



Refugee Documentation Centre (Ireland)  
LEGAL AID BOARD

## **South Africa – Researched and compiled by the Refugee Documentation Centre of Ireland on 25 April 2013**

### **Recent media / COI reports on Government response to young victims of domestic sexual exploitation, trafficking and/or arranged marriage in South Africa. Recent media / COI reports on adequacy of shelters for victims in South Africa for young victims of domestic sexual exploitation, trafficking, and/or arranged marriage.**

An article published by the online legal journal Lawyr.it comments on human trafficking in South Africa as follows:

“For organized crime groups, South Africa can be considered a country of low risk and high profit (Fitzgibbon, 2003). On an international level, Bulgarian, Russian, Chinese and Nigerian syndicates appear to have utilized South Africa’s geographical position as a transit route and are sometimes involved in the trafficking of South African residents to other countries (Songolo, 2000). According to Bermudez (IOM, 2008), Nigerian organized crime groups operating in Pretoria, Port Elizabeth, Johannesburg and Bloemfontein are involved in the trafficking of local black South African females into commercial sexual exploitation and the recruitment of men and boys for exploitive labor use. Within the country, smaller, less well-organized crime groups have established themselves as facilitators of these larger international groups and are also involved in the trafficking of human beings within South Africa and from South Africa to other African countries (Allais, 2010). The confidence with which international organized crime groups use South Africa as a transit route is evidence of how political instability has led to corrupt governments: officials are either involved or have turned a blind eye to the events. The two main forms of human trafficking in South Africa - trafficking for sexual exploitation and trafficking for forced labor - can be seen as key examples of how political and economical instability have contributed to the problem of human trafficking.” (Lawyr.it (18 December 2012) *Human trafficking in South Africa*)

An Inter Press Service report states:

“South Africa is believed to be a hotspot for human trafficking in Africa and the country’s National Prosecuting Authority (NPA) commissioned the Human Sciences Research Council (HSRC) to conduct a study of the problem as part of its programme to combat trafficking, known as Tsireladzani. Professor Carol Allais, who led the HSRC team, told IPS that the team’s work was made difficult by the paucity of data on human trafficking as well as a lack of cooperation by government departments with the research team. Some departments, she said, refused the team access to information even after the NPA had written letters supporting researchers’ requests. A similar study published in 2007 by the U.N. Educational, Scientific and Cultural Organisation (UNESCO) also found reliable data on human trafficking in SA

was sketchy because there were no official statistics.” (Inter Press Service (24 March 2010) *South Africa: Ready To Tackle Human Trafficking?*)

An article published by Women's Asylum News states:

“South Africa has failed to introduce the anti-trafficking legislation it promised to bring in as part of signing a 2000 UN protocol. The Palermo Protocol commits signatories to adopt legislation to prevent and punish human trafficking. While the South African government began drafting a law in 2003, it only got to parliament in March of last year. No clear directions have been given on when the Prevention and Combating in Trafficking in Persons (TIP) Bill is expected to be passed. As South Africa is a major destination for those involved in the human trafficking trade this legislation is desperately needed; a recent US State Department report has identified this lack of legislation as the ‘greatest hindrance to anti-trafficking efforts in South Africa’. These efforts involve using other laws designed to target other sexual, employment and organised crime offences but the penalties are often not proportionate to the severity of human trafficking crimes. Efforts are further hindered by the lack of exact knowledge about the extent of human trafficking in the country. Different government departments have collected conflicting statistics and the confusion over which offences can be categorised as human trafficking has complicated the issue.” (Women's Asylum News: Issue No. 103 (21 July 2011) *South Africa: Desperate need for anti-trafficking laws*)

An IRIN News report states:

“South Africa has been identified as a major human-trafficking destination for victims from within the country, the region and beyond, yet there is no legislation that specifically criminalises human trafficking and protects victims. The country is a signatory to the 2000 UN protocol to prevent, suppress and punish trafficking in persons. In signing this document, also known as the Palermo Protocol, the government committed to adopting legislation to make human trafficking a criminal offence and began the process of drafting a law in 2003. However, the Prevention and Combating in Trafficking in Persons (TIP) Bill only reached parliament in March 2010 and there is no indication of when it will be passed.” (IRIN News (30 June 2011) *South Africa: Still waiting for an anti-human trafficking law*)

This report also states:

“Until the TIP bill is finalized, police and prosecutors are using other laws that deal with sexual offences, employment-related offences, organized crime and kidnapping to deal with traffickers, but the penalties are often insufficient. Julayga Alfred, chairperson of the Western Cape Counter Trafficking Coalition and director of Annex, a local child rights NGO, also notes that the current laws are not always applicable. ‘If its pure human trafficking, if, for example you were tricked [into a forced labour situation] and there was no kidnapping or rape, it becomes ‘You say, I say’, and very difficult to prosecute,’ she told IRIN. ‘This is a business where you can't be prosecuted, and it's thriving.’  
“(ibid)

See also an IRIN News report which states:

“Southern Africa has many of the conditions traffickers capitalize on: endemic poverty and unemployment that create a demand for better opportunities, and high rates of regular and irregular migration that mask the movements of traffickers and their victims. The region has no shortage of protocols, frameworks and action plans for dealing with human trafficking, but the net result of all these agreements has been no more than a handful of prosecutions. ‘African countries are more than happy to sign documents and attend conferences, but step out of the room and they’re happy to have lunch and forget about it,’ said Otilia Maunganidze, a researcher on the International Crime in Africa Programme at the Institute for Security Studies in Pretoria.” (IRIN News (12 December 2011) *Southern Africa: Counter-trafficking measures trail commitments*)

A document published on the SOS Children’s Villages Canada website states:

“According to Barbara Ras, founder of the Atlantis Women’s Movement and a shelter for trafficked victims in Atlantis, says that traffickers especially target women and children from rural areas, and often lure them away under the pretext of jobs in the big city. ‘These people are poor, there are no jobs, some parents are alcoholics and don’t take care of their children,’ says Barbara. ‘There’s a whole network of people involved – recruiters, taxi drivers, the person waiting in the city, etc. There are even women that help with the trafficking of children and other women,’ she explains. ‘Some girls are even sold from person to person – this problem is bigger than we realise and this came to light through the active work of the City’s Vice Squad.’ Currently, most offenders who are caught trafficking are charged with sexual abuse, rape and kidnapping. There has yet to be legislation implemented in South Africa to charge a person with human trafficking.” (SOS Children’s Villages Canada (14 February 2012) *Human Trafficking Rampant in South Africa*)

The US Department of State report on trafficking in persons in South Africa states:

“South Africa is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Children are trafficked mainly within the country, from poor rural areas to urban centers, such as Johannesburg, Cape Town, Durban, and Bloemfontein. Girls are subjected to sex trafficking and domestic servitude; boys are forced to work in street vending, food service, begging, criminal activities, and agriculture. The tradition of ukuthwala, the forced marriage of girls as young as 12 to adult men, is still practiced in some remote villages in Eastern and Western Cape provinces, leaving these girls vulnerable to forced labor and prostitution.” (US Department of State (19 June 2012) *2012 Trafficking in Persons Report - South Africa*)

This report also states:

“The Government of South Africa does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Efforts to address the myriad forms of human trafficking in South Africa remain constrained by systemic challenges, including: laws that do not conform with the 2000 UN TIP Protocol; inadequate resources dedicated to fighting human trafficking; and low awareness of the full breadth of the trafficking problems, particularly with regards to forced labor.

Nonetheless, the government demonstrated increased efforts to address human trafficking through the conviction of two offenders – sentenced to significantly longer prison terms than in previous years, including life imprisonment – and the provision of trafficking-specific victim services to 59 victims.” (ibid)

In a section titled “Protection” this report states:

“The South African government increased its efforts to ensure that trafficking victims had access to protective services during the reporting period though – despite its considerable resources – it did not provide these services directly or increase funding for the private organizations that do so. DSD accredited 13 multi-purpose shelters in 2011 to host trafficking victims and trained their staffs to assist trafficking victims; these shelters provided services to 59 trafficking victims referred by DSD – the only body authorized by judicial authorities to refer crime victims to private shelters – during the reporting period. DSD identified 22 additional shelters that could potentially care for trafficking victims and began their assessment for accreditation. It also began provision of a nine-week rehabilitation program – developed in the previous reporting period – to address the psycho-social well-being of trafficking victims in the care of these shelters.” (ibid)

The US Department of Labor report for South Africa, in a section headed “Prevalence and Sectoral Distribution of the Worst Forms of Child Labor”, states:

“Some children in South Africa are exploited in prostitution and are forced by adults to commit crimes. South Africa remains a country of origin, transit and destination for children trafficked for the purposes of sexual exploitation and forced labor. Children, especially girls, from China, Lesotho, Malawi, Mozambique, Swaziland and Thailand are trafficked to South Africa for commercial sexual exploitation.” (US Department of Labor (26 September 2012) *2011 Findings on the Worst Forms of Child Labor - South Africa*)

A report published on the Media Club South Africa website refers to the new Prevention and Combating of Trafficking in Persons Bill as follows:

“In a significant move to protect the rights of South Africa’s women and children, Parliament’s justice portfolio committee chairperson Luwellyn Landers announced that the Prevention and Combating of Trafficking in Persons Bill will be passed in April. South Africa is one of the few countries in the world that has achieved the human rights milestone of enacting legislation to fight trafficking. Once the Bill becomes an Act in parliament and is fully operational, it will be one of the most comprehensive laws against human trafficking in the country.” (Media Club South Africa (Media Club South Africa (23 March 2012) *New anti-trafficking law for South Africa*)

Referring to this bill a Targeted News Service report states:

“The proposed law to combat human trafficking in South Africa - the Combating of Trafficking in Persons Bill - was passed by the National Assembly last year and is now at the National Council of Provinces. However, children's rights activists have expressed concern with the slow pace of this process, aimed at protecting women and children who are the main victims of

this crime. The lack of legislation has meant that the justice system is compelled to use fragments of other laws to prosecute wrongdoing, which very often proves to be ineffective in the successful conviction of offenders.” (Targeted News Service (18 March 2013) *Child Sex Slaves*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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