives and are quite vulnerable in society. They might also experience exploitation and receive lower salaries than expected as a result of migration.

Drivers leading to trafficking and all forms of forced labour in Zambia include poverty, unemployment and job insecurity, natural disasters and climate change, orphanhood and fractured family structures. The data show that the current harvesting period in the country has increased the number of victims. They come to Zambia to make money and this also increases child labour.

Drivers resulting in trafficking and all forms of forced labour include improved standards of living and perceived better life elsewhere, demand for cheap labour, porous borders (Zambia has 46 official border posts, which are mostly porous), low risk perception and high profits for traffickers/smugglers. One of the victims narrated their lived experience:

“I am from Rwanda, to be precise Kigali. In the first place, I migrated to Tanzania where I stayed for nine years. Later on, I migrated to Zambia. I travelled by road from all these destinations. I choose to settle in Zambia because of political stability. I was looking for safety and my way out of for survival during that starvation period. I was floated by a certain woman that in Tanzania there is a better job where

you can be getting better money for yourself to survive. She promised me that some of my friends who are already there were doing very fine.”

18.6 PROSECUTIONS AND VICTIM SUPPORT

Of the 199 potential victims, 140 of them were reported by the government as serving jail sentences, in correctional facilities, or in detention. In 2020, the government initiated eight new prosecutions involving 11 defendants, compared with four prosecutions involving eight defendants reported in 2019. Seven of these cases, as well as three prosecutions initiated in 2019, remained ongoing at the end of the reporting period. The government did not convict any traffickers in 2020, compared with four convictions in 2019. Courts acquitted two alleged traffickers in 2020. However, there are still some challenges to be addressed and these include the absence of any provisions in the Trafficking Act to protect vulnerable persons who are being smuggled, such as children. Zambia considers both the smuggler and the smuggled person, irrespective of age or vulnerability, as perpetrators liable for mandatory sentences of not less than 15 years' imprisonment.

18.7 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

The Government of Zambia does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. To address human trafficking and smuggling problems, the Government of Zambia has ratified several international and regional instruments such as the Universal Declaration of Human Rights (1948); the International Covenant on Civil and Political Rights (1966); the International Covenant on Economic, Social and Cultural Rights (1966); the 2000 United Nations Convention against Transnational Organized Crime (UNCTOC); the 2003 Protocol to Prevent, Suppress and Punish Trafficking in Persons (the Palermo Protocol); the 2004 Protocol on the Smuggling of Migrants by Land, Sea and Air; the 1986 African Charter on Human and People's Rights; and the 1999 African Charter on the Rights and Welfare of the Child. Additionally, the smuggling protocol has been domesticated by making provisions for the criminalizing and prosecuting of smuggling within trafficking laws. In 2008, Zambia enacted the Anti-Human Trafficking Act, which provides for the prohibition, prevention and prosecution of human trafficking, as well as for dealing with matters related to human trafficking. It also prohibits smuggling of persons. The overall goal of the National Policy to Combat Human Trafficking is to combat trafficking in persons effectively in Zambia. The Policy was developed on the premise that human trafficking violates numerous fundamental rights recognized by international law and the Constitution of Zambia. Broadly, the Policy focuses on prevention, prosecution, protection, multilateral cooperation, institutional capacity and coordination.

The Employment Code Act (Act No. 3 of 2019) regulates the employment of persons; prohibits discrimination at an undertaking; constitutes the Skills and Labour Advisory Committees and provides for their functions; provides for the engagement of persons on contracts of employment and provides for the form and enforcement of these contracts; provides for employment entitlements and other benefits; provides for the protection of wages of employees; provides for the registration of employment agencies; regulates the employment of children and young persons; provides for the welfare of employees at an undertaking; and provides for employment policies, procedures and codes in an undertaking.

Zambia has a standing MoU with South Africa. The MoU deals with the protection of both Zambian emigrants and potential Zambian emigrants in South Africa. The Government of Zambia has also signed bilateral agreements with Seychelles on recruitment of teachers. In those programmes, there are reporting measures to protect migrants, for example, paying them better wages and compliance with the minimum wage of Zambia. The government as at the data collection period planned to launch a national call centre to assist in the reporting of human trafficking and smuggling cases.

18.8 NATIONAL COORDINATION MECHANISMS

Zambia has an Inter-Ministerial Working Committee that focuses mainly on broad migration issues. However, the country also has specific sector committees on human trafficking and mixed migration. There is the National

Secretariat on Human Trafficking and Mixed Migration and a Steering Committee for the National Action Plan for Addressing Mixed and Irregular Migration. The committee is made of line ministries under its anti-trafficking law.

- (a) A Technical Working Group on Labour Migration was also formed in 2016 to support the implementation of the SADC Labour Migration Action Plan. However, while this Technical Working Group continues to exist in theory, it does not meet regularly.
- (b) The Immigration Permits Committee (IPC) further acts as a coordination mechanism on migration governance at the national level. The Ministry of Labour and Social Security, together with the Ministry of Home Affairs, is part of the IPC.

19. ZIMBABWE



19.1 PREVALENCE OF FORCED LABOUR AND TRAFFICKING IN PERSONS

Our assessment found that Zimbabwe serves as a transit and destination country for trafficking in persons for sex purposes and forced labour. Ethiopians, Somalis, Zambians and Malawian nationals are trafficked through Zimbabwe en route to South Africa (US Department of State, 2021). There appears to be gradual, but incremental growth in the cases of trafficking in persons reported in Zimbabwe over time. While about 75 reported cases of trafficking in persons were recorded over the period 2014–2016, the figure for 2014 was three, but this rose sharply to 72 in the year 2016 (UNODC, 2018). The SADC report further notes that most of the victims of trafficking in Zimbabwe are trafficked to Kuwait with just a few who are trafficked to Angola for purposes of prostitution and sexual exploitation.

However, data obtained from the Zimbabwe Republic Police, which focused on the 2016 and 2020 reporting years, offer stakeholders a statistical impression of the nature of the human trafficking situation in the country. The data reported in Table 5 show that the number of trafficking cases observed in Zimbabwe increased

more than sevenfold within a two-year period. Generally, the number of females that were subjected to abuse is greater than that of their male counterparts. It can also be observed that whereas the number of male victims dropped from three to one, the number of females increased almost tenfold.

TABLE 5:
Total number of TIP cases
detected in Zimbabwe

Year	Male	Female	Total
2016	01	80	81
2017	04	01	05
2018	01	00	01
2019	01	02	03
2020	00	01	01
TOTAL			91

Source: Government of Zimbabwe (2021).

Categorizing the identified victims by age shows that 84 of the victims (92%) fall within the youth bracket. This makes them economically relevant for all manner of exploitative activities that traffickers may be inspired to undertake. The remaining seven victims who fall between the ages 35–60 years are also by and large physically fit for exploitative activities (see Table 6). It is therefore not surprising that the traffickers focused on getting hold of these categories of victims.

TABLE 6:
Number of TIP victims by age group

Age Group	Total
Less than 18 years	-
18-34 years	84
35-60 years	7

Source: UNODC (2017).

Modern slavery also represents an important human development challenge in Zimbabwe. According to the Walk Free Foundation (2018b), an estimated 105,000 persons were living in modern slavery in Zimbabwe. Moreover, Zimbabwe is ranked as 47/167 in the modern slavery prevalence index rank, and for every 100 people, 66 are regarded as vulnerable to modern slavery in the country. Commenting on the prevalence of modern slavery in Zimbabwe, a government official interviewed stated:

“Zimbabwe is usually the source and a destination of smuggled migrants in terms of its migration profile. We are now aware that migration happens within the regular and irregular spectrum. People use porous borders, and that is often facilitated by those that know particular routes. There are people there in the SADC border regions that use a lucrative business for smuggling people through ways of irregular crossing.”

With regard to forced labour, there is some evidence of female Zimbabwean nationals who were repatriated from Kuwait after being exploited in domestic servitude (SADC Secretariat, 2016). In 2020, one international organization and two non-governmental organizations identified 91 suspected cases of trafficking victims, including 67 children

exploited in sex trafficking and 17 Zimbabwean adult females who were subjected to mixed forced labour and trafficking in Kenya, Iraq, Uganda and within Zimbabwe. Also, around 350 child sex trafficking victims were reported near the Mazowe mines by the media and NGOs. Observational data gathered by an environmental group found that more than 38 children as young as 14 years of age were forced to sell drugs and were exploited at a gold and diamond site (US Department of State, 2021). Our interviews with government officials and return migrants highlight the prevalence of various forms of forced labour faced by female Zimbabwean nationals, including abusive working and living conditions, excessive overtime (beyond national average working hours), deception, restriction on movement (e.g. use of surveillance cameras and guards), isolation (i.e. difficulty in identifying recruitment agencies), physical and sexual abuse, intimidation, and threats (e.g. loss of wages, threat of sack), retention of identity documents, withholding of wages and absence of sick leave. These forms of forced labour experiences are particularly prevalent among female nationals who travel to Kuwait to undertake domestic work. A return migrant interviewed narrated the horrible experiences of forced labour that she and some of her friends experienced when they were recruited through a private agency to travel to Kuwait for work:

“They deceived us on the nature of the jobs that we were going to do in Kuwait. Some of the people were sold as maids and were abused by their employers. We were not allowed to move around. The only time we left the premises was when we were going for shopping or when going out with a client. We would work very hard to keep the home clean and to remain attractive to clients. We stayed in a big room, and we were not allowed to go out of

the premises. We will only go out if we have a client or someone to monitor us. We were forced to be sex workers even when one was sick, we would be forced to do the job. We could not even locate the Zimbabwean embassy or any associations to help us, because we were always locked up. All my documents were taken as well as my phone. I was not paid any wages, even when a client gave us tips we would surrender all the money to the boss lady. The only thing they did was to send my family money.”

Another female return migrant recounted the various forms of forced labour she encountered:

“The common things that cause disputes are working overtime, late payment of wages, unfair dismissal and being beaten by employers. I have worked for two companies, the first employer would beat the employee if they are suspecting that the person has stolen something. I have never been hit by an employer, but have faced some problems of being underpaid, late payment and working overtime.”

An immigration official interviewed also highlighted the widespread nature of various forms of forced labour in Zimbabwe, as follows:

“Many people are working under abusive work environments, being beaten at work, being underpaid, not being valued, being stressed. Some of the cases cannot be reported, but employees are demotivated at workplaces.”

19.2 SECTORS PRONE TO FORCED LABOUR AND TRAFFICKING

Forced labour and trafficking in persons in Zimbabwe occur in multiple sectors, including agriculture, fisheries, domestic service, forestry, illegal mining operations and the informal sector. According to US Department of State (2021), nearly three quarters (71%) of forced labour among children occurs in the forestry, agriculture (sugarcane, tobacco and cotton) and fisheries sector, where many children are compelled to weed, harvest, spray and pack goods. Child labour is reported to have increased particularly in artisanal work, domestic service, agriculture, begging and informal trading, owing to deteriorating economic conditions as well as the COVID-19 pandemic and associated lockdowns and school closures (US Department of State, 2021).

There are widespread reports of exploitation of rural women and children, who are recruited to carry out domestic work or forced labour in small businesses, construction, agriculture, textile production, forced begging and bakeries. Zambian children are mostly coerced to engage in forced labour in illegal mining operations, including crushing rocks or processing stolen copper in Zimbabwe (US Department of State, 2021).

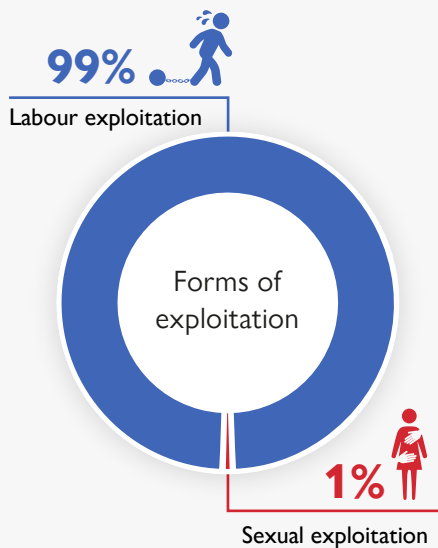
The dominant form of exploitation in Zimbabwe as reported by the government authorities is labour exploitation. From the data reported, 90 out of the 91 victims identified were individuals engaged in unfair labour activities (see Figure 29). The remaining person was sexually exploited.

Zimbabwe is noted for its high rate of internal trafficking, in which most victims, ranging from children to adults, are forced to engage in

on-farm activities, more especially on tobacco, sugarcane and cotton plantations. In addition, some of the victims, including young children, engage in cattle herding, as well as domestic help services. Some of the victims of trafficking also work actively in gold and iron ore mines. Besides, traditional practices that entail giving the hand of young girls in marriage and also exchanging children for money further worsen the fight against trafficking.

the 80 victims of trafficking in persons recorded in 2016, nearly all (79) were female victims. Similarly, in 2014, there were eight female victims of trafficking in persons with just three male victims (UNODC, 2018). Zimbabwean women are one key vulnerable group to trafficking and many encounter exploitation in sex trafficking, domestic servitude and forced labour in Kenya, Saudi Arabia, Uganda and Kuwait (US Department of State, 2021).

FIGURE 29: Forms of exploitation



Source: UNODC (2017).

19.3 GROUPS VULNERABLE TO TRAFFICKING IN PERSONS

According to SADC Secretariat (2016), women, the youth, boys and girls represent the most vulnerable categories who are prone to trafficking for purposes of sexual exploitation in Zimbabwe. In terms of sex, there is evidence that among

This highlights the vulnerability of women and young girls to trafficking in persons in Zimbabwe. In terms of the demographic profile, many victims of trafficking in Zimbabwe, according to UNODC (2018), fell within the age bracket of 18–34 years in the years 2014–2016. Females who encounter trafficking in persons are subjected both to labour and sexual exploitation. SADC Secretariat (2016) also identifies the poor, unemployed, orphaned and vulnerable children (OVC), and the illiterate as key social groups that are likely to fall prey to the activities of traffickers. Orphans and street children remain highly vulnerable to trafficking. Again, children who are recruited from rural to urban cities for work may be at risk of trafficking, because of lack of proper scrutiny and verification of the environment on the part of families. Zambian boys and girls encounter sex trafficking in towns along the Zimbabwean and Tanzanian borders by truck drivers, while miners exploit these children in Solwezi. Additionally, Zambian boys have been noted to encounter sex trafficking in Zimbabwe, whereas Zimbabwean women and girls suffer sex trafficking in South Africa. Young Mozambican girls who engage in farm work for their relatives in Zimbabwe are often undocumented and cannot enrol in school, which increases their vulnerability to fall prey to the activities of traffickers (US Department of State, 2021). Zimbabwe children aged nine to 14 years who are engaged as housemaids, nannies and gardeners in cities and in mining communities are

forced to work without wages and with no access to school, and many encounter gender-based violence. The ongoing COVID-19 pandemic has forced Zimbabwean women and girls to travel illegally to South Africa for work, but their lack of legal status increases their susceptibility to traffickers. According to the US Department of State (2021), international criminal organizations have seized and subjected Zimbabwean migrants to sex trafficking in Durban, Musina, Pretoria and Johannesburg in South Africa. There is also widespread trafficking of Zimbabwean women for domestic work in the Middle East.

19.4 RECRUITMENT PROCESSES

Our review and interviews show that there is a mix of both registered and unregistered recruitment agencies in Zimbabwe. False promises, including education, has been the main strategy employed by traffickers to recruit victims of trafficking. False promises of legitimate employment opportunities are employed, often via social media and messaging applications, to lure both adults and children into forced labour and sex trafficking in neighbouring countries, especially in South Africa (US Department of State, 2021). There are reports of false promises of employment to women who are recruited to China and the Middle East for forced labour. In the case of Zimbabwean women and young adults who encounter exploitation in Kuwait, evidence shows that many, if not all the victims, were lured through advertisements in the local media with promises of good working conditions and salaries, air tickets and education (SADC Secretariat, 2016). One case of this trafficking is captured in the box below:

BOX 1: The ordeal of domestic workers in Kuwait: A case from Zimbabwe

Suzan saw an advert on social media about a licensed travel agent who was looking for young ladies to place them jobs in Kuwait. Suzan has a certificate in tourism and hospitality and she heard from friends and read on social media that tourism jobs were easier to find in Qatar, Dubai, Kuwait and other Middle East countries. So, with her certificate and the chance to travel to one of those countries, she quickly contacted the lady and expressed her interest. Suzan was connected to her would-be employer and she was interviewed through a video call. She was promised a job as a waitress at a restaurant with a starting salary equivalent to USD 500 in addition to accommodation and food. A written contract was sent to Suzan to append her signature. Suzan paid USD 500 to the agent in addition to an unspecified amount from her employer to the agent to process her travel document and transportation to Kuwait.

She arrived in Kuwait with other Zimbabwean ladies. Suzan stayed in a hotel for two days during which she communicated with people back home over the hotel's wi-fi. On the third day, the agent took Suzan for shopping and showed her the restaurant where she would be working. Suzan became comfortable in the company of the agent. She took Suzan's travel document to make a photocopy and submit to the employer as well as to process her accommodation. She also took Suzan's phone to buy a sim card for her. When they arrived at where Suzan would stay, there were many ladies there. The beautiful ladies like Suzan were kept there and the older women and other young girls who were less attractive were sent out to worked as maids. The place was very secure at a secluded location.

Suzan was allowed to talk to only one important person to her family back at home. The call must be made in presence of the traffickers and text messages were closely monitored. They were 20 ladies and they work in the restaurant when they do not do not have any client that they

would be asked to entertain. Suzan was forced to have sex with at least three men and six men on weekdays and weekends respectively. She faked sickness on several occasions, wanting to go a hospital to see if a doctor or nurse can rescue her. But each time she was “sick” they arranged a particular doctor to examine and treat her in the brothel. Suzan and her colleagues were closely monitored and whenever they were caught trying to whistle-blow what was happening to guests at the restaurant, they were assaulted. Suzan was not paid directly, rather a total of USD 200 to USD 250 was sent as remittance in her name to her family every month. She was provided with toiletries, make-up and clothing.

Thus, Suzan and her colleagues looked for fellow Zimbabweans with resident and work permits in Kuwait. It took some time before they got somebody who informed the Zimbabwean Embassy. The Embassy did their investigations and involved the police and the brothel, in addition to several others were raided. Suzan and her colleagues were detained at the police station for a few days and were deported to Zimbabwe with the help of the Embassy. Some of their clients refused to use condoms. Consequently, Suzan returned to Zimbabwe as HIV-positive.

Speaking to the recruitment practices of unscrupulous agencies, a government official said:

“We have China, Dubai, Kuwait and Germany. These are the most popular destinations. They normally recruit domestic workers, unskilled labour and drivers. The agencies recruit both males and females from age groups. We do not have much data on this as a country, since these are facilitated by unlicensed recruitment agencies or individuals. They are also very difficult to trace or find especially when they successfully place their clients.”

Another official commented as follows:

“There are unscrupulous recruitment agents and they are operating online. In Zimbabwe we have no recruitment agent licensed for international placements. So, there are high chances of trafficking and abuse of migrants who use unlicensed recruitment agencies. This is many because these agents are not guided by certain standards and are not monitored, so they can be involved in some dodgy activities.”

There are also undocumented Zimbabwean migrants who have been recruited with promises of legitimate employment in the mining sector, but are compelled to carry out illegal activities in the mining industry in South Africa. Media reports also indicate that Zimbabwean nationals in the diaspora, particularly in Ireland and the United Kingdom, coerce fellow country citizens to travel abroad with the promise of securing them with legitimate employment or for tourism purposes, but in the end force them into domestic servitude. There are also reports of young Zimbabwean girls who have been recruited with promises of marriage but during marriage are forced into domestic servitude. Traffickers also exploit Zimbabweans into forced labour for months of work without pay in the mines, factories, hospitality businesses, construction and agricultural sectors (SADC Secretariat 2016; US Department of State, 2021)

In terms of education, traffickers have been reported to use fraudulent scholarship schemes to entice Zimbabwean students to Cyprus for purposes of furthering education, but many end up exploited in sex trafficking and forced labour (US Department of State, 2021). The fact that many of these recruitment agencies

operate online makes it practically challenging, if not impossible, for the government department responsible for labour and employment to effectively monitor the activities of recruitment agencies in Zimbabwe, as reported by a government official interviewed:

“Most of the recruitment agencies are operating online and people are doing the recruitment process online. As a result, we cannot monitor the activities of what happens with the recruitment processes and that makes it difficult to implement specific legal regulations. As a Ministry we are lagging behind technology and it is very difficult to catch up and put our systems in place. We are trying to develop the e-governance systems, but this might take ages for every department to work online. So, the recruitment agencies now operate online and it is very difficult to monitor the unscrupulous recruitment agencies.”

A government official at the Ministry of Public Service, Labour and Social Welfare mentioned that the Ministry was in the process of developing a standard operating procedure with support from IOM to guide fair and ethical recruitment of migrant/workers:

“We are in the process of coming up with a Standard Operating Procedure (SOP) for ethical recruitment with IOM. We noted the increase of people sending people out of the country, yet we did not have proper legislation for it. So, we requested IOM to assist us in that regard. This is something that is on our to-do list this year.”

19.5 PROSECUTIONS AND VICTIM SUPPORT

With respect to prosecution and support, while some efforts are being made to address the issue of trafficking and forced labour, the Government of Zimbabwe is classified as not fully meeting the minimum standards for the elimination trafficking in persons. In 2014, there was one conviction and one discharged case of trafficking in persons. A review of the Zimbabwe National Zimbabwe Trafficking in Persons National Plan of Action (NAPLAC) (2016–2018) shows that between January 2014 and May 2016, 10 cases of trafficking in persons had been prosecuted, but eight were still pending at the law court while the remaining two had been completed. However, US Department of State (2021) reports that only one trafficker was convicted and sentenced to imprisonment during the reporting period. There were 20 pending cases of TIP in 2016 with 36 cases under investigation, whereas 16 trafficking in persons cases had “evidence issues”. The cases under investigation included those where suspects were yet to be arrested, where the accused persons were placed on red notice, or were on the run. Cases under “evidence issues” included instances where the accused person, for reasons of being critically ill, were removed from remand, or where further remand was refused by the court owing to several issues, for example, where the witness failed to attend court proceedings, or the victims were not keen to take the issue any further, or failed to support or cooperate with prosecution (UNODC, 2018).

Table 7 shows the number of cases identified, investigated, and/or prosecuted per year for a five-year period in Zimbabwe. To manage cases of human trafficking, the Government of

Zimbabwe has been able to identify, investigate and prosecute some cases of trafficking between 2016 and 2020, out of which 71 were recorded in 2016, representing 89 per cent of the total case load (see Table 7).

TABLE 7: Number of cases identified, investigated and/or prosecuted per year (2016–2020)

Year	Total
2016	71
2017	02
2018	01
2019	03
2020	03

Source: Government of Zimbabwe, 2021

Over the years, efforts have been made to track down individuals who break the anti-trafficking laws that are in place in the country. Another unique feature that is exhibited within the Zimbabwean jurisdiction is the fact that females indulge in more frequently in trafficking activities than males. For instance, while only two male traffickers were recorded in 2014, 21 female traffickers were identified within the same period. The same pattern was revealed in 2016, when three male traffickers were arrested as against 13 female traffickers who were apprehended in the same year.

In promoting adherence to the anti-trafficking act, the Inter-Ministerial Committee has been serving as the coordinating body that leads the government's efforts in implementing the national action plan. The Ministry of Public Service, Labour and Social Welfare has also been

instrumental in flagging acts of exploitation, as well as screening of victims for onward shelter provision and social support. In summary, it is reemphasized that the continuous detection of issues of trafficking in the country is a litmus test that shows more ought to be done in enforcing the laws that seek to prohibit and prevent human trafficking in Zimbabwe.

19.6 LEGAL AND LEGISLATIVE FRAMEWORKS ADOPTED IN THE COUNTRY

The legal and legislative framework on trafficking of persons and forced labour in Zimbabwe is fairly recent, and the government has been reported to maintain what the Trafficking in Persons Report describes as mixed anti-trafficking law enforcement efforts. Indeed, it was only in 2014 that the Government of Zimbabwe enacted the Trafficking in Persons Act, No. 4. Preceding the enactment of the Act, the government relied on a temporary measure, the Presidential Powers (Temporary Measures) dispensation, to prosecute cases of trafficking. In July 2016 the government launched the Zimbabwe Trafficking in Persons National Plan of Action (NAPLAC) with a focus on prevention, prosecution, protection and partnership/coordination, and cooperation at the regional, national and international levels. A critical review of the Trafficking in Persons Act shows the definition of trafficking focused more on movement-based crime with little attention to “exploitation”. The Act criminalizes the forceful transport of persons and voluntary transport of people for unlawful ends, either outside or within the country. According to US Departments of State (2021), the exclusive focus on transportation and the inadequate

attention to issues of exploitation left Zimbabwe without comprehensive prohibitions of trafficking crimes. A government official interviewed narrated that the Trafficking in Persons Act is the main legal instrument that addresses issues of trafficking and forced labour. The official however recognized that Zimbabwe is yet to develop specific legal instruments that address fair/ethical recruitment of migrants, as seen below:

“There is one so far, the Trafficking in Persons Act. It is mainly executed by the Home Affairs. That’s the one that addresses the issues of trafficking, forced labour and it also has the issues of prosecution of the perpetrators. We are yet to develop an Act on unethical recruitment. They are in the process to develop that, but the most appropriate one is the Trafficking in Persons Act. So that is the Act that is being used by Home Affairs to prosecute.”

Moreover, there is also the Zimbabwe Labour Relations Amendment Act, which criminalizes all forms of forced labour and recommends penalties of up to two years’ imprisonment. Nevertheless, US Department of State (2021) found that the application of this law was less stringent.

There is also the Criminal Law (Codification and Reform) Act, which criminalizes the act of recruiting individuals for unlawful sexual conduct both within and outside of Zimbabwe. The law recommends a penalty of up to two years’ imprisonment, but there are reports of a lack of strict enforcement of the law, particularly when it is applied to cases of sex trafficking. Furthermore, the Act frowns on threats or intimidation used in coercing or

inducing any one to engage in unlawful sexual conduct, prescribing a stringent penalty of one to five years’ imprisonment. The government made little or no progress in passing its 2019 Draft Trafficking in Persons Act Amendment Bill and civil society consultation was absent during the drafting process, which many organizations regarded as an intentional tactic to move away from sufficiently addressing the deficiencies connected with mining and farming laws that drive forced labour (US Department of State, 2021).

19.7 NATIONAL COORDINATION MECHANISMS

In Zimbabwe, the Anti-Trafficking Inter-Ministerial Committee (ATIMC) serves as the national coordinating body for all anti-trafficking efforts and the secretariat is responsible for undertaking all of the government’s anti-trafficking activities, including awareness campaigns and implementation of the national action plan. According to US Department of State (2021), the Government of Zimbabwe launched its national anti-trafficking action plan (2019–2021), but failed to make sufficient budgetary allocations, which incapacitated the ATIMC in carrying out its planned activities. Furthermore, while the mandate of the ATIMC is to meet quarterly, the committee and its provincial taskforces failed to meet prior to and during the reporting period for the TIP report. Issues of resource constraints, lack of political will and inadequate staff capacity are among the reasons reported for the inability of the ATIMC to carry out its functions (US Department of State, 2021). Compared with previous years, the ATIMC or government did not undertake any public awareness campaigns, in comparison with

previous educational events carried out by the police and other ministries. This was attributed in part to the COVID-19 crisis and its associated lockdowns and restrictions on movement and public gatherings. Moreover, issues of resource constraints and inadequate capacity compel inspectors only to carry out inspections of

tobacco farms, despite recurrent claims of child and forced labour in the agricultural sector. In instances where inspectors did conduct inspections, negative findings particularly on the prevalence of child labour were underreported (US Department of State, 2021)

BOX 2. The tragedy of a Rwandan orphan in Tanzania

Neza is a Rwandan orphan who was deceived and trafficked to Tanzania. Neza was fed up with life in Rwanda and decided to migrate another country to start a new one. She knew a woman (sex trafficker) in Rwanda who helps young females to migrate to other countries in Africa and the Middle East. So, she contacted the woman and she narrated how all the young ladies she had helped to migrate are doing well at their destinations. She told Neza that she would bear all the costs to process her travel documents and transportation and get her a job in a hotel in Tanzania. But Neza would pay her back the money with interest and this would not be a problem, because the job pays well. Based on these offers and promises, Neza decided to follow this woman. Neza got to Tanzania and realised that she was deceived and a victim of sex trafficking. When Neza and the woman arrived in Tanzania, some people were waiting them at the airport. They went together to the woman's residence where Neza stayed for two days. She seized Neza's passport on the pretence of safekeeping. Neza was stripped of anything that could help her to connect to the world. Instead of working in a hotel as a receptionist, Neza was sent by the people that were waiting for them at the airport to a brothel as a sex worker, where she was forced to sleep with different men of different profiles and colour for nine years. She was locked up in the brothel and she never had contact with anybody else apart from the men she was being forced to have sex with. For nine years, she did not attempt to escape for the fear of being killed, because she was cautioned not to make any mistakes of telling anyone about her ordeal. There were no specific "working hours"; whenever a client visited, she was asked to satisfy him. She was given two days in a month to wash her clothes and care for her body. Apart from food, cosmetics and a little clothing that Neza was provided, she was not paid and she did not even know how much she earned and who received the money. Being in the brothel for nine years, they people thought she would no longer run away. One day, she ran away to town and sought refuge from an owner of a restaurant who happened to be a Zambian migrant in Tanzania.



20. SYNTHESIS AND ANALYSIS OF TRAFFICKING IN PERSONS AND FORCED LABOUR IN THE SADC REGION

20.1 LABOUR MARKET SITUATION AND LABOUR RECRUITMENT PRACTICES IN THE SOUTHERN AFRICAN REGION

The Southern African labour market comprises of various sectors that are different, but connect with each other. The sectors include public and private, rural and urban, and formal and informal sectors (Ncube, 2008). The labour market is mainly informal. A majority of the rural workers are engaged in self-employment and agricultural production. On the other hand, there is increasing urbanization as a result of many young people moving into cities in search of industrial and public sector work in the formal or informal sectors. The majority of the workers in the informal sector are women, while a number of children are forced into farm and domestic work. The informal sector is usually risky, unregulated and exploitative. Wages in the informal sector are lower than the minimum wages of the various countries (Ncube, 2008). Labour migrants rely on both formal and informal recruitment agencies to seek jobs outside their countries of origin.

The labour recruitment industry in SADC is characterized by both registered and unregistered recruitment agencies/agents who recruit migrants for companies both within individual member countries and abroad. By far, these recruitment agencies tend to recruit labour migrants for countries in the Gulf States, the United Arab Emirates and China, and to a lesser extent to the Western world. The informal recruiters or unregistered agents mostly do not meet the standards set out in legislative instruments and therefore have little or no capacity to undertake fair and ethical recruitment of labour migrant workers. Nevertheless, they are central in the migration process, because they provide information on jobs, offer assistance and advice, and sometimes financial support to migrant workers to facilitate their migration and job placement (see also Aguinas, 2013). Our analysis has shown that in several SADC countries (e.g. Malawi, South Africa, Zimbabwe, Zambia, Comoros) many migrants tend to rely on informal recruitment agents. The unregulated labour market situation in many of the countries studied tends to expose prospective migrants to exploitation and abuse of their human rights by the informal

labour recruitment agents. This results mainly from informal arrangements and lack of enforcement of existing regulations.

Moreover, unemployment or the lack of opportunities to gain decent employment also tend to expose individuals to precarious labour market conditions, as well as to the activities of unscrupulous recruitment agents/individuals. In many of the SADC countries (e.g. Botswana, Malawi, Angola, Zimbabwe) unemployment and the desire to seek alternative livelihood opportunities or employment have contributed to exposing prospective labour migrants to exploitative practices by unscrupulous recruitment agents, who tend to attract young men and women with false promises of employment, decent working conditions and high wages (ILO, 2019). In most cases, migrants arrive at their destinations with no jobs awaiting them despite having to pay these recruitment agencies and agents huge sums of money. In other contexts, the jobs that migrants end up doing are completely different from what these recruitment agents tend to promise, which in turn exposes them to vulnerability and insecurity. Our findings reveal that in Botswana, for example, the dire unemployment situation among the female population, which was estimated to be 21.76 per cent in 2020, has contributed in large part to exposing many young women in the country to activities of traffickers and exploitative labour recruitment agents, who tend to advertise fake employment opportunities, particularly in the area of domestic work through social media platforms (Behlke, 2021).

Finally, the dire poverty situation, particularly in many rural parts of SADC member countries, also exposes individuals to activities of unscrupulous private recruitment agents. Poverty manifested in an inability to meet basic needs, lack of educational opportunities

and access to affordable health care, and other hardships are prevalent in several parts of the region, and the need to survive compels many individuals in rural areas to resort to the activities of exploitative recruitment agencies. Our analysis suggests that in the vast majority of cases, individuals who patronize private and informal recruitment agencies are exploited throughout the migration process. Overall, addressing these conditions of poverty, labour market irregularities and lack of jobs is as important as providing adequate and efficient regulation of recruitment practices in the SADC region, as this has the potential to reduce vulnerability, abuse and exploitation that migrant workers face. Governments, particularly regulatory agencies in the individual SADC States, need to implement measures to promote safe recruitment experiences for labour migrants, which in turn can contribute to reducing the abuse and exploitation that migrant workers face.

20.2 SOUTHERN AFRICAN REGIONAL OUTLOOK OF TRAFFICKING IN PERSONS AND FORCED LABOUR

The evidence presented in this report suggests that trafficking in persons (TIP) has been widespread in the Southern African region. Research reports have described the vulnerability of these migrants to violence, deception and exploitation. While many migrants are at risk of being trafficked because they are trying to escape from dire socioeconomic circumstances and political violence, or are inexperienced and not informed of immigration procedures and the dangers of travelling through informal crossings, there is a dearth of information on the incidence and prevalence of human trafficking

in the Southern African region. In terms of data, there is inadequate data collection on all forms of forced exploitation, which makes it difficult to disaggregate data by gender, age, country and education. A spatial understanding of trafficking in persons indicate that in 2017, 86 per cent of the total TIP in Africa occurs within the Southern African region, whereas the remaining 14 per cent occurs in pockets of West Africa, East Africa, South Asia, East Asia and the Pacific. Of the 86 per cent of cases that occur in Southern Africa, 43 per cent were domestic cases within countries, whereas the remainder involved trafficking for purposes of forced labour and sexual exploitation.

Data from the UNODC trafficking in persons report, which is also complemented by data from the US State Department,⁶ indicate that over the period 2004 to 2017, the region recorded a total number of 1,542 victims of TIP were recorded from nine out of the 15 countries, comprising Angola, the Democratic Republic of the Congo, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe. More specifically, South Africa (26.5%), Malawi (23.8%) and Mozambique (5.8%) are the top three countries with the highest number of detected trafficking victims in the SADC region. In an attempt to gain a better understanding of the trend of trafficking in the region, 2017 is singled out as the year the region recorded the highest number of trafficked individuals, with a total of 394 victims of TIP, representing 25.6 per cent of the total number of TIP cases recorded.

A country-level ranking in order of importance shows that South Africa, Malawi and Mozambique are the top three countries with trafficking in persons victims recorded data (26.5%, 23.8% and 5.8% respectively).

A gender and age outlook of the existing data indicates that most of the detected trafficking victims in the region are women, representing 52 per cent (206 women) of the 394 TIP cases recorded in 2017, with 17 per cent children, both girls and boys in significant proportions of 16 per cent (62 girls) and 15 per cent (60 boys) respectively. According to ILO (2021), the victims of forced labour in the region encompass the most vulnerable, including migrants trapped in debt bondage, farmworkers who receive little or no pay and may be kept through illegal tactics, women and girls who are forced into prostitution and children who are forced to work against their wishes, as well as those who are forced to work by the State either as punishment or for economic development purposes. Forced labour in the region also manifests in domestic work, where young girls may sometimes be forced to work, receive severe threats and be unable to leave their employers through violence (UNODC, 2018).

A trend analysis of trafficking in persons spotlighted 2012, 2013 and 2017 as the top three years in the history of the Southern African region with the highest number of human trafficking. For instance, in 2017, 26 per cent of trafficking cases were recorded, followed by 18 per cent in 2012 and 14 per cent in 2013. Considering the forms of exploitation within the region, the majority (70%) of detected victims of trafficking resulted from forced labour, whereas 24 per cent resulted from sexual exploitation and the remaining 6 per cent endured other forms of exploitation.

South Africa appears to serve both as principal destination for trafficking in persons, and as a transit country for trafficking of children and

⁶ While this information is for the Southern African region, it is imperative also to indicate that there are no data on trafficking in persons for Botswana, Comoros, Madagascar, Mauritius and Seychelles.

adult to regions outside the SADC region. The interconnectedness of the country to the rest of the world, together with its relatively well-developed infrastructure and access to maritime transport has made South Africa a major transit point for trafficking in persons in the SADC region (SADC Secretariat, 2016). Although South Africa serves both as a source country for trafficking in persons and forced labour, in the vast majority of cases, victims who are recruited from the country are primarily trafficked to other parts of the world outside the SADC region and the entire African continent (SADC Secretariat 2016).

It needs to be stated that an increase in the number of detected victims may not necessarily imply an increase in the number of trafficking cases. In some cases, an increase in the number of trafficking cases may rather demonstrate an improvement in a country's ability to detect and report trafficking cases. Similarly, countries with higher numbers of detected trafficking cases are not necessarily performing poorly, as the higher numbers may indicate the ability to detect and report trafficking cases (UNODC, 2020). As in other parts of the world, collection of data on labour exploitation in the region is negatively affected by the clandestine and sensitive nature of these issues, a lack of resources in State organizations and the unwillingness of victims to report such cases for fear of victimization by perpetrators.

TABLE 8: Trafficking in Persons by year and country within the Southern African region

Year	Angola	Democratic Republic of the Congo	Lesotho	Malawi	Mozambique	Namibia	South Africa	Swaziland	Zambia	Zimbabwe	Total
2004							22		2		24
2005					4		32		27		63
2006					2		61		8		71
2007					1						1
2009	15								30		45
2010	7	16	14					2			39
2011		57					87	13			157
2012			15	96	30	4	87	42			274
2013			4	119	26		64			5	218
2014				30	27		55	3			115
2015			6	58				8			72
2016				64		4		1			69
2017											394
TOTAL	22	73	39	367	90	8	408	69	67	5	1542

Source: UNODC, 2018.

TABLE 9: Modern-day slavery prevalence within Southern African countries

Regional Rank in Africa	Country	Estimated percentage (victims per 1,000 population)	Regional Rank in Africa	Country	Estimated percentage (victims per 1,000 population)
41	Lesotho	4.2	33	Zambia	5.7
44	Botswana	3.4	29	Tanzania	6.2
45	Namibia	3.3	27	Zimbabwe	6.7
47	South Africa	2.8	21	Angola	7.2
51	Mauritius	1.0	18	Malawi	7.5
36	Mozambique	5.7	7	DRC	13.7
17	Madagascar	7.5	11	Eswatini	8.8

Source: Walk Free Foundation (2018a).

Regional Rank in Africa	Country	Estimated percentage (victims per 1,000 population)	Regional Rank in Africa	Country	Estimated percentage (victims per 1,000 population)
7	Democratic Republic of the Congo	13.7	33	Zambia	5.7
11	Eswatini	8.8	36	Mozambique	5.7
17	Madagascar	7.5	41	Lesotho	4.2
18	Malawi	7.5	44	Botswana	3.4
21	Angola	7.2	45	Namibia	3.3
27	Zimbabwe	6.7	47	South Africa	2.8
29	Tanzania	6.2	51	Mauritius	1.0

20.3 RISK FACTORS AND CAUSES OF TRAFFICKING AND FORCED LABOUR IN THE SADC REGION

Based on the analysis of the prevailing situation in member countries, it can be deduced that the risk factors that contribute to trafficking in persons and forced labour in the SADC region are diverse. These factors can be categorized into push and pull factors. On the one hand, the

push factors manifest in abject poverty, family instability, lack of employment and income-earning possibilities, porous borders, limited formal educational attainment that makes it easy to convince victims, job insecurity, natural disasters and climate change, political unrest and desires to migrate to pursue better economic opportunities. For example, our assessment found that among the SADC member countries (e.g. Zimbabwe, Mozambique, Botswana), poverty and unemployment compels mostly

rural young people to seek employment in major cities in South Africa or elsewhere; but many end up becoming victims of forced labour and human trafficking (SADC Secretariat, 2016). Again, family instability arising from HIV-related deaths and violence contributes to increasing numbers of orphans and vulnerable children, a major segment of the population that is vulnerable to trafficking in persons in the region. Other identified push factors include famine, insecurity, lack of access to health care and lack of social support systems.

On the other hand, porous borders, desires to take advantage of existing economic opportunities elsewhere, improved standards of living and perceived better lifestyles, the demand for cheap labour in the domestic, agriculture, fishing, construction and illegal mining sectors in many of the Member States, as well as demand in the commercial sex industry, also serve as important factors that contribute to trafficking in persons and forced labour in the SADC region. In particular, the booming commercial sex industry and the increasing demand for cheap labour are important risks/pull factors that contribute to forced labour and trafficking in the SADC region (Kiremire, 2010). Porous borders between Member States has meant that a large tract of borders between countries is unpatrolled; together with weak surveillance systems and the corrupt attitudes of officials, this has allowed traffickers to organize both internal and transnational organized crime (see also SADC Secretariat, 2016).

BOX 3: Flee from war to earn below the minimum wage: the case of a migrant worker in Malawi

Anthony had to flee with his family from his home country, the Democratic Republic of the Congo, due to civil war to seek refuge in Malawi. He and his family were taken to a refugee camp upon arrival in Malawi. Living conditions in the camp were a big challenge, as he had to struggle to get food and good shelter for his family. Necessity forced Anthony to look for a job to support his family. He found a job as a barber at a shop. He had no written contract for the job, but he took the offer based on a verbal agreement he had with his employer. Anthony is not paid, rather, for every customer he serves, he gets 4 per cent commission of the money charged. Thus, his daily income depends on the number of customers that patronize his service and the number of hours he can work. So, he has to work between 12 and 15 hours every day in order to earn enough to feed his family. The amount of money Anthony earns in a day is woefully below the minimum wage. He can rest or take holidays at will, but of course, he will not receive even 1 ngwee. Anthony's employer gave him the liberty to resign whenever he finds a better job, which is an indication that he is dispensable. So, in spite of his poor working conditions, Anthony feels he has been favoured. Besides, even though he can quit the current job at any time, he does not have the time to look for a better one.

20.4 GROUPS VULNERABLE TO TRAFFICKING AND FORCED LABOUR IN THE SADC REGION

Consistent with global trends, women and children are vulnerable to trafficking in the region (UNODC, 2018). The 2017 data show that about 52 per cent of the victims of trafficking in the region are women, while 17 per cent are children. A majority of detected victims of trafficking in Southern Africa experience forced labour (70%). About 24 per cent suffer from sexual exploitation and the remaining 6 per cent endure other forms of exploitation. A large majority (86%) of the trafficking cases occurred in the SADC region (UNODC, 2020). The baseline assessment found that the main vulnerable gender groups that are prone to trafficking in persons and forced labour in the SADC include women and girls. They encounter sexual exploitation, forced labour and labour exploitation. For example, young girls who work in domestic servitude in many of the SADC countries were found to encounter sexual and physical abuse and many are compelled to work for long working hours with few or no breaks. Rural young children who are recruited and sent to cities to perform duties with families emerged as another vulnerable category to trafficking in persons and labour exploitation. The assessment also found that males, including men and young boys, are also vulnerable to the activities of traffickers, but in most cases their exploitation relates to forced labour and labour exploitation. It is clear however that compared to men, boys are more vulnerable to trafficking in persons and labour exploitation.

The baseline assessment has shown that the key social groups that are vulnerable to trafficking and forced labour include the unemployed, the poor, orphans and vulnerable children, and the

illiterate. The disadvantaged and less privileged background situations of these vulnerable groups has meant that they face diverse socioeconomic challenges in their lives that put them at risk of traffickers and exploitation in the SADC region. Other identified vulnerable social groups include illiterate displaced populations (Malawi, Angola, Tanzania), persons living with disabilities (Lesotho, Seychelles), labour migrants (South Africa, Angola), farmworkers (Botswana), and factory workers (Angola). In fact, widespread perceptions that firms offer attractive salaries put labour migrants at risk of exploitation in Angola and other countries in the SADC region (SADC Secretariat, 2016). Our findings confirm the work of the ILO (2021) report, which found that the victims of forced labour in the region encompass the most vulnerable, including migrants trapped in debt bondage, farmworkers who receive little or no pay and may be kept through illegal tactics, women and girls who are forced into prostitution, children who are forced to work against their wishes, as well as those who are forced to work by the State either as punishment or for economic development purposes.

20.5 SECTORS PRONE TO TRAFFICKING AND FORCED LABOUR IN THE SADC REGION

The global situation of forced labour is more prevalent in the domestic service, mining and quarrying, agriculture, forestry and fishing, construction, trade, manufacturing, personal services, begging, accommodation and food service sectors (ILO, 2017). This is consistent with recorded episodes of forced labour in the Southern African region, which occurs in multiple

sectors with agriculture, mining (artisanal small-scale mining), construction and domestic work being the dominant sectors where forced labour occurs.

The prevalence of small-scale mining as a key livelihood or economic activity in the Southern African region has made mining an important sector where forced labour often occurs. SADC member countries, including the Democratic Republic of the Congo, Zimbabwe and Zambia are noted to be havens for children and adults who are engaged in the mines, but find themselves in debt bondage or trafficking. The rise in forced labour in the mining sector in the Southern African region has been linked in part to the growing presence of multinational companies in search of precious metals such as gold, or for those minerals (e.g. coltan) that are key to the production of mobile phones.

The domestic service sector in the Southern African region in particular harbours a great many victims of forced labour and trafficking. There are widespread reports that in many of Southern Africa countries men, women and children are often recruited to perform domestic chores such as cooking, gardening and cleaning. Domestic workers in the Southern Africa are victims of internal trafficking within specific countries in the region, as well as trafficking from one country to another and even outside the African continent. The Trafficking in Persons 2015 report notes that Basotho women and young girls who move to South Africa in search of employment as domestic servants are detained upon arrival and forced to engage in prostitution. Similarly, in Lesotho and South Africa, Basotho women and children who work in the domestic sector are exploited, and children including both girls and boys are forced into commercial sexual exploitation (US Department of State, 2015). In Mozambique, women and girls who are lured

to cities in the country or to South Africa with promises of education or employment are subjected to exploitation in the domestic sector and sex trafficking. There are also reports of young Mozambican girls being exploited in prostitution in bars, overnight stopping points and in restaurants along the southern transport corridor linking Maputo with South Africa. In Namibia, children from Zimbabwe, Zambia and Angola may be exploited for prostitution and forced labour (US Department of State, 2015). Available data on modern slavery also show that it is widespread in the region. The Democratic Republic of the Congo has a significant number of persons in modern slavery (see Tables 2 and 3).

In Angola, for example, forced labour is prevalent in the agricultural sector and most victims are children. Similarly, there is evidence of Angolan boys being taken to Namibia for forced labour in cattle herding, whereas some are exploited in the construction sector (brickmaking factories), with many others forced by adults to undertake forced criminal activity. In the same vein, children in the Democratic Republic of the Congo are forced to engage in exploitative labour in small-scale agriculture and also in other informal sector economic activities throughout the country. Basotho men who voluntarily migrate, though through the use of irregular channels, to find employment in the agricultural sector end up becoming victims of forced labour and many are compelled to work for several months before their employers will report them to immigration authorities in South Africa for deportation on the basis of violating immigration rules in order to avoid paying them for work done. In the same country, Mozambican men and boys encounter forced labour in the farms and mines, where they are compelled to work for several months often under coercive conditions with no pay before they are handed to State

authorities for deportation as illegal immigrants (US Department of State, 2015).

In Malawi, there is evidence of over 70,000 children working in tobacco plantations, with some under conditions of bonded labour, which led to the United States of America prohibiting the procurement of tobacco from Malawi. Migrant workers in Seychelles encounter exploitative conditions, including physical abuse and non-payment of wages in fishing processing plants (US Department of State, 2015).

Other sectors in which forced labour occurs include fisheries, the informal economy (begging, small businesses), forestry, industry (e.g. textile production) and the commercial sex industry. What appears clear is that different social groups encounter exploitation, trafficking or forced labour in specific sectors. For example, in many of the SADC member countries, boys encounter forced labour exploitation and physical abuse particularly in the agriculture, fisheries, illegal mining and construction sectors. In contrast, their girl counterparts encounter exploitation and forced labour in domestic servitude. It is evident that forced labour in the region among girls manifests in domestic work, where young girls sometimes may be forced to work, receive severe threats and be unable to leave their employers due to violence (UNODC, 2018). Women in the various countries encounter sex trafficking and labour exploitation in agriculture, commercial sex work and domestic servitude, whereas men are more likely to encounter labour exploitation in the construction, agriculture and mining sectors. This is probably a reflection of gendered sociocultural norms in which activities such as construction and mining appear to be the preserve of men, whereas domestic service is traditionally open to women and girls.

20.6 POLICIES, REGULATORY FRAMEWORKS AND OTHER MECHANISMS FOR ADDRESSING TRAFFICKING IN PERSONS AND SMUGGLING OF MIGRANTS IN THE SOUTHERN AFRICAN REGION

Effective legislative and regulatory frameworks can offer protection to increase resilience against trafficking and reduce the level of smuggling of migrants. Several Southern African countries have made efforts to combat trafficking in persons, forced labour and smuggling of migrants. The few strategies implemented to deal with smuggling of migrants include strengthening border management and organizing public campaigns to inform people about the risks associated with smuggling.

Much of the effort to manage irregular migration has been linked to ratification of legislative frameworks to deal with trafficking in persons. The baseline assessment has found that all States in the SADC region have either ratified or signed the Palermo Convention, or the Convention against Transnational Organized Crime, over the past 15 years. In addition, there is specific legislation (e.g. Trafficking Acts) in almost all the Member States to protect against and prevent the menace of trafficking in persons.

However, most of these States are yet to domesticate the concept precisely for local policy and law enforcement purposes. The continent's unique experience has made any interpretation of the phenomenon a complex task (SADC Secretariat, 2016).

Beyond the national legislation, policies and legal frameworks and other mechanisms at the

country level, SADC has taken significant steps to curb human trafficking and forced labour at the subregional level since the coming into effect of the Palermo Protocol on the global stage. Special reference should be made to the SADC Gender Protocol, a binding instrument that has provisions on human trafficking. The issue of human trafficking among other issues was not an important part of the Southern African Development Coordinating Conference (SADCC) scheme of affairs before the SADC Treaty was revised. The Member States of SADC instead adopted a cooperation framework by instituting protocols in areas such as regional economic development, natural resources usage and regional security. However, this changed with the adoption of the SADC Gender and Development Protocol in 2008. Believed to have arisen from the 1997 Declaration of Gender and Development, the Protocol addresses matters of gender-based violence against women, which is viewed as a root cause of trafficking and forced labour in the region (SADC Secretariat, 2016).

The Protocol was viewed as rather ambitious and distinct when compared with other instruments, in that its objectives were to be achieved within set time frames. Thus, the first target that pertains to human trafficking required Member States to formulate and adopt certain legal clauses to curtail human trafficking and to offer comprehensive services to survivors by 2015. The second target required States within the subregion to establish structures by which all directly connected law enforcement agencies and institutions may do away with the operations of networks of human traffickers at the local, regional and international levels. Also, Member States, as part of their third requirement, were to have in place a harmonized system of data collection to enhance the gathering of data and reporting on the modes and forms of

trafficking and forced labour, in order to boost effective monitoring. The fourth target hinges on cooperation, in which Member States, as a way of tackling human trafficking involving countries of origin, transit and destination, are to sign bilateral and/or multilateral agreements. Lastly, Member States are to help law enforcement agencies through capacity-building initiatives, raising awareness and embarking on sensitization campaigns.

The 2002 Protocol on Mutual Assistance in Criminal Matters is a Protocol that sets out the framework for mutual legal assistance between the Member States in the subregion. Mutual legal assistance is defined as any assistance offered by the requested State with regard to investigations, prosecutions or proceedings in the requesting State in a criminal case, regardless of whether a court or any other competent authority gives the assistance. This is to prevent traffickers from exploiting barriers of national borders, the differences that prevail between judicial systems, and the lack of cooperation of Member States, to go unpunished. The assistance that is to be offered by the requested State include: to locate and identify persons; provide the needed information; evidence-taking; search and seizure; and to ensure that the detained person is made available to assist possible investigations, among others (Chembe, 2016).

The subregional bloc also adopted the Protocol of Extradition to help stop the operations of forced labour and human trafficking. This Protocol entails a formal process by which an individual is surrendered to one State by another. The applicability of the Protocol with respect to human trafficking is that people who engage in this crime may be sought to be prosecuted, or may have been convicted and now sought to enforce the sentence in the prosecuting State (Chembe, 2016).

Other protocols that SADC has adopted to control human trafficking are: Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation; Code of Conduct on Child Labour (2000); and Protocol on Combating Illicit Drugs Trafficking in SADC, all in their quest to bring down to the barest minimum activities relating to forced labour and human trafficking.

SADC has also adopted non-binding legislative regional instruments, apart from the Protocols, which are all relevant yardsticks to determine the substantive content of treaty-based rights and obligations. Though non-binding, these instruments can also help to contribute to the formulation of new legal norms and standards. One such instrument in the sphere of human trafficking within the subregion is the Ten-Year SADC Strategic Plan of Action, which was adopted specifically to deal with trafficking of humans, especially as it relates to women and children. The Plan of Action outlines the principles that should guide efforts to curb the crime, as well as providing a minimum requirement for a holistic response to the problem. The instrument further brought forth eight priority areas that members should implement at both local and regional levels. These strategic priorities include training for skills enhancement and capacity-building; legislation and policy measures; prevention and public awareness-raising; victim support and witness protection; research and information-sharing; coordination and regional cooperation; monitoring and evaluation; and resource mobilization (SADC Secretariat, 2016). The Plan of Action is aimed at helping its members to adopt and implement legislative and other mechanisms in fighting against forced labour and human trafficking. Again, the purpose was to provide a framework for regional actions that facilitate knowledge and experience-sharing, as well as other best practices, in order to

offer steps to bring about more preventive, suppressive and punitive mechanisms for those engaging in the act. The plan was to be implemented in two phases, the first from 2009–2014 and the second from 2015–2019 (Chembe, 2016).

20.7 EFFECTIVENESS AND GAPS IN THE IMPLEMENTATION OF THE FRAMEWORKS ON TRAFFICKING IN PERSONS AND SMUGGLING OF MIGRANTS IN SOUTHERN AFRICAN REGION.

Despite some progress made in the implementation of these protocols, there are a number of implementation challenges and gaps. First, there is a paucity of data on trafficking and working conditions of victims across the region and at the country level. The SADC decent work programme, for instance, notes that several of the SADC member countries do not have reliable data on working conditions of all persons including migrants, and in some contexts, data that are made available have proven to be somewhat unreliable (SADC Secretariat, 2017).

Additionally, there are varying levels of progress between countries such as Zambia, which has made some modest strides in interventions to enhance the policy frameworks and laws to address forced labour and human trafficking, to Eswatini, where little progress has been made in this regard.

Compliance with obligations under the ILO Forced Labour Convention No. 29 continue to remain a challenge and many countries fall short, owing to a lack of effective implementation of

legal frameworks and institutional mechanisms. Although many countries in the region have made efforts to draft and pass laws and regulations that govern human trafficking, enforcement of these regulations continues to remain weak (SADC Secretariat, 2016). Moreover, despite much effort to strengthen the level of cooperation and coordination among member countries in the SADC region, a lot more needs to be done in the area of responding and effectively addressing the vulnerabilities connected with cross-border mobility and the associated forced labour, exploitation (non-payment of wages), stigmatization and discrimination (ILO Draft Report, n.d.)

The mechanisms adopted by the southern Member States to fight human trafficking have been fraught with several implementation gaps. Indeed, the struggle in implementation of the protocols has been the biggest challenge, and this is essentially the result of serious constraints, such as public awareness, political will, and institutional and governance capacity at regional and local levels (Coscione et al., 2012). For instance, 13 out of the 15 Member States in SADC have ratified the Gender Protocol, which came into force in September 2012. However, the ambiguity that surrounds the definition of sexual exploitation has given Member States little chance to properly situate issues such as prostitution in their national laws. Indeed, SADC member countries missed the chance to conceptualize this phenomenon, which would have had two major impacts. That is, it would have ensured that the principle on legality is adhered to; and that a breach of the law is clearly visible, as the Protocol is translated into national criminal legislation. This makes an individual who commits an offence know from the very beginning the legislative provisions that make the person liable for trafficking on the grounds of sexual exploitation of a victim. This

would have enabled SADC Member States to have a common definition of, and what could be classified as, sexual exploitation, even at the subregional level, to help member countries to deal appropriately with this transnational problem.

Again, the SADC Extradition Protocol does not detail the offences in respect of which extradition may be applied, but provides instead that offences that call for extradition are those that are punishable under the laws of both the countries in question. Furthermore, human trafficking must be a punishable act under the laws of countries involved either by imprisonment or other forms of liberty deprivation for not less than one year or by a more severe penalty. Thus, the difference in legal operations that exist in different countries, coupled with the different traditions for formulating and incorporating international law, has also made it challenging to stop these activities (Chembe, 2016).

20.8 COORDINATION MECHANISMS AT THE NATIONAL LEVEL

The baseline study has revealed that all member countries in the SADC region except for Madagascar have established national coordination mechanisms or platforms to step up anti-trafficking efforts and address the issue of forced labour, including child labour. In most cases the coordination mechanisms or platforms involve officials from government ministries, including but not limited to home affairs, security, employment, human rights, social welfare and justice, as well as stakeholders from government departments and units, civil society actors, private sector organizations, local NGOs, and international organizations

(SADC secretariat, 2016; US Department of State, 2018; 2021). In addition, there are individual and multiple law enforcement agencies that work at the country level to address the menace of trafficking in persons and forced labour. Of worth mentioning is the case of Zambia, where there is a specific sector committee that responds to human trafficking, mixed migration and broader migration issues.

While the mandate and responsibilities of the existing coordination mechanisms are diverse, they are all geared towards combating trafficking and forced labour situations in the region. The assessment found that the existing coordination mechanisms in member countries have contributed to anti-trafficking interventions and efforts ranging from preparation and implementation of National Action Plans to eliminate trafficking (Angola, Botswana), coordination of national response (Mauritius), education and awareness campaign events (Botswana, Zimbabwe), coordination of capacity-building programmes for law enforcement agencies (Botswana, Mozambique, Seychelles), identification and investigation of potential cases of trafficking in persons and forced labour (Mozambique), to collaboration with authorities in neighbouring countries to clamp down on the activities of traffickers (Mozambique).

Despite these contributions, there remain a number of challenges identified as having the capacity to affect the mandates and planned activities of the existing national coordination mechanisms and platforms across Member States in the SADC region. These challenges stem from a lack of financial and human resource adequacy. For example, a lack of funds was reported to be a significant factor that meant existing coordination mechanisms and institutions could not carry out their mandated labour inspections, often limiting

the monitoring and inspections to the formal sector, where forced labour is particularly rare in contrast with the informal economy. Lack of funds was also reported to have affected significantly the ability of the various institutions and coordination stakeholders in several of the SADC member countries to carry out planned activities, including awareness creation and capacity-building for security officials and other stakeholders in efforts to address trafficking. Other identified challenges include a lack of formal administrative procedures and systems for determining action items and tracking progress towards national anti-trafficking efforts, fragmentation of roles and weak coordination among the various institutions. As noted by UNODC (2018), effective coordination and cooperation between existing institutions and actors within and across national borders remain an integral part of efforts to combating trafficking in persons. Such cooperation and coordination among institutions contribute to swift identification of victims of trafficking through mechanisms such as rapid exchange of information, collection and preservation of evidence; identification, tracing, freezing and confiscation of assets connected to trafficking; and assistance to and protection of victims. While such measures require careful cooperation and coordination, our baseline assessment found that cooperation and coordination represented key challenge for existing coordination bodies created by many of the SADC Member States. In Madagascar, where there is no national coordination mechanism for stakeholders to meet, brainstorm, interact and share ideas on new and innovative approaches to combat trafficking in persons and address the situation of forced labour, much of the stakeholder engagement and efforts are done on an ad hoc basis and this contributes to fragmentation of roles, duplication of efforts and lack of value for money.

Finally, the COVID-19 pandemic and its associated regulations of social distancing and restrictions on movement and public gathering also served as a potential challenge for some member country coordination institutions to carry out planned tasks. For example, in Zimbabwe the Anti-Trafficking Inter-Ministerial Committee that serves as the national coordinating body for all trafficking activities could not undertake any public awareness campaign events in the year 2020, compared with previous years. This was mainly because of the ongoing COVID-19 crisis, which has affected the country and the entire globe.

principles, countries should possess labour laws and the capacity to monitor the activities of recruitment agencies. As indicated earlier, this baseline study indicates that most countries have labour laws and employment policies, however, there are either few or no bilateral agreements with major destination countries to protect against the exploitation of migrant workers. Some of the countries rely on their general employment and anti-trafficking policies to protect migrant workers against exploitation. Such frameworks are inadequate to ensure fair and ethical treatment of migrant workers, as highlighted by a Zimbabwean government official:

“We have the Labour Law, which covers a number of issues [about] labour and forced labour. The labour law, however, is not detailed on issues of unfair and unethical recruitment practices and we are in the process of developing the standard operating procedure.”

20.9 CAPACITY OF RECS AND PUBLIC AND PRIVATE RECRUITMENT AGENCIES TO IMPLEMENT AND MANAGE ETHICAL AND FAIR RECRUITMENT STRATEGIES

Fair and ethical recruitment of labour is crucial in reducing forced labour and trafficking in persons. This section analyses the extent of fair and ethical recruitment of labour in the SADC region through the lens of the International Recruitment Integrity System (IRIS) and the ILO general principles (refer to section on conceptual frameworks).

Both the IRIS and ILO principles emphasize the need for transparency in the conditions and activities of employment to achieve ethical and fair recruitment of workers. Specifically, the ILO (2019) principles state that the “regulation of employment and recruitment activities should be clear and transparent and effectively enforced”. The IRIS principle stresses the “respect for transparency of terms and conditions of employment”. To achieve these

BOX 4: Activities of a recruitment agent: the case of a middleman from Zambia

There are many unregistered recruitment agents in Zambia. This agent was introduced to the “business” by one of his friends about three years ago. He organizes work permits, visas and other documents for jobseekers who seek employment in Zambia. As his activities are not registered, he does not advertise in the media. Rather, he has contact persons or other informal companies in the countries of origin that connect jobseekers to him. Sometime, migrants recommend him to their friends and family who also want to migrate. He also connects people in Zambia who want to migrate to other countries to work to the informal agents in those countries. Most of his clients are unskilled male migrants from India, Pakistan and Bangladesh

who are between the ages of 20 to 50 years. He has no preference for any region or groups of people. He is mainly interested in facilitating migration and connecting migrants to employers. Depending on the urgency of migration, origin and financial wherewithal of migrants, he charges between USD 6,000 and USD 20,000 inclusive of processing travelling documents and other services. Migrants are required to pay at least the total amount that he will need to process their travel documents upfront and the rest of the money is paid when the documents are ready. He does not negotiate salaries and other conditions of work for migrants after connecting them to their employers. According to him, migrants/jobseekers who seek his service want consistency and a near-instant result. As such, delay in processing travel documents puts him at a risk of losing future migrants, given that he partly relies on recommendations from past migrants to get clients. So, he often pays extra money to the immigration to fast-track the processing of documents for his clients.

The lack of such bilateral agreements and related laws falls short of the ILO principle that “appropriate legislation and policies on employment and recruitment should apply to all workers, labour recruiters and employers” and does not encourage “policies and practices that promote efficiency, transparency and protection for workers” to achieve ethical and fair recruitment of workers. This situation created room for migrant workers to be subjected to intimidation, threats, unpaid overtime, payment below the minimum wage and general discrimination in conditions of work in some of the countries in the region.

Another principle of ILO (2019) stipulates that “recruitment should take place in a way that respects, protects and fulfils internationally recognized human rights” and “should respond to established labour market needs”. These principles are crucial for achieving ethical and fair recruitment of workers and they could

be enforced through proper monitoring. Unfortunately, some countries in the region lack the capacity to monitor the activities of recruitment agencies to ensure that they do not violate the rights of potential and actual migrant workers. The oft-cited reasons for this are lack of funds and personnel, as well as logistics challenges. Despite these difficulties, a few countries in the region have been monitoring the activities of recruitment agencies. The Zimbabwean authorities make sure that recruitment agencies do not charge a service fee before they secure a job for potential workers (interview with government official, 2021). Even in extreme circumstances when it becomes appropriate for them to charge, government authorities ensure that such charges are reasonable and amount is quoted in the local currency and not in US dollars. Tanzanian authorities also monitor the activities of recruitment agencies to ensure that they do not violate the rights of potential and actual migrant workers (interview with government official, 2021). In Seychelles, while recruitment agencies are legally bound to submit monthly returns on registration and placements, this regulation does not apply to migrant workers. The remaining countries either seldom monitor the activities of recruitment agencies or lack the capacity to do this.

Furthermore, both the ILO and IRIS frown on charging jobseekers fees for job placement. Some governments have awarded licences to recruitment agencies to operate legally, but have failed to oversee their operations, creating opportunities for illegality even within legalized establishments. Across the countries of the region, lack of capacity to monitor the activities of the recruitment agencies has enabled some to charge exorbitant service fees to migrant workers. There are several reported cases in some of the countries in the region

that jobseekers are exploited to pay recruitment fees even before they are employed. Some recruitment agencies charge migrants “50 per cent down payment”, “80 per cent upfront payment” and “20 per cent of USD 800 to USD 1,000” as processing fees in Botswana, Zambia and Zimbabwe respectively. Even in Mauritius, with admirable level of compliance to ethical and fair recruitment, while some agencies do not charge migrant workers after recruitment, one recruitment agency said, “We charge around 5,000 Mauritian rupees [about USD 125] from the workers we are recruiting. The agency in India physically collects the money from the foreign workers before they migrate to Mauritius for the actual job” (Key informant interview, 2021). Some of these illegal activities do not conform to the broader national laws and can be addressed if only recruitment agencies adhere to the ILO principle for “recruitment across international borders [to] respect the applicable national laws, regulations, employment contracts and applicable collective agreements of countries of origin, transit and destination, and internationally recognized human rights” (ILO, 2019).

Additionally, there are reported cases of workers being recruited based on verbal agreements, which in many cases change over the course of the employment. Some migrants are also deceived about the working conditions and are trafficked or coerced into labour. Most of the countries involved are unable to ensure that the terms and conditions of the workers’ employment remain the same over the period of employment. The challenge in many of these countries is that there are no mechanisms in place to monitor the plight of people recruited for skilled and unskilled work in member countries. Most of these countries have no plans for such mechanisms, while others are making efforts in this regard, as narrated by a government official from Zimbabwe:

“We noted the increasing number of people being recruited outside the country, yet we did not have proper legislation to govern such recruitments. We requested IOM to assist us to develop a standard operation procedure to address such labour exports. This is something that is on our to-do list.”

Countries such as Zambia encourage their embassies in other countries to be vigilant and follow any rumour or reported case of unethical or unfair recruitment to a logical conclusion to liberate the migrant involved. A few countries in the region that have made significant strides in monitoring the plight of migrant workers beyond their home countries are those that have bilateral agreements (BLAs) or have assistance from international organizations. For instance,

“IOM has assisted the Government of Malawi with the development of a BLA that would ensure the protection of migrants recruited for labour abroad and is also currently helping the government with the development of the first-ever Labour Migration Policy that will lead to the regulation of employment agencies going forward”
(interview with IOM representative).

Lesotho conducts inspections in collaboration with the Department of Labour in South Africa at workplaces that employ Basotho labour in other countries. In general, the region has very inadequate capacity to monitor the plight of people recruited for skilled and unskilled work in member countries and beyond.

In addition, the ILO and IRIS principles emphasize the freedom of workers to move

within and outside the place of employment. Workers should also be free to resign from their jobs. It is, however, becoming difficult for these principles to be realized in many countries in the region. There are many instances where jobseekers could not raise the initial processing fees that some recruitment agencies charge. In such cases, some of the agencies or potential employers prefinance the migration of the potential employees. This leads to debt bondage where the migrants' sponsors seize their travel documents to make sure that they recoup all the money they spent on the migrants, in some cases with interest. Debt bondage and retention of travel document inhibit and exploit migrants.

Lastly, there is the need for mechanisms to resolve disputes between migrants and employers at destination points. It is for this reason that the ILO and IRIS stipulate that workers should have access to affordable conflict mechanisms or remedies to address their grievances. Unfortunately, the threat of losing their jobs and the non-availability of affordable conflict resolutions denies migrant workers the right to resolve the challenges they have with their employers.

20.10 ADEQUACY OF LEGAL PROTECTION FOR VICTIMS

The baseline assessment has shown that member countries in the SADC region are making significant efforts to enforce existing laws, regulations and frameworks to prevent, prohibit and prosecute perpetrators, and provide social support for victims of trafficking. In most countries, significant efforts were made to investigate cases involving trafficking of both children and adults, and where found guilty,

perpetrators were prosecuted, convicted and sanctioned to number of years' imprisonment and fines in line with what is stated in existing legislation and frameworks. Even in the face of the COVID-19 crisis, some Member States (e.g. Angola) demonstrated a steady commitment and increased capacity in their anti-trafficking efforts compared with the previous reporting period. What is worth remarking is that in several SADC member countries, the application of existing laws and regulations was stringent (Comoros, Madagascar, Malawi), but in other cases, the application of the law was less stringent (Zimbabwe). Also worth mentioning is the identification, charging, prosecution and conviction of police, high government officials and other security personnel who were engaged in the act of trafficking. Even in stances where the COVID-19 pandemic slowed down economic and other activities, and closed courts, efforts were made by some member countries in the region to investigate trafficking in persons, forced labour and domestic servitude cases.

Across the SADC region, significant efforts were made by governments and other actors including NGOs to identify victims of trafficking in persons to benefit from remediation and social support. Several member countries (e.g. Angola) initiated long-term protective measures, including encouraging victims to participate in trials, funding support for capacity-building training of officials, implementation of anti-trafficking programmes and action plans and anti-trafficking campaigns. Victims of trafficking were provided with several services, including cash grants for foreign victims who were repatriated home and provision of shelter facilities, where care and support services are provided to victims of trafficking and crime, including food, medical care, toiletries, clothing, psychosocial and rehabilitation support, as well as reunification of victims with families. For

instance, in Namibia, the Ministry of Women, Children and Senior Citizens (MWCSC) and various NGOs operated 123 community service centres across 36 districts for females who encountered gender-based violence, including trafficking. These centres provided health, counselling capacity-building, food and lodging for the affected victims. Such support services are undertaken by other member countries in the SADC region. It must be stated that the provision of support for victims in some member countries was less encouraging. In Botswana, 24 foreign victims were offered protection in 2019, compared with just three child victims of forced labour and sex trafficking in the year 2020. Inadequate funding emerged as a major challenge in the provision of support for victims. For example, some NGOs were unable to maintain their full operations in support of victims, as funding streams were reduced or diverted to the pandemic.

There is also evidence of unequal distribution of services for affected victims. In Namibia, while official reports from MWCSC suggest that both male and female victims of trafficking received support services via the Victim Assistance Rehabilitation fund, international organizations noted that such support services benefited only female victims to the neglect of male and labour trafficking victims. Moreover, the COVID-19 pandemic also affected services provided to affected victims. In Namibia and other countries, residential shelters had to restrict or halt several services for affected victims because of the COVID-19 pandemic. Although some NGOs offered services such as mental health counselling via virtual means, government pandemic-related safety lockdowns, restrictions on movement and social distancing created conditions that were similar to those the victims faced while under traffickers' control (US Department of State, 2021).

20.11 GENDERED DIMENSIONS OF THE LEGAL AND INSTITUTIONAL FRAMEWORKS

This section presents a synthesis of how gender issues are incorporated in protective frameworks in the region. While almost all the countries in the SADC region have made efforts to integrate gender issues within their legislative instruments and national policy frameworks, there is still a need for more improvement in this aspect. Governments need to ensure that a gender-sensitive approach is taken to ensure that the needs of men, women, girls and boys are addressed. Some of the efforts include the ratification of the United Nations Convention on Transnational Organized Crime (UNTOC) and the Protocol to Prevent, Punish and Suppress Trafficking in Persons, Especially Women and Children. Member States that are parties to UNTOC and its protocol are obliged to incorporate gender issues into their preventive strategies. Specifically, parties are “to prevent and combat trafficking in persons, paying particular attention to women and children” as well as “to protect victims of trafficking in persons, especially women and children, from revictimization” (UNODC, 2004:42 and 46).

Mainstreaming migration into policies and programmes has been a recurring problem for Member States. Only a few countries have ratified the outlined international conventions that protect the rights of women, girls, boys and men who are in exploitative situations. The following international conventions promote and protect the rights of women during all the stages of migration and need to be domesticated into national laws:

- The International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families;
- The Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol;
- The International Convention on the Elimination of Racial Discrimination;
- The Convention on the Rights of the Child;
- The International Covenant on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights;
- ILO conventions including the ILO Convention concerning Decent Work for Domestic Workers, 2011 (No. 189);
- The 1954 Convention relating to the Status of Stateless Persons;
- The 1961 Convention on the Reduction of Statelessness.

At the national level, some progress has been made with regard to mainstreaming gender issues into anti-trafficking policies and programmes. However, much of the attention is on the prosecution and conviction of traffickers, rather than on support of victims and survivors (ICAT, 2017). It is important for Member States to provide adequate support and assistance, irrespective of whether survivors agree to participate in criminal proceedings (ICAT, 2017).

The country reports give an indication of fair and progressive efforts, as many of the countries in the region have or are making efforts to include gender dimensions in their

frameworks. For example, Angola has enacted laws that prohibit sex trafficking and pimping, and Seychelles has also designed a gender-sensitive protective framework with sufficiently stringent penalties for offenders. Zimbabwe also has a framework that protects individuals from unlawful sexual conduct both within and outside the country. Mozambique has been more concerned with the protection of women by ratifying Women and Law in Southern Africa (WLSA) and the law against early marriage, which prohibits parents from selling their young girls into marriage.

Following the recommendations for addressing women's human rights in the Global Compact for Safe, Orderly and Regular Migration made by the United Nations in 2016, gendered issues would be more widely incorporated into protection if all forms of discrimination against women were eliminated at all stages of migration. Moreover, adequately incorporating gender issues in anti-trafficking issues requires the collection of comprehensive, up-to-date and disaggregated data by sex, age, marital status and education, among other parameters. Quality disaggregated data result in the institution of gender-responsive and evidence-based policies on anti-trafficking. Unfortunately, most of the countries hardly record up-to-date data on smuggling, trafficking and forced labour. Data are usually obtained based on the number of prosecutions, which is usually less than the actual occurrences of trafficking and forced labour. It is difficult to know the actual number of women who are trafficked, detained, abused or have even died during the course of and at the destinations of migration.

In addition, the urgency with which countries should develop gender-responsive and human rights-based action plans to prevent and prosecute trafficking, smuggling and forced labour. In many of the anti-trafficking regulations

and victim support programmes of the Member States, women are perceived through the victimhood lens (UN Women, 2006). There is less expectation on the contribution of women migrants to sustainable development in the countries of origin, transit and destination, although there is no doubt that women generally constitute about 70 per cent of those vulnerable to trafficking in persons and sex trafficking (ICAT, 2017).

Despite the significance of monitoring and evaluation systems, many of the national action plans and anti-trafficking policies do not have them. Member States are not able to track the progress of their programmes and policies to ensure that the needs of both men and women are achieved. The limited number of bilateral labour agreements between Member States and major destination countries is a hindrance to achieving gender equality. Particularly, across most of the SADC countries, women who migrate to work in the Middle East have reported abuses of all kinds. Such maltreatment is because there are no agreements to protect the rights of these women at destination areas.

21. CONCLUSION

This baseline study has provided a detailed examination of the current situation of trafficking in persons, forced labour and unfair/unethical recruitment practices in the Southern African region. The report draws on secondary data sources, involving collection and analysis of documents gathered from online data sources as well as those produced by international organizations (UNODC, 2017; US Department of State, 2021), government and other relevant agencies. Complementary data collection involved in-depth interviews with key informants including government officials, NGOs, recruitment agencies, private sector employers and return migrants in the 16 SADC member countries. Overall, the picture that emerges is that trafficking in persons and forced labour remain highly prevalent in the SADC region. A country-level ranking in order of importance shows that South Africa, Malawi and Mozambique are the top three countries with trafficking in persons victims, recording 26.5 per cent, 23.8 per cent and 5.8 per cent respectively. The most vulnerable gender category of forced labour and trafficking comprises women and girls. They encounter forced labour, labour exploitation and sex trafficking. Men and boys are also vulnerable, but in most cases, they encounter forced labour and labour exploitation. The key sectors where trafficking in persons and forced labour is

prevalent at the country and regional level include agriculture, construction, illegal mining and domestic service. The domestic service sector harbours the greatest number of victims of forced labour and labour exploitation; other sectors at fault include fisheries, industry and trade, the informal economy and food services.

The risk factors that contribute to forced labour and trafficking in the region are diverse. They include poverty, family instability, lack of employment and income-earning possibilities, porous borders, limited formal educational attainment that makes it easy to convince victims, job insecurity, natural disasters and climate change, political unrest and desires to migrate to pursue better economic opportunities. Demand for cheap labour and the flourishing commercial sex work, weak surveillance systems, porous borders and the poor attitude of corrupt officials all contribute to putting vulnerable groups at risk of trafficking.

The unregulated sector of labour exporting is another challenge that exposes migrant workers to forced labour and trafficking. The agencies involved are either formal or informal recruitment agencies; these agencies hardly comply with the ethical recruitment principles proposed by the ILO, IRIS and IOM. The illegalities of recruitment agencies begin right at the

origin through to the destination. Migrant workers are not protected, but enter into debt bondage, have long hours of work without breaks, no freedom of movement and no social security, among other issues. While some migrants are unaware of their rights, as well as what constitutes ethical recruitment principles, the recruiters unfortunately have less knowledge on how to protect migrants. Additionally, only a handful of countries have bilateral labour agreements to protect migrants outside their home nations.

What is clear from the assessment is that most member countries are still in the early stages of developing an understanding of the nature, magnitude and scale of the problem of trafficking and forced labour, and in implementing measures to combat these criminal activities. While all Member States have enacted trafficking in persons acts and established coordination mechanisms and bodies (except for Madagascar), most of the legal and institutional frameworks are recent, dating from 2008 onwards. In this regard, most Member States in the region have less than 10 years' experience of implementing comprehensive response mechanisms and legislation to identify, prosecute and prevent cases trafficking and

forced labour, and protect victims. More importantly, issues of inadequate human resource capacity, funding shortages, administrative bottlenecks, fragmentation of roles, weak cooperation and coordination among actors in the various institutions responsible for addressing the phenomenon of trafficking in persons and forced labour are key challenges inhibiting efforts to address these issues.

Although women and girls constitute approximately 70 per cent of the trafficking victims, it is unfortunate that many of the national action plans and laws of the Member States do not integrate gendered issues. Despite the progress made across countries, it is unfortunate to note that many of the efforts are geared toward prosecution and conviction of traffickers, rather than the support of victims and survivors. Gender-responsive and evidence-based policies are significant in resolving the needs of men, women and children. Training on gender mainstreaming into anti-trafficking policies and national plans of action will help address the gendered dimensions of trafficking within the subregion.

22. RECOMMENDATIONS

Based on these findings, the following recommendations have been outlined for Member States and SADC in efforts towards addressing the phenomenon of trafficking, forced labour and unfair/unethical recruitment of migrant workers in the region:

- (a) Strengthen the human and financial resource capacity of existing institutions, including security officials, police and the judicial system to investigate and prosecute cases of trafficking in persons, labour exploitation and forced labour. This will require well-planned and tailored capacity-building programmes for all stakeholders. Such capacity-building programmes ought to incorporate new and innovative strategies for the identification and protection of victims.
- (b) Review, amend and strengthen existing policy and legislative instruments to incorporate innovative and victim-centred approaches to investigate and prosecute trafficking in persons cases.
- (c) Establish and enhance interagency cooperation among law enforcement agencies at the country level, and promote inter-State cooperation in information and intelligence sharing, and prosecution of cases within the framework of the global and regional protocols.
- (d) Raise awareness on risk factors, as well as on existing legal instruments to empower communities to understand fully the importance of the existing legal instruments and their role in addressing forced labour and trafficking in persons.
- (e) Establish platforms to share information and experiences on legislation and policy development and implementation. This can be done through workshops and country-to-country level experiential learning.
- (f) Develop comprehensive victim response mechanisms and protection plans, including establishing shelters and facilities for all gender groups, ensure the safety and security of established facilities, take measures to accredit all facilities and staff, service providers and mechanisms for identifying victims, and provide referral systems and social support, as well as allocating sufficient budgetary funds for repatriation and family reintegration for victims.
- (g) Systematically develop and establish bilateral and multilateral cooperation and coordination with origin, transit and destination countries to identify, rescue and provide support to victims and ensure the prosecution of perpetrators. Such cooperation should extend beyond the SADC region.

- (h) Take conscious steps to raise awareness on the existence of unscrupulous recruitment agencies and ensure that all recruitment agencies register with the government department responsible for labour migration. Also ensure periodic capacity-building training for recruitment agencies on fair and ethical recruitment procedures and guidelines.
- (i) Develop systems to enhance data collection on all recruitment agents and their activities for evidenced-based policymaking.
- (j) Work with country level governments and appeal to them to ratify and implement available international legal and policy frameworks, including IRIS and ILO guidelines on fair and ethical recruitment.
- (k) Work with research institutes to carry out regular periodic national and regional level research on trafficking in persons, forced labour and unethical recruitment practices.



APPENDIX A: INSTRUMENTS FOR DATA COLLECTION

SEMI-STRUCTURED INTERVIEW GUIDE FOR REGIONAL BASELINE ASSESSMENT ON FORCED LABOUR, UNFAIR AND UNETHICAL RECRUITMENT PRACTICES IN THE SOUTHERN AFRICA AND IOC REGION

TARGET:

Key informant instrument for Representatives of government institutions, non-governmental organisations, and other relevant stakeholders – recruitment agents/agencies/brokers and businesses which are private in the field of migration industry

SECTION A: MIGRANT EXPLOITATION

1. Tell me about the role of your organisation in relation to migration governance?
2. How would you describe the current state of the labour migration recruitment industry in this country?
3. Do you have any data or information on migrant recruitment agencies licenced or unlicensed that recruit migrant for work within this country? [Probe the source of data; numbers, proportion of registered and unlicensed agencies, reliability of data]
4. Can you name the popular destinations that these agencies usually recruit migrant workers to? [Probe if different types of migrants (women, men, children) are recruited for specific country, probe where unskilled and skilled workers are normally sent to]

5. Which countries do these recruitment agencies usually recruit for? [Probe if different types of migrants (adults vs children, male vs females) are recruited for different countries. Probe countries where unskilled and skilled workers are particularly sent to]
6. What are the specific vulnerabilities and constraints that migrants who use these recruitment agencies face? [Probe on specific measures implemented to deal with the identified vulnerabilities and their successes or otherwise so far]
7. Using the table below, describe the following forms of exploitation situation in your country:

Exploitation / forced labour/ unethical recruitment practices	Indicate economic sectors where this type of exploitation/ practice is prevalent	Indicate the general trends within the past 5-10yrs (Provide secondary data if available)	Indicate the gendered differences within the past 5-10 yrs (e.g. for each of the years, how many males and females)	Indicate age ranges of such victims (e.g. children, youth, young adult)	Indicate specific cases/ examples/ scenarios	Indicate destination of such forced labour with specific locations (if possible)
Trafficking in persons						
Forced Labour						
Debt Bondage/ bonded labour						

APPENDIX A: INSTRUMENTS FOR DATA COLLECTION

Abusive working and living conditions						
Excessive overtime (beyond national average working hours)						
Abuse of vulnerability (i.e. take advantage of migrants vulnerable situation to exploit them)						
Deception / lack of transparency						
Restriction on movement (e.g. use of surveillance cameras, guards)						

APPENDIX A: INSTRUMENTS FOR DATA COLLECTION

Isolation (i.e. difficulty identifying recruitment agencies)						
Physical and sexual violence						
Intimidation and threats (e.g. loss of wages, threat of sack etc.)						
Retention of identity documents						
Charging of recruitment fees						

Lack of written contract of employment						
Withholding of wages						
Absence of Sick leave						

8. How prevalent is migrant smuggling in this country? [Probe the migration routes on which smuggling is common. What factors account for smuggling? Is smuggling increasing or decreasing?]

SECTION B: LEGISLATIVE AND REGULATORY FRAMEWORKS

9. Are there specific laws or regulations to protect labour migrants against exploitations (trafficking, forced labour and unethical recruitment) in this country? [Probe specific laws, protocols and frameworks for combating trafficking, forced labour, unethical/unfair recruitment]
10. Tell me about the achievements of the legislative and regulatory frameworks for protecting migrants against trafficking, forced labour and unethical recruitment?
11. Do you have mechanisms in place for monitoring the plight of people recruited for skilled and unskilled works in other countries?
12. What challenges does your institution face in the implementation of these specific legal regulations? (Probe for possible funding, logistical, personnel and training challenges)

13. How does your organisation respond to reported cases of unethical recruitment practices?
14. What are the challenges associated with the implementation of these frameworks to protect migrants against trafficking, forced labour and unethical recruitment?
15. Do you monitor the activities of recruitment agencies to ensure they don't violate the rights of potential and actual migrant workers? [If yes, probe how this is done]
16. How compliant are the labour recruitment agencies/organisations/private individuals with respect to the following?
 - a. Recruitment agencies have valid licence to operate in this country and to migrant destination countries
 - b. Commitment, policies and procedures not to recruit migrant workers under 18 years
 - c. Restriction of migrant workers freedom of association
 - d. Performs due diligence on employers and end-user employers to ensure compliance with laws and labour standards.
 - e. Policy commitment prohibiting the charging of recruitment fees and other cost to all migrant workers
 - f. Respect for freedom of movement
 - g. Respect for transparency of terms and conditions of employment
 - h. Respect for confidentiality and data protection relating to migrants
 - i. Respect for access to remedy
17. Are there best practices of fair/ethical recruitment and practices recruitment of labour in this country? Are there specific examples that you can share with us?
18. Does your institution play any role in resolving challenges associated with recruitment of migrant labour for work overseas?
19. What do you think can be done to strengthen existing frameworks to address trafficking, forced labour and unethical recruitment? [Probe for specific examples from this institution]

Background information of Institution

- Name of institution/organization:
- Name and Position:
- Number of Years with institution/organization:
- Contact details of Institution/organization:
- Date and Time of interview:

SEMI-STRUCTURED INTERVIEW GUIDE FOR REGIONAL BASELINE ASSESSMENT ON FORCED LABOUR, UNFAIR AND UNETHICAL RECRUITMENT PRACTICES IN THE SOUTHERN AFRICA AND IOC REGION

TARGET:

Key informant Instrument for brokers, recruitment agents/agencies, middlemen.

SECTION A: RECRUITMENT PROCESSES AND PROCEDURES

- (1) Tell me about your company/agency [Probe when it was established, main activities, number of employers]
- (2) Can you provide data on the type of migrants/workers that you have recruited for work purposes in the last five years? [Probe on sex, countries or communities within your country where migrant come from, skill vs unskilled migrant workers]
- (3) Which specific countries do you normally send migrant/workers to? [Probe for top destinations where they send workers to in the last five years]
- (4) Is your organisation registered and licensed to operate as a recruitment agency? [Probe whether this is an individual or agency? Probe the type of registration]
- (5) Is there any agency that oversees your operations? [If yes, probe the type of supervisory agencies]
- (6) Are there some migrant workers that you prefer not to recruit? [Probe on educational background, gender, age, ethnicity. Probe specific attention to specific type of workers likely to be recruited]
- (7) What mechanisms or procedures do you use to recruit workers? [Probe whether brokers go in search/advertise for migrant workers or the workers are known to come from specific towns/communities]
- (8) Have you ever assisted some migrants to travel to other African or SADC member states or elsewhere? Why do people migrate this way? How was this done? Do you have networks along that route? In your view, how safe is it to travel on that route?
- (9) Do you organise a pre-departure orientation programme for potential migrants [Probe the nature, duration and the last time such orientation was organised? Probe whether this

orientation is organized for all potential migrants or some category of migrants? What topics are covered in the orientation? Who facilitates the orientation?]

- (10) Do you charge for your services? [Probe who pays the charges, when the money is expected to be paid; how much is charged, how often payments are made, mechanisms for ensuring repayment]
- (11) Are there specific individuals or entities that you normally recruit for? [Probe for individual, families and corporate organisations in destination countries]
- (12) What mechanisms or procedures do you follow to make sure that your client/those you recruit make full payment? [Probe instances of debt bondage, seizure of passports, seizure of other documents]
- (13) Does your recruitment process entail work with some other organisations or individuals in the transit points or destinations? [Probe for specific intermediaries in transit and destination]
- (14) How are salaries for the migrants negotiated and paid? Do the migrants have the power to negotiate their own salaries? Are salaries determined before departure or when they get to the destination? Who receives the salary from the employer?
- (15) Do you charge the potential/ actual migrant worker recruitment fees? [Probe how this is paid. Probe if there are instances of debt bondage]
- (16) Do employers pay social security for the migrants? Do employers pay for the health insurance of migrants?
- (17) Are potential workers informed of the terms and conditions of their employment (i.e. living arrangements, wages, off-days, feeding, sick leave, number of hours of work and other rights) before they embark on movement?
- (18) Do you sign contracts with the migrant employees? [Probe the nature of contract – whether written or verbal, what language is the contract, whether contract is signed prior to migration. Probe whether contract is also signed with the employer and whether the migrant or worker is given a copy]
- (19) Do you have procedures in place for resolving conflicts between workers recruited by you and their employers? [Probe the nature of those procedures and their effectiveness]
- (20) What challenges do you encounter in this work? [Probe for problems with employers, workers/ migrant, law enforcement agencies]

SECTION B: AWARENESS OF, AND COMPLIANCE WITH EXISTING REGULATIONS, LAWS AND FRAMEWORKS

- (21) Can you walk us through the entire recruitment process from the day the potential client make contact with the broker? [Probe whether the brokers give potential migrants particular information, how long the recruitment process takes]
- (22) Are you aware of mechanisms to protect the migrant workers during before migration or at the destination?
- (23) Have you attended any capacity-building programme on ethical recruitment of workers in the last five years? [Probe on trainings received and who provided the trainings]
- (24) Have you ever recruited migrant workers under the age of 18 years? Probe where this took place, gender, where the workers were sent to and reasons for such recruitment
- (25) Are you aware of existing laws or regulations to resolve any breach of contract by employees of migrant workers?
- (26) What would you recommend streamlining ethical/fair recruitment and placement of migrants from this country to abroad?

SECTION C: INDICATE YOUR AGENCIES EXPERIENCE OF THE FOLLOWING FORMS OF FORCED LABOUR AND UNETHICAL RECRUITMENT PRACTICES WITH REGARDS TO THE PEOPLE YOU HAVE RECRUITED BEFORE:

Type of Forced Labour	Indicate the sectors with the most occurring forms of forced labour	How often does your agency record such instances among your clients i.e. Indicate 1. Very often 2. Occasionally 3. Not at all	Give specific cases/examples that you are familiar with	Which of the sexes (either male or female) record higher cases of the following forced labour	Indicate the most destination areas recording such cases of forced labour (i.e. specific locations within or outside the country)
Debt Bondage/ bonded labour					
Abusive working and living conditions					
Excessive overtime (beyond national average working hours)					

APPENDIX A: INSTRUMENTS FOR DATA COLLECTION

Abuse of vulnerability (i.e. take advantage of migrants vulnerable situation to exploit them)					
Deception					
Restriction on movement (e.g. use of surveillance cameras, guards)					
Isolation (i.e. difficulty identifying recruiting agencies)					
Physical and sexual violence					

Intimidation and threats (e.g. loss of wages, threat of sack etc.)					
Retention of identity documents					
Withholding of wages					

Background Information of organization

- Name of institution/organization:
- Position of respondent in organisation:
- Number of Years worked with institution/organization
- Number of years in operation:
- Profile of your organisation:
- Motivation for setting up the organisation and engagement in recruitment of migrant/labour:
- Registration Information:

SEMI-STRUCTURED INTERVIEW GUIDE FOR REGIONAL BASELINE ASSESSMENT ON FORCED LABOUR, UNFAIR AND UNETHICAL RECRUITMENT PRACTICES IN THE SOUTHERN AFRICA AND IOC REGION

TARGET:

Instrument for return migrant workers/victims/current migrants

This guide can be used for both return and current migrants. If current migrant, use the present tense.

- (1) Tell me about yourself and where you come from in this country? [Probe marital status; number of children, if any; geographical area/regions]
- (2) Where did you migrate to or from (if the person is a current migrant)? [Probe area destination, number of times of migration and duration of each migration episode; how they migrated e.g. by land/desert or by air; reasons for choosing that country in particular]
- (3) Why did you decide to migrate to this particular destination?
- (4) Who facilitated your migration from the origin area? [Probe the role of agents, recruitment agencies, intermediaries, family/friends, brokers etc.]
- (5) Who financed your migration from the origin area? [Probe for self, parents, relatives, loans etc. If loan, ask for interest, debt bondage, repayment plan and how much they contributed. Have you finished paying the intermediary who helped you? Probe for how much they paid in total]
- (6) Did you make the decision to migrate on your own or with your family? If you took the decision on your own, was there any opposition and why? [Probe whether family was informed or aware, probe for any form coercion]
- (7) Did you use an intermediary/ recruitment agency? If yes, how did you hear about the intermediary?
- (8) Thinking about the things you were told by the intermediary/agency and what you actually experienced, do you think that s/he was an honest person?
- (9) Did you pay the intermediary/agency in any way for helping you? [If yes, probe how much they paid). Briefly describe what benefits you were promised.

- (10) Were you told about the nature of the job before leaving the origin? [Probe whether information about salary, conditions of service etc. was discussed]
- (11) Tell me about whether you had any travel documents when you migrated? [Probe type of travel document; how they acquired it and how much it cost them]
- (12) Tell me about when you first arrived in the destination area/ country. [Probe for who met them upon arrival; possible challenges faced; whether documents/phones/personal effects were seized]
- (13) Tell me the nature of your work you did while employed in the destination area/country. [Probe for type of work. Was this work what you were promised before leaving?]
- (14) Did you get paid for your services as a migrant worker? [Probe for how much, how often, what form of payments took and who received the payment].
- (15) Were you paid the minimum wage?
- (16) How many hours did you work per day? If he/she was a domestic worker how many people were served?
- (17) Were you given rest periods [Probe how long? Were you paid for these periods?]
- (18) Were you given holidays [Probe how long. Were you paid for these holidays?]
- (19) Did you have social security [Probe whether this is for healthcare and pension? Probe whether this covers both migrant and non-migrants]
- (20) Were you allowed to join associations? [Probe if he/she joined associations? What kind of associations? Were they able to bargain for improved conditions of work?]
- (21) In cases where there were any disputes, how did you go about resolving them? [Probe for involvement of agent(s), guardian, family, recruitment agency, the local police etc.]
- (22) What were the problems that migrant workers like you commonly faced in the organisation you worked for? [Probe for whether they faced some of those problems personally]
- (23) Could you resign from your job if you were unhappy with the working conditions? [Probe for how this was or would be done; who gives consent in such cases]
- (24) Did you have any personal security concerns? (E.g. Racism, discrimination, physical attacks, maltreatment etc.) If yes, explain your answer.
- (25) Did you have any contractual agreements with your employer(s)? [Probe for written or verbal contracts] Was the contract verified with the labour department or any other agency?

(26) Do you believe that your rights were/are violated or abused during your time at the destination area/country? [Probe for reasons why; nature of abuse; if they feel they received appropriate redress]

(27) Do you plan to return to the same country or any other country or place? [Probe for reasons why and how they plan to migrate this time]

(28) How do you think migrants can be safeguarded against the different forms of forced labour (i.e. deception, excessive working hours, abusive working conditions)?

(29) Have you experienced any of the following forms of exploitation as a migrant worker?:

Type of exploitation (Forced Labour, trafficking)	Indicate which of these forms of labour you experienced	How frequently did you experience the following forms of exploitation: 1. Very often 2. Occasionally 3. Never	Give specific cases/ examples on your experience in the following	Which country did you experience this ?	How did you overcome the challenges
Trafficking in parson					
Forced labour					

APPENDIX A: INSTRUMENTS FOR DATA COLLECTION

Debt Bondage/ bonded labour					
Abusive working and living conditions					
Excessive overtime (beyond national average working hours)					
Deception					
Restriction on movement (e.g. use of surveillance cameras, guards)					

APPENDIX A: INSTRUMENTS FOR DATA COLLECTION

Isolation (i.e. difficulty identifying recruitment agencies)					
Physical and sexual abuse					
Intimidation and threats (e.g. loss of wages, threat of sack et)					
Retention of identity documents					
Withholding of wages					

Absence of sick leave					
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Background information:

- Name of Person (Optional):
- Age:
- Sex:
- Highest level of education:
- Current employment place and type:

SEMI-STRUCTURED INTERVIEW GUIDE FOR REGIONAL BASELINE ASSESSMENT ON FORCED LABOUR, UNFAIR AND UNETHICAL RECRUITMENT PRACTICES IN THE SOUTHERN AFRICA AND IOC REGION

TARGET:

Key Informant Instrument for representatives of Private Sector Employers of Migrants

SECTION A: MIGRANT LABOUR AND RECRUITMENT PROCESSES

- (1) Tell me about your company/agency. [Probe when it was established, location, main activities, products/service, number of employers]
- (2) Does your organization/firm employ migrants? [Probe if they are internal or international migrants? Current number of migrant workers; why the organization prefer migrant workers, gender composition, are the migrants skilled or unskilled?]
- (3) Where do you recruit migrant workers from? [Probe which countries or communities within the country the migrant workers usually come from? Probe whether migrant workers are briefed about employment contracts, working and living arrangements, wages, off-days, feeding, sick leave, number of hours of work and other rights etc.]
- (4) Do you rely on recruitment agents/agencies/ intermediaries to recruit labour? [Probe if recruitment agencies are registered or unregistered? Probe how they pay the recruitment agents?]
- (5) Do you sign contract with the migrant employees? [Probe the nature of contract – whether written or verbal, language of the contract, whether contract is signed prior to migration, whether the migrant or worker is given a copy of the contract?]
- (6) How do you ensure that your workers remain at the work places? [Probe any restriction on movement (e.g. use of surveillance cameras, guard). Probe retention of travel documents]
- (7) How many hours do the various migrant workers work per day? [Probe the total number of hours they work per week. Probe whether this differ by gender of migrant]
- (8) Do you give your workers rest periods [Probe how long ? Are workers paid for these periods?]
- (9) Do you give your workers holidays? [Probe how long? Are workers paid for these holidays?]

- (10) Are you always able to pay the minimum wage to your workers? [Probe if the same salary is paid to all workers at the same level irrespective of migration status]
- (11) Do you have social security arrangement for the workers/migrant employees [Probe whether this is for healthcare and pension? Probe whether this cover both migrant and non-migrants]
- (12) Do you allow your migrant employees to join associations? [Probe if the migrant worker have joined any associations? What kind of associations? Are they able to bargain for improved conditions of work?]
- (13) What challenges does your business face in relation to recruitment/hiring of workers/migrants?

SECTION B: AWARENESS AND COMPLIANCE WITH EXISTING REGULATIONS

- (14) Are you aware of existing labour laws, regulations and the provisions guiding the hiring of workers/migrants in this country? If yes, could you share on some of these laws or regulations.
- (15) Has there been instances of complaints from migrant workers in relation to working conditions, salary and hours of work? Ask them to talk about specific examples, whether there are specific procedures in place for resolving such complaints, and their effectiveness.
- (16) Has any government department ever visited your firm as part of supervision and monitoring of your activities. [Probe: If yes when and what did they come to do? Which government department visited you? How often do they visit you for such monitoring?]
- (17) In your view what are ethical or fair recruitment practices?
- (18) Do you have procedures and mechanisms in place to ensure fair/ethical recruitment/hiring of workers/migrants? [Probe on these mechanisms, how they are implemented, effectiveness and gaps/challenges with implementation]
- (19) Have you attended any workshop/training on ethical recruitment/hiring of worker/migrants in the last five years? [Probe on who organized these trainings, what the training covered, frequency, relevance of the training]
- (20) In your view what do you think can be done to improve fair/ethical recruitment/hiring of workers/migrants in the private sector?

**SECTION C: INDICATE YOUR AGENCIES EXPERIENCES
OF WORKING WITH MIGRANTS (ESPECIALLY FOR LOW
AND NO-SKILLED WORKERS) IN THE FOLLOWING ISSUES
OF FAIR AND ETHICAL RECRUITMENT INDICATORS:**

Key thematic issues on fair/ethical recruitment	Indicate whether these issues are Regulated/ Not regulated by state	Comment on any achievements and/or challenges of your organization in implementing this
Daily and weekly work hours		
Hours of rest and whether these are paid		
Minimum wage for working		
Obligation to provide written contract		
Social security (healthcare and pension)		

Work leave including maternity and sick leave		
Existence of intermediary agencies		
Collective bargaining		
Regulations regarding migrant workers		
Labour inspections		

Background Information of organization

- Name of institution/organization:
- Position of respondent in organisation:
- Number of Years worked with institution/organization
- Number of years in operation:
- Profile of your organisation including number of employees, how many males and females and migrant workers and age range:
- Motivation for setting up the business

APPENDIX B: LIST OF INSTITUTIONS INTERVIEWED DURING DATA COLLECTION

Country	Government Institutions	Non-Governmental Organization	Recruitment Agencies	Private Sector Employers
Angola	Ministry of the Interior, Service for Migration and Foreigners	A South-East Asian migrant and resident of Angola for many years, works with a religious association, and offers informal counsel to illegal migrants working and living in Angola		
		Religious association		
Botswana	Department of Immigration and Citizenship	USAID/Botswana	ADO GREEN LTD	Prime Touch (Pty) Ltd
	Department of Social Protection Headquarters	International Organization for Migration	Trending Talent Botswana	Collegium Educational Publishers
			Global Consultants	
	Career Pool Botswana		De Beers Global Sightholder Sales (2interviews)	
	Africa Personnel Services Ltd			
	HRMC		Mazars Botswana	
	Mohiri			
	REDMA			
TRS Staffing				
Comoros	Ministry of Interior	Restaurant le Régál Establishment Nardass		Kinaza Bakery

Democratic Republic of the Congo	National Employment Office (ONEM)	General Direction of Migration/ Bukavu Branch	ITM/GOMA	
	Provincial Labour Inspectorate (2 interviews)	UWEZO AFRIKA INITIATIVES		
	ONEM/Goma	COMESA Trade Information Office		
	Division provinciale de l'emploi et du travail/ Bukavu/ Sud-Kivu/			
	Institut National des Statistiques (INS) / Bukavu			
Eswatini	Ministry of Foreign Affairs and International Cooperation	International Organization for Migration		Swaziland Plantations
	Ministry of Labour and Social Security			Peak Timbers and Rockland Mill
Lesotho	Ministry of Labour and Employment	IOM		
		Basotho Immigrant Protection Organization		
Madagascar	Ministry of Population, Social Protection and Promotion of Women	ILO	A Former Worker for a Recruitment Agency	
	Ministry of Labour			
	Ministry of Public Security		Recruitment agency	

Malawi	Ministry of Foreign Affairs	IOM	Job Centre	MNET Malawi
	Department of Immigration	UNFPA	Madison Holdings Limited	City centre clinic
	Ministry of Labour	UNHCR	Workforce recruitment agency	ME INTERPRISE
	Department of Tourism and Culture	UNODC		Korean Garden
Mauritius	Ministry of Labour	Confédération des Travailleurs des Secteurs Publique et Privé	HRPRO	Princes Tuna Mauritius
			Think Recruitment	RT Knits
			Dharam Chand Recruitment Services	
Mozambique	Department of Labour	ILO Maputo		
		Fundação MASC (Mecanismo de Apoio a Sociedade Civil)		
		ALGOS Agency		
		Observatório do Meio Rural (Observatory of the Rural Areas)		
		Women and Law in Southern Africa (WLSA)		
Namibia	Ministry of Labour, Industrial relations and employment		Elite Employment agency	
Seychelles	Employment Department, Seychelles	TIP Secretariat, Seychelles		Skychef Limited
		Nature Seychelles		CRS Consultancy
South Africa	The UCT Refugee Rights Clinic (2 interviews)			
	South African Human Rights Commission			

Tanzania	Immigration Department		Itracom Fertilizers Ltd	Stecol Cooperation
	Labour Department (2 interviews)			VIETTEL Tanzania PLC
	Ministry of Labour and Employment		Diocese of Central Tanganyika	Cannon Andrew Mwaka School
	Prime Minister Office			
	PMO-LYED			Mohamed Builders LTD
Zambia	Zambia Statistics Agency	ILO	Rockfield Business Solutions	Universal Mining Chemicals Limited
	Ministry of Labour	IOM	Middleman	Njucha bakery
	Ministry of Home Affairs			
	Department of Immigration (2 interviews)			Munali Nickel Mine
	Ministry of Labour			
Zimbabwe	Ministry of Public Service, Labour and Social Welfare	IOM	ZAGH	MS Brick and Tiles
	Ministry of Public Service, Labour and Social welfare	ILO		Alcohol drink manufacturer
	National Prosecution Department			
	The Immigration Department			Plastic bottle manufacturer

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