

Examining the Zimbabwean Legal Framework on Child Trafficking

Prof Bornface C Chisaka, Dr Shadreck PM Makombe, Mr Zvirimumwoyo G Mvere

Zimbabwe Open University

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ABSTRACT

The paper will take a plunge into examining the legal system in the country of Zimbabwe on child trafficking in the country. This shall be undertaken in an attempt to determine whether the Zimbabwe law on child trafficking is in line with international best practice. The paper examines the national law in Zimbabwe with regard to child trafficking protection details. The paper also examines how the jurisprudence is applying the same scenario in South African vis-a-vis that of Zimbabwe. The paper also reaches the conclusion of the measures and reforms that are needed to fight child trafficking in Zimbabwe. In addition the study provides international and regional framework for children's rights and international best practice against child trafficking will take centre stage, to provide a standard against which Zimbabwe's progress can be measured. The study states a greater detail the Zimbabwean national legal framework against child trafficking in order to establish whether or not Zimbabwe is in conformity with international standards. This study also gives a comparative analysis of Zimbabwean and South African jurisprudence that protects children from child trafficking and compares it with Zimbabwe. Lastly, the writer outlines the findings and conclusions of the study and proceeds to proffer recommendations and suggestions for future research.

INTRODUCTION

Africa as a continent is the most hit by human trafficking with 9.2 million Africans that are victims of modern slavery as of 2016, accounting for 23 percent of total global modern slavery.¹ Among the estimated 10 African countries that contribute to human trafficking with Zimbabwe being one of them and which includes Mozambique, Angola, Botswana, DRC, Lesotho, Malawi, Mozambique, Swaziland and Tanzania, as well as Zambia in the SADC region, they are contributing to the human trafficking business in the region to feed South Africa which is a destination country and regarded as the regional magnet. Zimbabwe with its recent history of hyperinflation, poverty, political upheaval and serious social scarring, along with its own specific geography, has made it a welcoming victim of such an organised crime. Zimbabwe has slowly gained the negative reputation of being a trafficking hub for men, women and children trafficked for the purposes of forced labour and sexual exploitation.² In 2016, more than 200 Zimbabwean women made headlines across the globe as victims of human trafficking who were left stranded in Kuwait.³ Since 2008 when Zimbabwe experienced an unprecedented level of inflation, the country has been experiencing large-scale migration of its people to surrounding countries in search of better opportunities.

There have emerged international, regional and national responses to human trafficking such that trafficking in persons has been made the high politics or global agenda not only of the European Union but also of the African Union and the United Nations in general.⁴ That notwithstanding, trafficking of

¹ M Rahamtalla 'Inter-Regional Expert Group Meeting "Placing Equality at the Center of Agenda 2030"' (2018) Santiago de Chile.

² United States Department of State, *2018 Trafficking in Persons Report - Zimbabwe*, 28 June 2018, available at: <https://www.refworld.org/docid/5b3e0a344.html> [accessed 2 November 2020]

³ The Herald '200 Zim women trapped in Kuwait' 12 March 2016

⁴ M Lee 'Introduction: Understanding human trafficking in Human Trafficking' (2003) 13-37.

human beings has continuously existed because of the inability to harmonise the domestic and international legislation.⁵ The loopholes in the policies in various states also allow traffickers to use and trade unwary victims, especially children, who are not old enough to make sensible judgment on behalf of themselves. Against this menace of child trafficking in the world at large and specifically in Zimbabwe, it is the legal system that can make the driver of change. On international level, such a framework as the Protocol against Trafficking in Persons, especially Women and Children or, in short, the Palermo Protocol adopted by the General Assembly resolution 55/25 in 2000 and came into force in December 2003 is being used to criminalise human trafficking all around the world.⁶ Therefore, an effective anti-trafficking law must conform to the international and regional protocols to stifle human trafficking so that in the event of the elimination of human trafficking, the three collaborate with one another.⁷ In that regard, most nations have formulated laws that are in use during the war on trafficking.

Problem statement

Trafficking of Persons especially trafficking of children remains an ongoing scenario being witnessed globally which is an endless menace despite international efforts in curtailing and combating trafficking of children having the children constituting 27 percent of the victims of the trafficking in the world.⁸ In the Southern African Region, states have been slow in adopting preventive and combative measures putting children especially at risk of being trafficked. The cases of child smuggling and child trafficking across the borders of Zimbabwe are in plenty but yet unrecognized and reported owing to the character of the crime.⁹ This has been reflected in the Zimbabwean situation where children have turned to become a potential and flourishing feeding ground of predators who have trafficked children under the promise of provision of better livelihood on different grounds including sexual, economic and labour. When such untenable condition is enabled to continue the repercussions on future generations will be horrific and horrendous. This study is critical in order to point out numerous issues in policies and legislation that are inconsistent and essential towards the advancement of laws against child trafficking with the scope of children being offered enhanced protection.

Research objectives

The research is guided by the following research objectives:

1. To explore the legal and policy framework which protects children from trafficking in order to establish the international best practices/ standards.
2. To examine in detail the Zimbabwean legal and policy framework which protects children from trafficking.
3. To make a comparative analysis of the Zimbabwean legal and policy framework against South Africa's.

Research Methodology

A pure qualitative methodology was adopted in the research, and comparative analytical approach used in establishing the effectiveness of the legal and policy framework to curb child trafficking in Zimbabwe, when

⁵ K Van Impe 'People for sale: The need for a multidisciplinary approach towards human trafficking' (2000) 38, 113-191.

⁶ LL Shoaps 'Room for improvement: Palermo protocol and the trafficking victims protection act' (2003) *Lewis Clark Rev* 17, 931.

⁷ LT Chibwe *An appraisal of legislation and policy on human trafficking in Zimbabwe* (2016).

⁸ <https://www.savethechildren.org/us/charity-stories/child-trafficking-awareness> (accessed 10/01/2021)

⁹ M Chifamba *Zimbabwe's Thin Line between Child Smuggling and Child Trafficking* <http://www.ipsnews.net/2020/02/zimbabwes-thin-line-child-smuggling-child-trafficking/> (accessed 10/01/2021)

compared with South Africa. The sources used to collect the data were a desktop collection of data and synopsis of data using the main source of law and secondary source of law. Among primary and secondary sources of law are the Constitution of Zimbabwe, statutes, common law, authoritative texts, international instruments, just to mention but a few. The South African system of law was chosen due to its common law status and the fact that this particular system has made the appropriate and recommended steps in line with best practice on child protection against child trafficking. The child trafficking vice in Zimbabwe has will linkage with South Africa considering that it is the preferable destination of the trafficked children in Zimbabwe.

International and regional frameworks

The United Nations convention against organized crime was adopted by the United Nations. This was a Convention that was meant to maximize international cooperation but this one is concentrated on crime control. The convictions, which are captured in the Convention, encompass the following: The involvement in an organized criminal grouping, corruption, blackwashing, and hampering of justice. The protocol that addressed the aspect of trafficking in persons is also known as the child of Convention. They were later followed by three other protocols of the convention that is the firearms, migrant smuggling and trafficking protocols.¹⁰ Generally, the Convention provided a backdrop that would be followed by the state parties to narrow in on the aspect of trafficking in persons. The Convention provides that the state parties ought to introduce certain degree of uniformity in national legislation by requiring the state parties, to ensure the criminalization of organized criminal activity, money laundering and public sector corruption.

The convention applies to combat of trafficking in persons due to the fact that they increase cross border enforcement of the law with increased exchange of information across borders. The Convention provides legal framework that forms the foundation of the mutual legal cooperation between the state parties in terms of investigation of offence, punishment of the offence and via the judicial process. The formation of extradition processes is encouraged and further investigation across state bodies by joint investigation bodies is encouraged. As intimated above, the relevance of the Convention is on the substance basis to the UN trafficking protocol and protection of the children against trafficking.

U. N. Trafficking Protocol¹¹

The United Nations agreed on the initial meaning of trafficking that was used in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and children, to supplement the United Nations convention against Transnational Organised Crime (Trafficking Protocol). The protocol has been utilized as a legal framework to the local laws of its member states in the world.¹² It was the first international and legally binding document since there was an adopted definition on trafficking in persons.¹³ The reason behind giving this definition was to make convergence in national efforts to criminalise human trafficking and this would facilitate efficient cross-border cooperation in investigation and prosecution of trafficking in persons cases.¹⁴ Another aim of the Protocol is to save and shelters the victims of the trafficking of the persons in the full respect of their human rights. In a simple description the Parlemo Protocol aims at stopping trafficking, safeguarding

¹⁰ See Protocols

¹¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime **General Assembly resolution 55/25 of 15 November 2000**

¹² Norah Hashim Msuya, "Traditional 'Juju Oath' and Human Trafficking in Nigeria: A Human Rights Perspective," *De Jure* 52, no. 1 (2019), <https://doi.org/10.17159/2225-7160/2019/v52a9>.

¹³ D Okech, YJ Choi, J Elkins & AC 'Burns Seventeen years of human trafficking research in social work: A review of the literature'. *J. Evid.-Inf. Soc. Work* 15, 103–122

¹⁴ DB Jansson *Modern slavery: a comparative study of the definition of trafficking in persons*. (2014).

the victims of trafficking when and when it does take place and, prosecuting its traffickers as well as establishing international and cross-border partnerships.

A child according to the United Nations Convention on the Rights of the Child (UNCRC) is a person under the age of eighteen years.¹⁵ In this regard any trafficking of individuals below the eighteen-year mark will therefore equate to child trafficking. A Protocol to Prevent, suppress and punish trafficking in persons especially women and children, defines that recruitment, transportation, transfer, harbouring or receipt of a child would be regarded as an act of trafficking in persons.¹⁶ In this regard to avoid any doubt, the Protocol adds to the definition of Trafficking in persons which was set forth in the earlier paragraphs that even in situations of the involvement of minors it remains by mean of trafficking in persons.

United Nations Convention on the Rights of the Child (UNCRC)¹⁷

The UNCRC also tries to deal with the prohibition of child trafficking, as it exists in the world. The UNCRC states that the state parties are expected to undertake all possible measures that are alternatively exclusive in nature and encompassed in the legislative, administrative, social as well as learning measures in which they are obliged to make sure that children are not subjected to production and the trafficking of illicit drugs and narcotic and psychotropics substances.¹⁸ This implies that when children are involved in drug trafficking then this leads to child trafficking. UNCRC therefore requires the prevention of children against this menace. The State Parties are also further tasked with taking all reasonable measures that are national, bilateral or multilateral to obstruct the abduction or sale or the trafficking of the children whether to be greedily used or whether to be used in whatsoever manner. This makes the potential meaning of child trafficking open since the intent or the type of trafficking means nothing but the curse of trafficking is deterred.

Cumulating on the last section that outlined what constitutes trafficking in persons and child trafficking in the wider meaning it is important to narrow down to the safeguards conferred to the juveniles under the international law. There are a wide range of treaties under international law and it is interesting to note that of the modern international human rights treaties, UNCRC with CEDAW being the only exception, in some cases implicitly, mention trafficking as one.¹⁹ The critical approach to the UNCRC is that, in order to build a balanced provide the requirements of safeguarding the life and integrity of children as well as the guarantee of child empowerment the UNCRC attempts to construct an enveloping fabric of rights and policies.²⁰ UNCRC as it is may be valued as a fighting weapon against the epidemic of child trafficking.²¹

Regional Framework

The earlier Organisation of African Unity (OAU), now the African Union (AU) adopted the African Charter on the Rights and Welfare of the Child (ACRWC) that endorsed and recognised the UNCRC,²² The ACRWC has been valued and praised to be the first regional document that recognized children as rights holders.²³ The extra value of this regional instrument in spite of the already existent UNCRC is well reflected in its preamble that

¹⁵ G Vermeulen (n 20 above) 6

¹⁶ Article 3(c) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children

¹⁷ United Nations Convention on the Rights of the Child General Assembly resolution 44/25 of 20 November 1989

¹⁸ Article 33 of the United Nations Convention on the Rights of the Child

¹⁹ A Gallagher, *The International Law of Human Trafficking* (New York: Cambridge University Press, 2010). p65

²⁰ A Gallagher, (n 59 above) 8

²¹ G Vermeulen (n 20 above) 6

²² Jacqueline Gallinetti *Child Trafficking in SADC Countries. The Need for a Regional Response* ILO Sub-Regional Office for Southern Africa, Harare: ILO, 200878 p. (Issue paper No. 32)

²³ Gallinetti (n 69 above) 30

takes note of the fact that most African children are exposed to context-specific issues that may or may not be true in other situations.²⁴ The African child is affected with issues like armed conflicts, natural calamities, exploitation and starvation which are unique to the African child.²⁵ The UNCRC and the ACRWC that is the two instruments were meant to operate in consonance as opposed to contention.²⁶ ACRWC acknowledges the evil that is child trafficking. The adoption article 24 requires the state parties to undertake all the necessary procedures in ensuring that when children are adopted across border lines or even nationally adopted the adoption placement does not result into traffic or any illicit monetary interests by the parties which attempt to adopt a child.²⁷ Any adoption should be done in that way, which would not violate the current law and practice.²⁸ State parties are also charged with the responsibility of ensuring the child is not trafficked with a view of promoting child protection through conclusion of treaties that are multilateral or bilateral in nature and thus endeavour to have placed the child in a foreign country to be done by qualified bodies or agencies.²⁹

Zimbabwe's child trafficking legal framework

The Zimbabwean Government has been criticized because it has not been sufficient enough to pass the minimum standards that would result in removal of trafficking of persons in Zimbabwe.³⁰ Although it has received such criticism, it has also done much in the fight against child trafficking and trafficking in persons, in general. These gains are some of the reasons why the US government in Zimbabwe managed to convict traffickers in the year 2018 compared to the year 2007.³¹ The border and law enforcement agents, Social workers, Civil Society Organisations (CSO) and labour officials have been trained on how to identify the victims of trafficking and also on different techniques of interviewing.³²

Zimbabwe is a place of origin, transit and destination to men, women and children to different form of exploitation that involve sexual abuse, domestic servitude and forced labor in farming among other numerous exploitation.³³ To fight the trafficking in persons, Zimbabwe signed the convention of the 12 th of December 2007. To be particular, Zimbabwe signed up the Trafficking in Person Protocol on the 13 th December 2013. The Zimbabwe government then came up with Trafficking in Persons Bill that was legislated as a matter in

²⁴ The Preamble of the African Charter on the Rights and Welfare of the Child (ACRWC)

²⁵ The Preamble of the African Charter on the Rights and Welfare of the Child (ACRWC)

²⁶ Gallinetti (n 71 above) 30

²⁷ Article 24(d) of the African Charter on the Rights and Welfare of the Child (ACRWC)

²⁸ Article 24 of the African Charter on the Rights and Welfare of the Child (ACRWC)

²⁹ Article 24(e) of the African Charter on the Rights and Welfare of the Child (ACRWC)

³⁰ United States Department of State, *2018 Trafficking in Persons Report - Zimbabwe*, 28 June 2018, available at: <https://www.refworld.org/docid/5b3e0a344.html> [accessed 28 December 2020]

³¹ United States Department of State, *2018 Trafficking in Persons Report - Zimbabwe*, 28 June 2018, available at: <https://www.refworld.org/docid/5b3e0a344.html> [accessed 28 December 2020] In 2014, the Zimbabwe Parliament passed the [Trafficking in Persons Act](#) to identify those who have been trafficked, mitigate the illicit practice and prosecute trafficking offenders. However, it wasn't until 2016 that the government launched the [Trafficking in Persons National Plan of Action](#) to enforce the law. Since then, Zimbabwe's government has made some headway in its efforts to end human trafficking. It [investigated](#) 72 potential cases of trafficking and prosecuted 42 cases in 2016, compared to none in the previous year. The government reported prosecuting 14 trafficking cases in 2017.

³² United States Department of State, *2018 Trafficking in Persons Report - Zimbabwe*, 28 June 2018, available at: <https://www.refworld.org/docid/5b3e0a344.html> [accessed 28 December 2020]

³³ TIP Report 2007-According to this report, rural Zimbabwean children are trafficked into cities for agricultural labour, domestic servitude and commercial sexual exploitation. Zimbabwean women and children are reportedly trafficked for sexual exploitation in border towns.

terms of the Presidential Powers (Temporary Measures) Act in January 2014. These Regulations lasted only six months (January -June 2014). This was then followed by the Trafficking in Persons bill; which was then later passed and signed into law- the Trafficking in Persons Act [Chapter 9:25] on 13 June 2014.³⁴

According to section 9 (3) (a) of the Trafficking in Persons Act, the Zimbabwe Trafficking in Persons National Plan of Action (NAPLAC) is determined.³⁵ It is stipulated in the Act that the committee is to establish a national plan against trafficking in persons, with the consent of the minister, and is to monitor and report on the executions of the national plan of action to take place over one year or more depending on the milieu of the committee. The active NAPLAC is 3-years long and is in its 2019-2021 timeline after being its preceding counterparts ran between the years 2016-2018. The NAPLAC emphasizes on the commitment by purpose and faith of Zimbabwe to its national, regional and international commitment towards combating human trafficking.³⁶ The NAPLAC emphasizes on four Ps and the four Ps are prevention, prosecution, protection and partnerships. In the Plan, it pinpoints out that the war against TIP in Zimbabwe has been focused on the rights based and victim centred approach. This basically means that the Zimbabwe follow up to TIP should be informed by the international human rights the protection of human rights especially that of the victim. The Plan also provides children with a lofty position where children are given special protection and welfare irrespective of their legal status and this restates the Trafficking Protocol. According to the Plan, it is required that in all matters that relate to the child the best interest of the child is of utmost interest and shall be of principal consideration.³⁷

An analysis of Zimbabwe and South Africa legislative protection mechanisms

Zimbabwe is not in full compliance with the minimum standards of elimination of trafficking, and it does not make significant efforts to meet the standards; the government enacted an anti-trafficking law in 2014 that defines trafficking in persons as a crime of transportation and does not reflect the most important component of the international definition of human trafficking, which is the purpose of exploitation, thus the new law fails to be comprehensive and consistent with the UN TIP Protocol (signed in 2000) to which Zimbabwe is a party since 2013; the

Human rights-based approach means that the human rights of the trafficked persons must be in the centre of any attempts to Prevent, combat and to protect, assist and provide redress to the persons who have been trafficked. With a human rights-based system, all the components of the national, regional and international efforts to combat trafficking are based on rights and responsibilities of international human rights and derived core rights as stated in the constitution.

In the constitution the chapter 4 (Declaration of Rights) also provides basic rights to every citizen of the Zimbabwean country. The declaration of rights stipulates that anyone is entitled to have life, no one shall be forced to work, no one shall be forced to labour, no one shall fall into slavery or slavery. It also stipulates that no one should be given treatment or undergo torture, whether physical or psychological in relation to cruel, inhuman and degrading treatment and punishments. It further confirms the democratic value of human dignity and freedom of movement and residence and that the best interest of the child should always be prior in any situation dealing with the child. In section 12 of the constitution, the constitution further stipulates that the foreign policy of Zimbabwe should be anchored partly on the respect of international law. The constitution in section 34 gives that the state should safeguard the provision of all international conventions, treaties and agreements to which Zimbabwe is a signatory, into the domestic law.

³⁴ Dodo, O and G Dodo. "Human Trafficking in Zimbabwe: An Impediment to National Development." *International Journal of Humanities and Social Science* 2, no. 7 (2012): 5.

³⁵ Chapter 9:25

³⁶ Preface of the NAPLAC

³⁷ NAPLAC p8

According to Section 2 of the constitution the constitutional law is the supreme statute of Zimbabwe. The constitution also stipulates that the obligations which have been imposed by the Constitution are binding upon all persons, both natural and juristic and includes the State and all executive, legislative and judicial institutions and agencies of government at all levels and it ought to be performed by them. The issue of human trafficking is a crime as well as a violation of basic human rights. The trafficking in persons needs a vigorous intervention based on the support and protection of the victims, strict application of the criminal justice system, proper migration policy and a strong control of the labour markets of children.³⁸ The provisions of the above (fundamental rights of the constitution) implies that no policy, programme and law that seek to address the issue of arresting trafficking in persons can be structured without first putting the interests and human right concerns of the trafficked persons at the fore front of the fight against trafficking in persons.

This is because victims of trafficking in most of the times face the wrath of their traffickers as victims seek assistance or assist the authorities to prosecute the traffickers and hence under the Act the safety of the victims who have been harmed by their traffickers or alleged traffickers is to be accorded by the Police. Notably, the Act is obligatory in nature in providing counselling to the victim, it also provides the rehabilitation services to the victim, the reintegration of victims who are adults into their community of reception, care and enhancing the development of children and adult victims. The Act also states that where the victims are children, the best interests of the child are supreme when deciding to give them any kind of assistance.

FINDINGS, CONCLUSION AND RECOMMENDATIONS

The international and regional mechanisms offered different treaties existing in the circumstances of international law with a wide range of problems and it is interesting to note that among the current international human rights treaties except CEDAW the UNCRC is the only treaty which expressly mentions the concept of trafficking. State parties are obligated to ensure that they take all the necessary national, bilateral and multi-lateral measures to deter the process of abduction, sale or trafficking of children to any type of end whatsoever or in whatever kind of manner whatsoever.³⁹ Another duty of state parties is that the protection of children against all kinds of exploitation that can be economic or sexual or any other kind of abuse should not be removed.⁴⁰ The UNCRC requires among others that each of the state parties shall assume all needful measures that may be national, bilateral or multilateral, to see that no child is induced or coerced to entertain engaging in any form of illegal sexual practices. This kind of exploitation like children prostitution or any other illegitimate practices or utilization of children in pornography shows and substances or illegal export and failure to send offspring back in a remote country.⁴¹

Contextualisation of Child Trafficking

The UNCRC under the International Human Rights Laws whose primary role is to oversee its application has at times expressed and presented statements regarding issues of the trafficking in its concluding remarks on the Reports presented to the UNCRC by the State parties to the UNCRC.⁴² Child trafficking considerations that affect directly the articles 34 and 35 of the UNCRC have been ascertained by the Committee. Generally speaking, it has been human sexual exploitation but the likes of trafficking with the aim of binding people into labour, economical exploitation and even the case of child adoption trafficking has been recognised.⁴³ Because of the acknowledgement of the popularity of trafficking as a burning problem despite the reservation voiced by

³⁸ United Nations office on drugs and crime global report on trafficking in persons, 2012

³⁹ Article 35 of the UNCRC

⁴⁰ Article 34 of UNCRC

⁴¹ Article 11 of the UNCRC

⁴² Article 43 of the UNCRC

⁴³ H Sax, "Group Of Experts On Action Against Trafficking In Human Beings," in *A Commentary on the Council of Europe Convention on Action against Trafficking in Human Beings*, by Julia Planitzer and Helmut Sax (2020), 410–24, <https://doi.org/10.4337/9781788111560.00048>.

the Committee an optional protocol to the CRC was adopted that aimed at the extension of the already existing Convention so as to cover the sale of children, child prostitution and child pornography.⁴⁴

U. N. Trafficking Protocol

The protocol is a legal framework of the national laws of the member states all over the world.⁴⁵ It was the first internationally legally binding Protocol to have an agreed definition of the term trafficking in persons⁴⁶. Another purpose of the Protocol is to safeguard and help the victims of trafficking in persons without any impairment of their human rights. Simply, the Palermo Protocol aims at deterring trafficking to occur, safeguarding victims of trafficking when and where it occurs and, to prosecute the perpetrators of trafficking and establish collaboration at the domestic and international level.

United Nations Convention on the Rights of the Child (UNCRC)

The UNCRC stipulates that the state parties should endeavor to do all the suitable measures to make sure that no child is employed in the illegal manufacture and the trade in narcotic and psychotropic substances or drugs and the measures appointed change in their meaning and legislative, administrative social and educational measures.⁴⁷ It therefore implies that when children are utilized in the importation of drugs this is considered to be child trafficking. The UNCRC, therefore, provides that children should be shielded against this vice. Sub Regional and African Regional Legal attempts to address the issue of trafficking

The author observed that very little has been done to fight trafficking and especially child trafficking across most parts of the third world countries.⁴⁸ Most of the countries in Africa, Central America and the Caribbean are yet to take the initial step to fighting trafficking that is, enactment of laws against trafficking at a time when 80 percent of world countries have enacted laws against it.⁴⁹

African Charter on the Rights and Welfare of the Child (ACRWC)

The ACRWC has been valued and hailed as the pioneer regional tool that recognized children as being a grantee of rights.⁵⁰ The value of this regional instrument in spite of the existence of the UNCRC was well understood in the preamble of this instrument which acknowledges the fact that most African children are subject to different factors that might not be prominent in other regions.

Zimbabwe's Child Trafficking Legal Framework

In its national system, the government in Zimbabwe has been criticized because of failure to reach the minimum standards that would result in abolition of trafficking of persons in Zimbabwe.⁵¹ It has nevertheless put a lot

⁴⁴ Optional Protocol to the UNCRC

⁴⁵ Norah Hashim Msuya, "Traditional 'Juju Oath' and Human Trafficking in Nigeria: A Human Rights Perspective," *De Jure* 52, no. 1 (2019), <https://doi.org/10.17159/2225-7160/2019/v52a9>.

⁴⁶ D Okech, YJ Choi, J Elkins & AC 'Burns Seventeen years of human trafficking research in social work: A review of the literature'. *J. Evid.-Inf. Soc. Work* 15, 103–122

⁴⁷ Article 33 of the United Nations Convention on the Rights of the Child

⁴⁸ L Shelley, 269 "Human Trafficking: A Global Perspective, Louise Shelley (Cambridge: Cambridge University Press, 2010), 356 Paper. | Ethics & International Affairs | Cambridge Core,"

⁴⁹ L Shelley, (n 61 above) 269

⁵⁰ Gallinetti (n 59 above) 30

⁵¹ United States Department of State, *2018 Trafficking in Persons Report - Zimbabwe*, 28 June 2018, available at: <https://www.refworld.org/docid/5b3e0a344.html> [accessed 28 December 2020]

of efforts to combat child trafficking and trafficking in persons in general, in spite of such critic. These advances are when the US government observed that in the year 2018, Zimbabwe has achieved conviction of traffickers since 12 years ago, in the year 2007.⁵² Zimbabwe is not only a provider, transitional and a destination of both men, women and children to different forms of exploitation including sex abuse, domestication servitude and forced labour in farms among many others. As an attempt to tackle trafficking in persons, Zimbabwe ratified the Convention of the 12 th of December 2007. On the 13 th December 2013, Zimbabwe signed the Trafficking in Person Protocol. This was followed by the formulation of a Trafficking in Persons Bill by the government of Zimbabwe that was enacted in January 2014 in accordance to the Presidential Powers (Temporary Measures) Act. The absence of new data and statistics in general is an issue in regard to the research of child trafficking in Zimbabwe.

Analysis South Africa with Zimbabwe

Lately, South Africa established a comprehensive legal framework to prevent and fight child trafficking.⁵³ South Africa is engaged with various global and territorial tools in overseeing human trafficking. All these tools demand that the country establishes legal and strategic framework, which achieves requirements of their plans. The 1996 Constitution: In accord with the 1996 Constitution, implementation of the nations undertakings of a global law requires the appointment of public laws by the Parliament of the country. Although South Africa itself is in a financially risky situation, it is considered as a land of opportunity to people in a developed part of the neighbour countries and on most occasions that is the case. The major issue in Zimbabwe is the fact that no aspect of the problem of identification of the victims of trafficking is contained in the TIP Act and the Trafficking protocol.⁵⁴ There is a hushed undertone to child trafficking in that unless child trafficking victims are accidently discovered, then they keep getting exploited secretly.

Prevention and Combating of Trafficking in Persons Act (PCTP Act) takes a broad interpretation of what amounts to dealing. It includes delivery, enlisting, transporting, moving, holding, purchase, sale, rented or receive any individual, with a goal to engage them in or outside the country of South Africa, by various means such as threat of mischief, deceit, kidnapping, or maltreatment of force that centers around the individual in question or some other identified with such individual; or taking up of kid or completion of constrained marriage with a goal of abuse in or outside South Africa.

It is recognised that Zimbabwe became a signatory to the United Nations Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children against Transnational Organised Crime. The Zimbabwean Trafficking in Persons Act provides a rather lengthy explanation of what can be considered the criminal act of trafficking. According to the Act, a person who in any such manner traffics another person, will be subjected to trafficking where such person transports such an individual into or out of Zimbabwe or without such individual through means of transporting the individual with force or through use of violence, use of drugs that render the person unconscious or foster

⁵² United States Department of State, *2018 Trafficking in Persons Report - Zimbabwe*, 28 June 2018, available at: <https://www.refworld.org/docid/5b3e0a344.html> [accessed 28 December 2020] In 2014, the Zimbabwe Parliament passed the [Trafficking in Persons Act](#) to identify those who have been trafficked, mitigate the illicit practice and prosecute trafficking offenders. However, it wasn't until 2016 that the government launched the [Trafficking in Persons National Plan of Action](#) to enforce the law. Since then, Zimbabwe's government has made some headway in its efforts to end human trafficking. It [investigated](#) 72 potential cases of trafficking and prosecuted 42 cases in 2016, compared to none in the previous year. The government reported prosecuting 14 trafficking cases in 2017.

⁵³ The MEC program supports a range of activities authorized under the Missing Children's Assistance Act and other laws. For further information, see CRS Report RL34050, *Missing and Exploited Children: Background, Policies, and Issues*, by (name redacted)

⁵⁴ T M Dube (n 118 above) 5

an effect of addiction in the person or through abduction or detention of such victim or through the use of fraud or abuse of powers of trust against such individual or through inducement in order to facilitate in the transportation or where the transportation is done willingly but in an unlaw.⁵⁵

Recommendations

It is on these findings and conclusion of the study that the writer makes some recommendations on the right constitutional, legislative and policy actions that Zimbabwe can take in preventing child trafficking. In case the recommendations are embraced, Zimbabwe can ensure that offenders to child trafficking are arrested and our children are safeguarded.

Legal Actions

- Enforce, successfully, all the international adopted laws and regimes especially the Palermo protocol (2000), the UNCRC, the ILO Convention No. 182 and the CEDAW to enable a conducive environment to be achieved towards eliminating human trafficking within the shores of Nigeria. All aspects of trafficking such as trafficking of the children should be addressed and not just trafficking of prostitution and sexual exploitation.⁵⁶ 25
- Standardize the laws against trafficking internationally and regionally and work with the countries in the region to pass laws against trafficking in persons in those countries which have not.
- Aspirations to ratify and practice the Child Rights Act of 2003 within all the geographical regions of Zimbabwe. Readjust anti-trafficking initiatives and legislation in such a way that they would cover not only trafficking out of any form but also protection of trafficked individuals.

Policy Changes

- The government of Zimbabwe is supposed to give active participation and accessibility to all people particularly the women at the bottom of the poverty line through poverty alleviation programmes.
- Conduct additional policy-relevant research regarding the different forms of human trafficking in Zimbabwe and more specifically factors within the socio-cultural environment that make people more vulnerable.
- The various agencies such as the Department of Immigration and the police are required to examine the negative impact of the pilgrimage held annually on human trafficking in Zimbabwe.
- Come up with coherent and well spelt out counter human trafficking strategies in Zimbabwe and the national plan of action and information that can be trusted through unanimous cooperation of all strategic players which include the government, Non-Growth Organisations, international bodies and also people representatives of both rural and urban locality.

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