

**GETTING TO GRIPS**  

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**WITH TRAFFICKING**

**REFLECTIONS ON HUMAN TRAFFICKING  
RESEARCH IN SOUTH AFRICA**

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# CONTENTS

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ACKNOWLEDGEMENT	iii
ABOUT THE AUTHOR	iv
LIST OF ACRONYMS	v
LIST OF TABLES AND FIGURES	vi
EXECUTIVE SUMMARY	vii
CHAPTER 1 <b>Introduction</b>	1
CHAPTER 2 <b>Defining trafficking</b>	3
CHAPTER 3 <b>Researching trafficking</b>	13
CHAPTER 4 <b>A Review of the literature on trafficking in South Africa</b>	23
CHAPTER 5 <b>Lessons from the literature</b>	37
CHAPTER 6 <b>Towards more critical and sophisticated analyses</b>	59
CHAPTER 7 <b>Conclusion</b>	75
NOTES	79



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## LIST OF ACRONYMS

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CATW	Coalition against Trafficking in Women
CIA	Central Intelligence Agency
CR	Capture-recapture
ILO	International Labour Organisation
IOM	International Organisation for Migration
NGO	Non-governmental organisation
TECL	Towards the Elimination of the Worst Forms of Child Labour
TVPA	Trafficking Victims Protection Act
SALRC	South African Law Reform Commission
STI	Sexually transmitted infection
UK	United Kingdom
UN	United Nations
UNICEF	United Nations Children's Fund
UNESCO	United Nations Educational, Scientific and Cultural Organisation
US	United States

## LIST OF TABLES AND FIGURES

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Table 1: Summary of innovative methods and their applicability in South Africa

Figure 1: Elements of the Palermo Protocol's definition of trafficking

Figure 2: Populations where trafficking victims constitute sub-populations

Figure 3: Trafficked forced labour by form

Figure 4: Forced economic exploitation by gender

Figure 5: Forced sexual exploitation by gender



## EXECUTIVE SUMMARY

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South Africa has committed itself to developing specialised legislation to combat the trafficking of human beings within, to and from South Africa. Between May and June 2006, the South African Law Reform Commission (SALRC) invited public comment on draft trafficking legislation; yet we still know relatively little about trafficking in South Africa. There are no official statistics on trafficking. A handful of studies on trafficking have been conducted but these have been limited in size and geographical scope. The studies have also been compromised by imprecise definitions and a bias towards sexual exploitation, raising questions about their usefulness for policy design. There has been no research on trafficking either for the purposes of labour exploitation or for the harvesting of organs or body parts. Information is thus urgently needed on:

- the extent of the problem, including the number of South Africans who are trafficked to other countries;
- the types of trafficking that exist in South Africa and the nature of the exploitation to which victims are subjected;
- the profile and motivations of victims and traffickers;
- the factors that contribute both to trafficking and to making some individuals more vulnerable than others to being trafficked;
- the extent of prevention-related activities and support available to victims; and
- South Africans' attitudes to, and knowledge of, trafficking.

The weaknesses in the South African data reflect problems in the broader international literature on trafficking, which has largely resulted from impassioned advocacy efforts rather than an interrogation of the phenomenon. This is beginning to change. Growing criticism of the prevailing discourse on trafficking and the demand for more concrete information has seen the

emergence of more critical analyses. These provide valuable lessons for South Africa.

A small Finnish study on the implementation of trafficking legislation by law enforcement personnel, as well as the generally fragmented and often contradictory nature of the much of literature, underscores the importance of basing research on clear, unambiguous definitions. The evident politicisation of the international debate also highlights the need for careful, dispassionate enquiry that examines assumptions over the extent and nature of trafficking. More specifically, studies suggest that South African research needs to examine trafficking outside of the sex industry, as well as to:

- examine the linkages between different types of trafficking;
- consider the deeper, structural factors that create an environment conducive to trafficking;
- examine the wide range of trafficking arrangements that are likely to exist, the different actors involved, and their motivations;
- study the implications of trafficking and ‘rescue’ for victims; and
- adopt more nuanced understandings of the problem that are sensitive to the cultural and social contexts in which trafficking occurs, recognise that ‘victims’ have agency, and explore how existing and planned policies may affect anti-trafficking efforts.

Several international studies adopt innovative methodologies that could help to improve the quality of future research and overcome some of the difficulties associated with conducting research on hidden and illegal issues such as trafficking. The successful combination of quantitative and qualitative research methods – as well as borrowing from ethnographic and population estimation techniques in the human and biological sciences – suggest new, more rigorous ways of collecting the quantitative data desired by policy makers while allowing for the detailed examination of complex issues.

## CHAPTER 1

# INTRODUCTION

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The trafficking of human beings over the past two decades has become an issue of considerable concern for the international community. The notion that growing numbers of women and children are lured into a life of sexual servitude, in particular, has resulted in increasing amounts of funding being poured into counter-trafficking initiatives. The number of international and non-governmental organisations (NGOs) working on trafficking issues has increased substantially; the literature has expanded exponentially and at least five United Nations (UN) agencies now engage with the topic.<sup>1</sup> With the drafting by the UN of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (hereafter referred to as the Palermo Protocol), combating trafficking has become an important political priority for governments worldwide.

South Africa is one of 117 countries to have signed the Palermo Protocol, which came into force on 25 December 2003. By ratifying the Protocol in February 2004, South Africa committed itself to criminalising trafficking and developing legislation to combat it. The National Prosecuting Authority has been tasked with driving this process and has formed an intersectoral task team to oversee the development of legislation. Provisions on trafficking have already been included in the Children's Bill. The revised Sexual Offences Act dedicates a chapter to criminalising trafficking for sexual purposes. At the time of writing, the South African Law Reform Commission (SALRC) had prepared draft legislation on trafficking – a process which was preceded by the publication of an issue paper on the topic in March 2004.

Underlying the push for legislation is the assumption that trafficking is a unique and significant problem that cannot be adequately dealt with by existing laws. Growing media interest has fuelled the perception that South Africa is a trafficking hub; yet very little is known about the extent and nature of the phenomenon in the country. A handful of studies have been carried out over the past six years, but these are by their own admission preliminary projects that explored only a narrow range of topics and are limited by small sample sizes and restricted geographical scope. Given these limitations,

it is widely recognised that comprehensive research is urgently needed to establish the full scope of human trafficking in South Africa.

This monograph aims to inform such research and motivates for more extensive and representative investigations into human trafficking in South Africa. Chapter Two examines the evolution of the concept of trafficking, how it is defined in the Palermo Protocol and the political issues surrounding the current conceptualisation of trafficking. Chapter Three discusses the definitional and methodological challenges faced by those doing research on trafficking, and how this affects the quality and accuracy of studies on trafficking. Chapter Four examines South African-based research and identifies the gaps. With a view to informing more comprehensive research in South Africa, Chapter Five considers the key issues and lessons emerging from international studies on trafficking and its related topics. Chapter Six investigates what is needed for a sophisticated approach to studying trafficking, and provides examples of creative methodologies that could be applied in efforts to extend the boundaries of trafficking research in South Africa. The final chapter pulls together the findings of the two preceding chapters and suggests directions for future research on trafficking in South Africa.

## CHAPTER 2

# DEFINING TRAFFICKING

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Human trafficking re-emerged as an issue during the mid-1980s on the back of concern over changing migration flows, HIV/AIDS, child prostitution and child sex tourism, and the revitalisation of the feminist movement. It rose to prominence during the 1990s, with early advocacy efforts culminating in the opening of the Palermo Protocol for signature in December 2000. The Protocol – one of three supplementing the UN Convention against Transnational Organised Crime – establishes an inclusive definition of trafficking and basic principles for combating it. As such, it represents the first international agreement on a broad-based response to an issue that has occupied policy makers since the late 19<sup>th</sup> century – debates which continue to affect how people think about trafficking.

This chapter traces the evolution of the trafficking debate over the past century-and-a-half, examines the current definition of trafficking and the influences of historical debates on the modern conceptualisation of trafficking.

### **Evolution of the trafficking debate**

Reports of various forms of bondage and slavery date back to the beginning of written history, and concern over the forced movement and exploitation of people dates back to the abolitionist movement of the 19<sup>th</sup> century. While this movement focused primarily on the wide range of human rights abuses suffered mostly by African slaves, concern over trafficking has been inextricably linked to the issue of prostitution and sexual exploitation among women from Europe, and only more recently, the developing world.

The beginnings of the contemporary trafficking debate can be traced back to the late 19<sup>th</sup> century when the British *Pall Mall Gazette* published a series of articles on the 'white slave trade'. The series described the abduction, organised rape and sale of young British women into the sex industry in the United Kingdom (UK) and the Americas.<sup>2</sup> The series presented the stories of women lured into prostitution while still children, the tricks used to kidnap them and the corruption that allowed the trade to flourish. It also, as Irwin

argues, “drew back the curtain on those wealthy Victorian men to whom the trade catered, suggesting graphically the sexual tastes of those to whom ‘the shriek of torture [was] the essence of their delight’”.<sup>3</sup>

The series was highly sensationalised and resulted in a public outcry in Britain, much of continental Europe and ultimately the United States (US). Much as with today’s campaigns, the issue received wide media coverage, organisations were established to combat it, and national and international legislation was adopted to stop the ‘trade’.<sup>4</sup> It is a matter of debate as to how common the ‘white slave trade’ actually was, but the *Gazette’s* articles created a moral panic and powerfully linked two arguably unrelated topics – prostitution and slavery – in a way that has influenced perceptions of human trafficking ever since.<sup>5</sup>

The first international agreement to combat ‘white slavery’, the International Agreement for the Suppression of the White Slave Trade of 1904, did not actually link slavery to prostitution as such; rather, it sought to address the fraudulent or abusive recruitment of women for prostitution in another country.<sup>6</sup> Subsequent amendments broadened the scope of the agreement to include the within-country recruitment of girls and boys, but remained concerned with the trafficking of ‘unwilling women’. However, from 1933 onwards prostitution became synonymous with trafficking. The International Convention for the Suppression of the Traffic in Women of that year condemned all recruitment for prostitution in another country and obliged signatories to punish “any person who ... procures, entices or leads away, even with her consent, a woman or a girl of full age for immoral purposes to be carried out in another country”.<sup>7</sup> This sentiment was reiterated in the 1949 UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, which although signed by only a handful of countries provided the model for domestic legislation in many countries.<sup>8</sup>

The renewed interest in trafficking in the 1980s was influenced by concern over the extent and influence of organised crime – as evidenced in the Palermo Protocol’s association with the Convention against Transnational and Organised Crime – and increasing levels of illegal immigration, particularly in Europe and the US.<sup>9</sup> The appearance of growing numbers of Latin American, Asian and – following the collapse of the former Soviet Union – Eastern European sex workers in Europe and the US, in particular, also attracted the attention of both the public and civil society groups. This led to the ‘rediscovery’ of trafficking and prostitution by a new generation of feminists who, although unable to agree on a definition of prostitution

or its link to trafficking, became increasingly vocal in demanding national and international responses to combat what they saw as a violation of women's rights.<sup>10</sup>

The emergence of the HIV/AIDS epidemic in the late 1980s fuelled societal concerns about the implications of prostitution and led to further calls for prostitution and trafficking to be placed on political agendas nationally and internationally.<sup>11</sup> Reports on child sex tourism, by organisations such as End Child Prostitution in Asian Tourism in Thailand, added a further dimension to calls for governmental action on trafficking and prostitution.

By the 1990s trafficking, particularly of women and children, reappeared on the agenda of the UN General Assembly and the Commission for Human Rights. It was also discussed at the 1993 World Conference on Human Rights and at the World Conference on Women held in Beijing in 1995.<sup>12</sup> On the recommendation of the UN Commission on Crime Prevention and Criminal Justice and the UN Economic and Social Council, the General Assembly in 1998 included the development of what would become the Palermo Protocol in the mandate of the intergovernmental *ad hoc* committee tasked with drafting the Convention against Transnational Organised Crime.<sup>13</sup> Other instruments, such as the International Labour Organisation's (ILO) Convention on the Elimination of the Worst Forms of Child Labour (Convention 182) and the supplementary protocol to the Convention on the Rights of the Child concerning child selling, child prostitution and pornography followed, but the Palermo Protocol remains the most influential international document on the issue.

### **Defining trafficking in the Palermo Protocol**

The Protocol has its roots in the international effort to combat organised crime and, as with its twin protocols against the Illicit Manufacturing of and Trafficking in Firearms and the Smuggling of Migrants by Land, Sea and Air, it was conceived as a mechanism to address what was seen as key areas of interest and profitability for criminal networks. Lobbying by feminist groups during the negotiation of the Protocol also brought a humanitarian and, as covered later in this chapter, moral element to the discussions. Many of the governmental delegates who participated in the negotiations came from a law enforcement background and were primarily interested in the policing and prosecutorial aspects of the protocol. Civil society groups, however, pushed hard for a more victim- and rights-oriented approach. While some advocacy groups felt that the Protocol could have gone further in protecting

and supporting victims,<sup>14</sup> the final document sought to provide a universal tool to address all aspects of human trafficking.

### ***Protocol's definition of trafficking***

The definition adopted in the Palermo Protocol represents the first internationally accepted legal definition of a concept that has been, and continues to be, defined in a wide range of ways. The definitions of trafficking used in most papers presented at a global conference on trafficking hosted by the International Organisation for Migration (IOM) in 2004 included an exchange of money, the illegal crossing of an international border and the involvement of an intermediary or trafficker.<sup>15</sup> The first definition on trafficking in persons adopted in the US by the President's Interagency Council on Women in 1999 defined trafficking as:

... all acts involved in the recruitment, abduction, transport, harbouring, transfer, sale or receipt of person; within national or across international borders; through force, coercion, fraud or deception; to place persons in situation of slavery or slavery-like conditions, forced labour or services, such as prostitution or sexual services, domestic servitude, bonded sweatshop labour or other debt bondage.<sup>16</sup>

This policy definition was later replaced by a legal definition created under the 2000 Trafficking Victims Protection Act (TVPA), which defines "severe forms of trafficking" as commercial sex acts induced by force, fraud and coercion, or the recruitment, harbouring, transportation, provision or obtaining of a person's labour or services through the use of force, fraud or coercion "for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery".<sup>17</sup> The definition adopted by the Palermo Protocol is very much in line with this definition. Article 3 of the Protocol defines trafficking as:

... 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.<sup>18</sup>

This definition encompasses and seeks to address three main elements, namely the:



- actions making up trafficking (recruitment, harbouring and receipt of victims);
- means used to recruit them and maintain their cooperation; and
- purpose of the process, which is exploitation (see Figure 1).

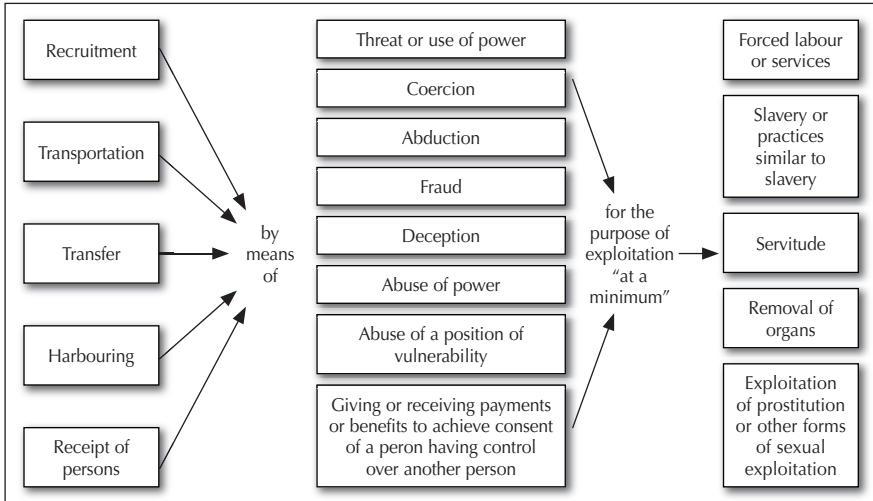
It targets all the actors involved, from recruiters to taxi drivers and end-users, and the broad spectrum of violence that may occur throughout the process.<sup>19</sup>

Trafficking is clearly distinguished from the smuggling of human cargo, which is defined in the smuggling protocol as “the procurement, or order to obtain, directly or indirectly, a financial or other material benefit, from the illegal entry of a person” into a country of which they are not a national or a permanent resident.<sup>20</sup>

While the two protocols acknowledge that trafficking and smuggling often share certain characteristics – such as irregular migration, recruitment and transportation by criminal networks, the use of weak border controls and corruption – the implied purposes of trafficking and smuggling differ. Smuggling is viewed as an essentially voluntary, time-bound event in which intermediaries are paid to help migrants illegally cross borders: the relationships end once the destination is reached.<sup>21</sup> Trafficking, however, involves coercion and deception: individuals are recruited for the purpose of exploiting their body or labour. It is thus *the primary intention to exploit* that sets trafficking apart from smuggling, and migration more broadly.<sup>22</sup> Exploitation in the Palermo Protocol includes, at a minimum:

- the exploitation of the prostitution of others or other forms of sexual exploitation;
- forced labour or services, practices similar to slavery, servitude; and
- the removal of organs.<sup>23</sup>

Consent is deemed irrelevant where any of the ‘means’ of trafficking – namely threats, the use of force, coercion, deception, fraud or abuse of power – are used. In adopting this stance the Protocol acknowledges that a wide range of mechanisms may be used to ensure the cooperation of victims; from overt force and violence to more subtle inducements that capitalise on an individual’s vulnerability to achieve consent.<sup>24</sup> While the trafficking of adults

**Figure 1: Elements of the Palermo Protocol's definition of trafficking**

Source: *Trafficking in persons: An Analysis of Afghanistan*, IOM, Kabul, 2004

is distinguished by deception or coercion, all recruitment, transportation, transfer, harbouring or receipt of children under the age of 18 for the purposes of exploitation is considered trafficking – even where coercion, deception or abuse of power are absent. As discussed later, however, the ‘validity’ of adult – particularly female – consent remains highly contested, with much of the discourse on trafficking portraying women as helpless victims without agency.

In adopting a broad view of the activities that might constitute trafficking, the Palermo Protocol is the first international instrument to extend the concept of human trafficking beyond prostitution. Whereas the anti-trafficking activities of the 19th century focused on the international movement of women for prostitution, the Palermo definition by covering a wide range of activities that amount to involuntary servitude, emphasises the denial of freedom and associated victimisation.<sup>25</sup>

### *Scope of the Protocol*

On the basis of article 3, many of those working on trafficking issues apply the Palermo definition to both in-country (domestic) and cross-border trafficking. In its 2005 *Trafficking in Persons* report the US Department of State argues that although trafficking generally implies some kind of movement, neither the TVPA nor Palermo definitions require trafficking victims to be physically

transported from one location to another. In their view it is not the movement of a person to a new location that is the defining feature of trafficking but the use of force, fraud or coercion to ensure that individuals “perform or remain in service to [a] master”.<sup>26</sup> The authors of an early guide to the Protocol similarly maintain that one of its strengths is its recognition of internal trafficking, noting that the “key element in the trafficking process is the exploitative purpose, rather than the movement across a border”.<sup>27</sup>

This may be true of the definition itself, but article 4 of the Protocol limits the scope of the definition – or at least the legal and moral obligations of signatories. Contrary to many of the earlier (and subsequent) conceptualisations already discussed, the Palermo Protocol makes governments responsible only for preventing, investigating and prosecuting activities that are “transnational in nature and involve an organised criminal group”.<sup>28</sup>

South Africa will adopt a broader definition of trafficking that does not require the involvement of organised crime groups. This approach is supported by the literature. As discussed later in this monograph, the preliminary data emerging from studies on Africa suggests both that domestic trafficking is an issue and that it is only sometimes linked to organised crime. The literature also shows that too broad a definition of trafficking makes it difficult to distinguish trafficking from forced labour, assisted migration and people smuggling, suggesting that limits are necessary for the practical application of the concept. Achieving the right balance between the need for inclusive, locally appropriate definitions and the requirements of practitioners will require extensive debate and a thorough understanding of problem.

### **Politics surrounding the negotiation of the Protocol**

Despite the Protocol’s adoption of a more expansive definition of exploitation, some analysts argue that both the Protocol and the current conceptualisations of human trafficking remain primarily concerned with sexual exploitation – and are therefore highly emotive.

The Protocol was the product of two years of negotiation and was the focus of passionate lobbying by feminist and religious groups.<sup>29</sup> These efforts crystallised around groups representing opposing views on prostitution: the Human Rights Caucus, which argued that although some women are undeniably forced into prostitution most choose it as a legitimate form of labour; and the Coalition against Trafficking in Women (CATW), which opposed all prostitution seeing it as a violation of human rights.<sup>30</sup> The

dominance of these groups among the NGOs participating in the negotiations reinforced the association of trafficking with prostitution.

Ditmore and Wijers discuss the politics and passions surrounding the negotiations, saying that it was visible in the heated debate about whether coercion or deception were needed for trafficking to be seen to have occurred. In the context of strong arguments to consider all sex work as trafficking, irrespective of whether a person consented to participate, they argue:

The fact that so much discussion revolved around whether or not the use of coercive or deceptive means was a necessary constituent of the crime of trafficking reflected the exclusive focus on trafficking for prostitution, as nobody would want to argue that any recruitment *per se* for [example] domestic or agricultural labour is trafficking, irrespective of the means used.<sup>31</sup>

This preoccupation with prostitution, they argue, brought a moral element to the talks that deflected discussion away from the rights of all migrant workers, and maintained emphasis on women and children at the expense of men and boys.<sup>32</sup> More importantly, it resulted in the negotiations becoming highly politicised and made consensus extremely difficult to achieve.<sup>33</sup>

Two of the most debated issues were how to define trafficking and consent. The definition, in particular, was discussed in all 11 sessions required to draft the Protocol and was hotly contested every step of the way.<sup>34</sup> Other points of recurring debate were the use of the terms “exploitation of the prostitution of others” and “sexual exploitation”. The Human Rights Caucus and other stakeholders such as the High Commissioner on Human Rights, the UN Special Rapporteur on Violence against Women and the ILO believed that use of the former risked conflating prostitution and trafficking. They argued that the latter was too imprecise and emotive and risked alienating countries with laws decriminalising or regulating prostitution.<sup>35</sup> The inability to reach agreement on these issues resulted in crucial aspects of the definition being left purposely vague. As Ditmore and Wijers write:

... a compromise was reached in the final stages of the negotiations to retain these two terms, but to leave them undefined, thus allowing individual governments to interpret these phrases according to their domestic legal regime.<sup>36</sup>

This lack of precision has done little to delineate the boundaries of an already slippery concept and allows the definition to be interpreted in various ways.

This presents obvious difficulties for conducting new research on trafficking; while the divergent, and often conflicting definitions adopted in existing studies have resulted in a fragmented literature that tells us relatively little about the extent and nature of trafficking.

Although not the subject of this monograph, the difficulty of delineating what is and is not trafficking also poses serious problems for designing and enforcing appropriate legislation. As touched on in the next section, woolly definitions are likely to make trafficking an extremely difficult issue to police. If those informing and designing policy and legislation have problems pinning down the parameters of trafficking, law enforcement and judicial personnel will understandably find it even harder to identify trafficking when confronted with the complexities and immediacies of real-life situations.



## CHAPTER 3

# RESEARCHING TRAFFICKING

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The number of studies on human trafficking has grown dramatically over the past decade and there is now a substantial body of evidence-based literature on the topic. For the most part, however, our knowledge about the scope and mechanics of trafficking remains relatively superficial.

The most obvious reason for this is that collecting data on human trafficking is difficult. The activities involved are often disguised and victims are unable or too afraid – and in some cases too ashamed – to seek help. The abuses associated with trafficking also often occur behind closed doors and in areas (such as the domestic and informal sectors) that are almost impossible to regulate. A specific characteristic of domestic service, for instance, is that it occurs within the private domain of the home where it is hidden from view and from outside scrutiny.<sup>37</sup> This makes it extremely difficult for either researchers or law enforcement agencies to access victims or to infiltrate trafficking networks, and presents significant methodological challenges.

Less obvious, but equally important, factors are the diverse and often conflicting definitions of what is being studied, a focus on only a limited number of sectors and weak methodologies. This section explores the definitional challenges faced by those researching trafficking, as well as some of the key problems apparent in most international studies on the issue.

### **A slippery definition**

To conduct good research on any topic one needs to define clearly what is being investigated. This has been, and continues to be, extremely difficult in the trafficking context. Despite the seeming standardisation provided by the Palermo Protocol, the term is still not uniformly used or operationalised. Furthermore, research on ‘trafficking in persons’ often examines very different groups of people – making it not only hard to compare findings, but raising questions about how much they contribute to our knowledge of trafficking. There are a number of reasons for this.

One of the most important is that trafficking is not one thing but rather an umbrella term that covers an assortment of outcomes – from cases of individuals forced into sexual slavery, to people being made to beg or hawk on the streets – with all the accompanying variation in actors, methods and levels of violation and control. As Anderson and O’Connell Davidson explain, trafficking falls within a continuum of experience. This ranges from people who are transported at gunpoint, then forced into labour through the use of physical and sexual violence or death threats, to people who are not deceived or coerced in any way, are well paid and work in an environment that respects and upholds their human rights. Where in this continuum the abuses associated with trafficking become unacceptable varies according to one’s political and moral values.<sup>38</sup>

A second reason is that the constituent elements of trafficking – such as coercion, deception and exploitation – are themselves difficult to define and delineate. There is, for example, no one single definition of what constitutes exploitation. While exploitation is usually conceptualised in terms of labour exploitation, much of the international literature views the luring of women into domestic servitude through false promises of marriage as trafficking. Within the labour context, notions of what are socially and legally acceptable and unacceptable working conditions also vary between sectors and countries, and there is no neutral, universal yardstick against which ‘exploitation’ can be measured.<sup>39</sup> Poor working conditions and human rights violations are common in many of the sectors into which people are trafficked – some people may even expect a degree of exploitation – which raises the question of just how exploitative an employment situation must be before a person can be considered ‘a victim of trafficking’.<sup>40</sup>

Deceit is equally tricky to deal with. As Anderson and O’Connell Davidson argue, there are numerous aspects to the employment relation: working hours; pay; job content; work rate; working practices; living conditions; and contract length. Is it enough, they ask, for someone to be deceived about just one of these components, or must they be duped about all of them to qualify as trafficked?<sup>41</sup>

This problem is not helped by the failure of the Palermo Protocol to establish exactly what is meant by these terms and others such as ‘abuse of vulnerability’ or the ‘exploitation of the prostitution of others’.<sup>42</sup>

As noted in the previous chapter, the politics surrounding the crafting of the Protocol resulted in these terms being left purposely vague. This is understandable given the need to create a document acceptable to all



countries making up the UN, but allows space for conflicting interpretations of what does and does not constitute trafficking. For instance, while some organisations believe that the Protocol cannot be applied to adults working voluntarily in the sex industry, others rely on subjective notions such as the 'abuse of vulnerability' to label as a victim of trafficking any migrant prostitute who has relied on a third party during the course of her travels.<sup>43</sup> It also does little to resolve the acrimonious debate over the issue of 'forced' and 'free' prostitution.<sup>44</sup>

A third problem is the difficulty of distinguishing trafficking from related issues such as forced labour, people smuggling or migration. If the objective is to combat human rights abuses, it is debatable whether this is even a necessary distinction. Where definitions provide for both in-country and cross-border trafficking, it is extremely difficult to tell 'trafficking' apart from exploitative labour practices. An individual trafficked into a local sweatshop, for instance, will share many characteristics with his/her colleagues: they will do the same work under the same conditions, and as with most victims of trafficking, the other employees may be paid little or nothing for their labour. All that theoretically separates the trafficked person from his/her non-trafficked colleagues is deception or coercion at the hands of an intermediary who knew he/she would be entering exploitative labour.

This distinction is difficult to maintain in practice. As Anderson and O'Connell Davidson argue, violence, intimidation, confinement and trickery are all features of exploitative labour.<sup>45</sup> Recent research by the ILO shows that employers use a number of mechanisms to deprive workers of their rights, including actual or threatened violence through to more subtle forms of coercion, such as the threat of losing a job or being deported – which can leave seemingly 'free' labourers with little choice but to remain in dubious employment conditions (see Box 1).<sup>46</sup>

Deception, coercion and exploitation are also features of both legally regulated and illegal migration. Lazaridis, for instance, describes the cases of Filipino health-care workers who, recruited through legitimate recruitment agencies to work as specialist nurses in Britain, were expected to work as auxiliary care assistants, performing basic cleaning and physical care rather than nursing duties. They were forced to stay in prescribed accommodation for which they were charged exorbitant rates, and were unable to break their contract without having to pay back the inflated costs of their transport and placement.<sup>47</sup> Anti-slavery International describes similar cases of health workers from developing countries being told on their arrival in Britain that they would have to work for at least two years or pay a 'fine' of up £7,000.

**Box 1: Components of forced labour**

Lack of consent (the 'route' into forced labour)	Menace of a penalty (the 'means' of keeping someone in forced labour)
<ul style="list-style-type: none"> <li>• Birth/descent into slave or bonded status</li> <li>• Abduction or kidnapping</li> <li>• Sale of a person into the ownership of another</li> <li>• Physical confinement</li> <li>• Psychological compulsion backed by a credible threat of a penalty for non-compliance</li> <li>• Induced indebtedness</li> <li>• Deception or false promises about the types and terms of work</li> <li>• Withholding and non-payment of wages</li> <li>• Retention of identity documents or other valuable possessions</li> </ul>	<p>Actual or threatened:</p> <ul style="list-style-type: none"> <li>• Physical or sexual violence</li> <li>• Supernatural retaliation</li> <li>• Imprisonment or other physical confinement</li> <li>• Financial penalties</li> <li>• Denunciation to the authorities</li> <li>• Dismissal</li> <li>• Exclusion from future employment</li> <li>• Exclusion from community and social life</li> <li>• Removal of rights and privileges</li> <li>• Deprivation of food, shelter or other necessities</li> <li>• Shift to even worse working conditions</li> <li>• Loss of social status</li> </ul>

Source: ILO, 2005

These workers were frequently paid less than promised, worked long hours, were asked to surrender their passports and work permits, and were made to live in poor accommodation.<sup>48</sup>

The dividing line between 'trafficking' and people smuggling is equally blurred, and Kelly argues that it would again be more accurate to view trafficking and smuggling as different points on a continuum.<sup>49</sup> For example, while trafficking is supposedly distinguished from smuggling by the continued control over migrants in their destination country, the reliance of many smuggled people on third parties for employment in these countries creates layers of control that amount to debt bondage.<sup>50</sup>

A study by the ILO on the smuggling of Chinese immigrants into France shows that smugglers often arbitrarily increase their fee *en route*. In some cases this results in migrants being held captive until the outstanding amount has been paid, or partly paid, by their families back home. In others, insolvent migrants obtain work from Chinese employers in France who give

their wages directly to the smugglers to repay the debt. Individuals may be physically confined and 15-hour workdays are not uncommon. As the report notes, though, it is impossible to tell whether such outcomes are the product of a premeditated strategy on the part of either the smugglers or employers, or whether they are simply the result of opportunism.<sup>51</sup>

Limiting the definition of trafficking to those activities involving organised crime groups may help to distinguish trafficking from forced labour and migration, but the power of such definitions hinges on how organised 'organised' networks are. As with trafficking, scholars and law enforcement agencies have struggled to develop satisfactory definitions of organised crime; however, the term is loosely and generically used internationally to describe the criminal activities of a group of three or more people who commit serious crimes over a period of time for profit.<sup>52</sup> This approach recognises that while some groups, such as the American Mafia, have a clear hierarchical structure many (including those in Southern Africa) appear to function through loose, shifting associations and alliances that bear little resemblance to the US stereotype.<sup>53</sup>

This broader take on the nature of organised crime reduces the usefulness of the concept and suggests that linking trafficking to organised crime may do little to help distinguish it from some cases of people smuggling or assisted migration. It may – as with seemingly arbitrary distinctions between 'illegal immigrants', 'smuggled persons' or 'victims of trafficking' – simply serve to create a hole in safety nets aimed at assisting migrants whose rights are abused during the migration process.<sup>54</sup>

### **Difficulties with the data**

Beyond frequently conflicting and fuzzy definitions, much of the available research is also constrained by issues of both focus and methodology. It is only in the past few years that researchers have begun to discuss the weaknesses in the data. For the most part, concerns over data quality have been eclipsed in the clamour to produce the information needed to motivate and support policy intervention; and the resulting findings have been accepted uncritically by those working in the field. Even though the so-called facts and figures on trafficking vary widely, the numbers have gone unchallenged and little attention has been paid to how projects are conceptualised, how data is gathered or how reliable the findings are. As Kempadoo observes of the regularly divergent estimates on the extent of trafficking, "few eyebrows are raised and figures are easily bandied about without question".<sup>55</sup>

There are, however, several reasons why our understanding of trafficking remains superficial. One of the most important is that there are still gaping holes in what has been examined. As Laczko notes, most studies on trafficking have set out simply to show that it is a problem.<sup>56</sup> The focus has been on identifying the factors that contribute to trafficking, the profile of victims, different 'types' of traffickers and trafficking routes. Far less time has been spent on understanding the context in which traffickers and clients operate, the role of actors such as law enforcement officers, the structural factors creating an environment conducive to trafficking, or the appropriateness and effectiveness of interventions aimed at combating the trade. Projects have also looked almost exclusively at the issue of sexual exploitation to the detriment of knowledge on other forms of trafficking. There has likewise been a tendency towards studying only the most blatant cases, with research often driven by abhorrent media reports and political discourse rather than dispassionate enquiry.<sup>57</sup>

Other reasons concern the way data is collected and used. Although data on human trafficking is drawn from a range of sources, much of our current knowledge is based on small-scale, action-oriented projects. Few studies describe how many people were interviewed, how they were chosen, what methods were used, how interviews were conducted, or what the limitations of the studies might be.<sup>58</sup> Most, however, appear to adopt broadly the same approach. This includes a review of the literature, in-depth interviews with 'experts' of various kinds, mapping, the examination of case files and/or discussions with a small number of usually rescued victims – the bulk of whom are accessed through law enforcement agencies or support organisations. Relatively few have attempted any kind of larger scale research using randomised sampling techniques, and only a handful of studies have included control groups against which findings are compared.

This is partly a result of the difficulties of accessing those involved in trafficking, but it is also the product of the type of research being carried out. Much of the international research on trafficking is funded, commissioned and/or conducted by either international organisations in support of counter-trafficking programmes or by NGOs for advocacy purposes. The tendency is towards 'quick and dirty' or exploratory studies which can feed speedily into policy debates, rather than detailed investigations.<sup>59</sup>

This is not a problem in itself. Focused, interview-based studies can produce rich anecdotal and descriptive data that provides invaluable insight into people's experiences, the issues they face and how they cope. Such information is perfectly adequate where the aim is to address specific,

narrowly defined questions or determine patterns, variables and hypotheses for future study. It becomes highly problematic, however, when such data is assumed or presented as representative of the experiences of an entire population.<sup>60</sup>

The most important reason for this is that interviews with a small number of conveniently selected stakeholders and victims are unlikely to capture the experiences and views of all those about whom claims are being made. As Tyldum and Bruvoskis note, 'expert' informants may be influenced by each other or the same body of material. Victims that come into contact with law enforcement or support organisations may also differ from those that do not, either because they are easier to identify (as in the case of child prostitutes) or have more personal resources, trust and access to information.<sup>61</sup> This may be less true where individuals are arrested by the police or discovered in raids. But as Tyldum and Bruvoskis go on to argue, we have insufficient information to determine whether those detected by the authorities are just lucky, or are discovered and assisted because they are different.<sup>62</sup> Individuals whose circumstances are similar to the 'typical' trafficking victim presented in campaigns and the media may also find it easier to come forward than those with different experiences. This may result in 'guilty' victims – such as those who knew they would be doing sex work or had prior experience in prostitution – being underrepresented.<sup>63</sup>

A third problem lies in the seemingly uncritical way in which the narratives produced are accepted. The potential for misrepresentation is a problem all social research has to grapple with. The use of open-ended questionnaires, in particular, gives much discretion to both the person doing the interview and to the respondent, allowing both for the interviewer to inadvertently prompt certain answers and for interviewees to present a particular vision of their situation.

A weakness in much of the trafficking literature, however, is the failure to acknowledge such dangers. This is especially problematic when it comes to trafficking, where respondents may have good reasons to portray themselves as innocent victims rather than individuals complicit in something 'wrong' or 'illegal'. In the context of sex work, Leggett argues that foreign women, in particular, may understandably wish to be repatriated as victims rather than criminals.<sup>64</sup> This is not to imply that all 'victims' manipulate the truth – many people undeniably suffer terrible abuse and an utter violation of their human rights – but simply to highlight the need for greater awareness and honesty about respondents' (and researchers') motivations when interrogating data.

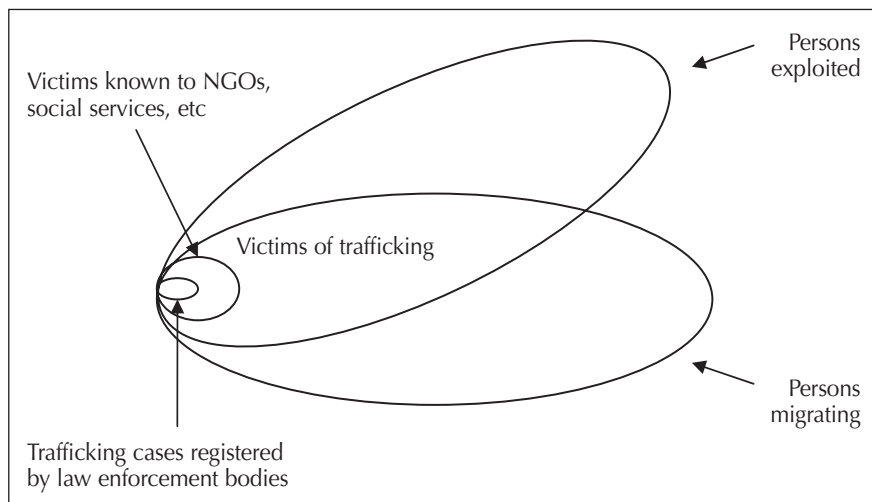
## Problems with international estimates on human trafficking

Global statistics on trafficking vary widely. A comparison of global statistics on human trafficking by the UN Educational, Scientific and Cultural Organisation (UNESCO) in 2003 shows a range of figures that differ by factors of between two and five.<sup>65</sup> The highest, used by the United States Agency for International Development (USAID) and the UN, put the number of people trafficked internationally at four million a year. The lowest, sourced from the US Department of State, puts the figure at under one million people a year.<sup>66</sup> These figures are presumably drawn from the Department of State's annual *Trafficking in Persons* report, which in 2005 estimated that between 600,000 and 800,000 people are trafficked across international borders each year – 80% of whom are women and girls, and 50% of whom are minors.<sup>67</sup> This estimate is down from the 700,000 to four million quoted in the Department's 2002 report.<sup>68</sup>

The dramatic differences between these figures point to the varying methodologies used to calculate them. Unfortunately, almost no information is available on where the data used to determine such estimates comes from, or how precisely it is calculated. It appears that many global statistics are based on a combination of official data released by governments and law enforcement agencies, data collected by organisations working in support of trafficking victims, inferences from other types of crime and, often, 'guesstimates' from key informants. The reliability of such data and the lack of transparency regarding how numbers are calculated raises questions about their accuracy. Some analysts, like Kangaspunta, question the usefulness of global statistics at all.<sup>69</sup>

There are a number of reasons for this. First, and most important, is that trafficking is an under-reported crime. This means that only a small proportion of trafficking cases come to the attention of outsiders and it is difficult to gather information on trafficking networks (see Figure 2). The second is that in the absence of legislation, few law enforcement agencies record specific information on trafficking and tend to make no distinction between data on smuggling, illegal migration and trafficking.<sup>70</sup> Low levels of awareness in many agencies and the practical difficulties of determining what is and is not trafficking also means that even cases brought to the attention of authorities are not always correctly identified. This is exacerbated by the knee-jerk tendency of government officials in many countries simply to deport illegal immigrants without carefully interviewing them about their circumstances.

Among agencies that do record statistics, the difficulty of investigating and prosecuting trafficking cases (given the reluctance of victims to testify)

**Figure 2: Populations where trafficking victims constitute sub-populations**

Source: Tyldum and Brunovskis, 2005

often results in trafficking being accorded low priority – which affects data collection. A British study, for instance, found that trafficking data was only collected where local police forces monitored the sex industry as part of their mandate to combat vice-related crime.<sup>71</sup> As Laczko and Gramegna note, such monitoring is rare, resulting in the attitude that “a problem unseen is a problem that does not exist”.<sup>72</sup> The current emphasis placed by anti-trafficking organisations on building the capacity of law enforcement personnel to deal with trafficking could also see the reverse becoming true in the future. It is possible that well intentioned training could result in the overzealous identification of ‘trafficking’ cases which, given the potential difficulty of applying legal criteria to a crime like trafficking, might not stand up in court.

The definitions used also vary between agencies. This problem has partly been addressed by the Palermo Protocol; but data is still often collected by organisations with particular interests and goals, which influences the type of information gathered. Both the German and Dutch police, for example, collect data, but collect only information on trafficking in women and children for sexual exploitation at the expense of other types of trafficking and other groups, such as men and boys.<sup>73</sup>

Data collected by service providers can be useful in determining patterns and in understanding the mechanisms and experiences involved in trafficking,

but cannot be used reliably to estimate prevalence. This is because such data is usually based on information gathered from relatively small numbers of often rescued victims and tells us nothing about the hidden populations that have not been helped (see Figure 2). Information is also often collected by organisations for advocacy and fundraising purposes, and may be exaggerated or influenced by the political agenda of the particular group. A substantial number of the publications on trafficking for sexual exploitation, for instance, are influenced by the political debates surrounding prostitution and may or may not make a distinction between trafficking and sex work.<sup>74</sup> Even where research on trafficking is not influenced by politics, it often suffers from a lack of conceptual clarity and authors frequently have limited research training, resulting in uncritical analysis of figures.



## CHAPTER 4

# A REVIEW OF THE LITERATURE ON TRAFFICKING IN SOUTH AFRICA

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South Africa has been identified as both a key destination as well as a country of origin and transit for individuals trafficked to and from Africa and globally. Awareness of trafficking is increasing within South Africa, and with it the impression that levels of trafficking have reached alarming proportions – with one recent media report arguing that upwards of 600,000 people are trafficked through South Africa each year.<sup>75</sup> In truth, we know very little about the scope and characteristics of human trafficking in South Africa.

Although there is a vast and growing literature on human trafficking, most research has focused on Europe and Asia. The much smaller body of African research is concerned primarily with West Africa, where the trade in human beings has a long history. Only a few studies have examined trafficking in Southern Africa, and references to the problem in South Africa draw on the experiences of a small number of support organisations, media reports and a handful of studies – most of which have focused on the trafficking of women and children for sexual exploitation. These provide an indication of possible trends and issues, but insufficient data for policy design.

### **What studies have been done?**

There are no official statistics on human trafficking in South Africa. As in many other countries, the South African Police Service does not collect specific statistics on trafficking, with incidents of trafficking currently subsumed in the data collected on a range of other crimes such as kidnapping, abduction, rape, assault, soliciting and immigration-related offences.

In the absence of crime statistics, our knowledge consists of a mix of research on trafficking, prostitution, exploitative labour and child labour, with trafficking trends usually inferred from data on these other issues. Only a handful of studies have looked specifically at trafficking, and reports on the trade in South Africa draw almost entirely on three pieces of primary research:

- A study published in 2000 by the children's support and advocacy organisation Molo Songololo on the trafficking of women.
- A second study published by Molo Songololo in the same year on the trafficking of children under the age of 18.
- A study on the trafficking of women and children in Southern Africa published by the IOM in 2003.

All three of these studies examine the trafficking of women and children for the purposes of sexual exploitation. Other sources of data include a 2003 review by UNICEF on the trafficking of women and children in Africa, and four provincial situational analyses on the commercial sexual exploitation and trafficking of children in South Africa conducted in 2005 on behalf of the ILO's Towards the Elimination of the Worst Forms of Child Labour (TECL) programme – but the former, in particular, draws heavily on the preceding reports.<sup>76</sup> There are no studies on trafficking for the purposes of labour exploitation, although research into domestic labour has documented cases of possible trafficking. There has also been no research on trafficking for the purposes of harvesting organs or body parts. What information is available comes from a small number of newspaper articles that seem not to make any distinction between the seemingly consensual but illegal removal of organs and trafficking.

### **Findings on the extent and nature of trafficking**

These studies all find trafficking to be a significant problem in South Africa and call for the government to take decisive action against it. Only the IOM study, however, makes any attempt to estimate the extent of the problem. Using numbers provided by informants in the sex industry and migration figures provided by Statistics South Africa, the authors calculate that between 850 and 1,100 women and children are trafficked to South Africa for the purposes of sexual exploitation annually.<sup>77</sup> They similarly estimate that at least 1,000 Mozambican women are trafficked into some kind of sexual exploitation in South Africa each year, earning traffickers approximately R1 million annually.<sup>78</sup>

As with most estimates on trafficking, however, it is unclear exactly how these figures were arrived at or the assumptions involved, making it difficult to determine their reliability. The other studies focus exclusively on examining the nature of trafficking in South Africa.

This section provides a brief overview of some of the key findings of the research, before going on to discuss some of the problems with the data and how much it tells us about the issue in South Africa.

### ***Trafficking flows into, through and from South Africa***

The UNICEF study identifies South Africa as an origin, transit and destination country. While the research found only limited data on South Africa as an origin or transit country, it found it to be a major destination for individuals from other parts of Southern Africa. The research suggests that over 90% of trafficking occurs between countries in the same region; however, whereas West Africa is characterised by complex, often circular trafficking flows, the data on Southern Africa shows a generally uni-directional flow of people from the sub-region into South Africa.<sup>79</sup>

The IOM and Molo Songololo reports record the trafficking into South Africa of individuals from all over the African continent, as well as several countries in Europe and Southeast Asia. Source countries identified in all three reports include Angola, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, several Great Lakes states, Thailand, China and Eastern Europe.<sup>80</sup> The children's study by Molo Songololo also notes cases of children as young as seven being trafficked into South Africa from places such as Senegal, Kenya, Ethiopia and Uganda, while their women's report lists Sudan, Nigeria and Cameroon as additional source countries.<sup>81</sup> The TECL reports discuss the possible trafficking of children from such countries as Swaziland, Congo, the Democratic Republic of the Congo, Mozambique and Burundi to work as street vendors, child-minders and domestic workers in South Africa.<sup>82</sup>

The IOM and Molo Songololo reports also document the trafficking through South Africa of nationals from other African countries to destinations in Europe and Southeast Asia. The IOM study identifies the transportation of Malawian women and children through South Africa *en route* to the Netherlands, Germany, Belgium and Italy,<sup>83</sup> while Molo Songololo believes that South Africa serves as a transit point for children trafficked from Southern and East Africa to destinations such as Bangkok.<sup>84</sup>

The Molo Songololo reports explore the domestic trafficking of women and girls into the commercial sex industry. The report on children suggests highly localised trafficking patterns, with most youngsters exploited in or near their usually urban home communities.<sup>85</sup> Their report on the trafficking of women documents the inter-provincial movement of women from primarily rural

provinces, such as KwaZulu-Natal and the Eastern Cape, to major cities like Johannesburg, Pretoria and Cape Town. Two reports on the recruitment of children for domestic work in the Western Cape document similar rural-urban labour flows – in this case the recruitment of rural coloured girls into exploitative domestic labour in the suburbs of Cape Town – while a third report documents the recruitment of child workers in Gauteng. The authors of the report on the trafficking of women also note instances of re-trafficking in South Africa, where predominantly foreign women are sold by one escort agency or brothel to another.<sup>86</sup>

As discussed later in this section, there are several reasons to be cautious of these findings but the prospect of domestic trafficking raises questions about whether or how the Palermo definition of trafficking should be applied in South African legislation. Should legislation make provision for both domestic and cross-border trafficking, or should ‘trafficking’ be confined to cross-border activities with local labour legislation standards strengthened and reinforced to tackle poor working conditions? How should ‘trafficking’ into the commercial sex industry be dealt with? The inclusion of provisions on trafficking in the Children’s Bill and the proposed revisions to the Criminal Offences Act suggest that South Africa may adopt an inclusive definition of trafficking. If this is the case, careful thought needs to be given to how domestic trafficking is distinguished from exploitative labour conditions or, as discussed later in this chapter, abuse more broadly.

### ***Factors encouraging trafficking***

The authors of the IOM report believe that trafficking is fuelled primarily by poverty and disruption. They argue that traffickers easily capitalise on both established traditions of migration and the vulnerabilities created by war, diseases like HIV/AIDS, endemic poverty, weak education systems, unemployment and the general lack of opportunities available to most people in the region, especially women.<sup>87</sup> As in most other places, ‘trafficking victims’ are first and foremost economic migrants who move in search of opportunities and a better life. As they explain:

The recurrent civil and political unrest and gross economic disparities that characterise the Southern African region have long generated a potent mix of push and pull factors that, when coupled with borders so porous as to be nearly irrelevant, have ensured a consistent southward flow of documented and undocumented migrants. In most cases, victims of trafficking are a nearly indistinguishable

part of these flows, typically displaced from their communities or motivated by dreams of stability and prosperity abroad.<sup>88</sup>

The research by Molo Songololo also blames factors such as high levels of domestic violence and abuse for pushing young people on to the streets or into situations that leave them vulnerable to exploitation. The authors argue that such factors, combined with a weak social support system, corruption and often limited intervention by the police and welfare agencies in cases of exploitation, create a setting in which trafficking can flourish. They additionally identify rising levels of consumerism, particularly the desire for branded goods and other luxury items, as well as an environment which encourages and condones criminality and makes it easier for community members to turn a blind eye to abuses occurring in their midst.<sup>89</sup> The report on child domestic labour in Gauteng mentions additional factors, such as a lack of birth certificates, which presumably prevent children from accessing social assistance and makes them harder to trace and identify.<sup>90</sup>

These arguments find some support in the international literature but seem influenced more by intuition than careful research. As discussed in the next section, while there is likely to be an association between trafficking and the factors mentioned above, broad statements on the links between trafficking and factors such as poverty and migration do little to explain why only some of the people subjected to the same conditions become victims of trafficking.

Most of the reports make passing reference to the crucial role of demand in driving trafficking networks; but demand-side factors are not explored in any depth. The authors of the IOM and Molo Songololo reports, for instance, make the connection between trafficking and the need for fresh faces for the sex industry and sex tourism, but neither examines in any detail users' perceptions or attitudes.<sup>91</sup> Similarly, none of the reviewed studies examine the role of structural factors, such as increasingly competitive global markets, in fuelling the demand for cheap, pliable labour.

### ***Different patterns identified***

The examples of trafficking identified in the literature generally share characteristics such as a certain level of deception, restrictions on movement and the threat or use of physical and sexual violence. The research also reveals great diversity. The IOM, for instance, identifies several distinct patterns of trafficking into South Africa, including the:

- recruitment by refugee men living in South Africa of female relatives from home to work in the commercial sex industry;
- recruitment or abduction of male and female street children in Maseru by South African men living close to the Lesotho border, who sexually and physically abuse the children;
- recruitment of Malawian women and girls by fellow nationals for work in the commercial sex industry;
- recruitment of Malawian women and girls by truck drivers who use them for sex and sometimes force them into prostitution;
- recruitment of Thai prostitutes to work in the local sex industry;
- recruitment of women from Mozambique to serve as 'wives' to men working in the mines surrounding Johannesburg;
- recruitment of Eastern European women to work in the commercial sex industry; and
- trafficking of Chinese women to work in restaurants, clubs and ships with exclusively Chinese clientele.<sup>92</sup>

The individuals identified came from a variety of backgrounds, were both male and female and ranged in age from their early teens to their 40s. Some were recruited by traffickers for their own sexual gratification, while others were made to prostitute themselves for the financial benefit of the trafficker or sold into forced 'marriages' where they were expected to meet the sexual and domestic labour needs of their 'husbands'.<sup>93</sup>

Some were abducted, while others were deceived into voluntarily entering the process. Some were recruited by people they knew, while others were approached by strangers. Some, such as many of the Thai women, knew they would be doing sex work but were not aware of the conditions under which they would operate. Others were promised an education, marriage or employment and had no idea that they would be working in the sex industry. A number simply wanted transport to South Africa, and while a few expected to trade sex for transport, did not anticipate being held captive on their arrival in South Africa.<sup>94</sup> Some were victims of small-scale opportunism, while others were part of more complex operations. As the authors of the report write:

Victims are African, Asian, and European, from urban and rural backgrounds, some with substantial levels of education and others with little. They are predominantly female, although where children are recruited, boys are amongst those recruited. Their traffickers are as varied, both women and men, with some engaged in a once-off effort to exploit commercially a female relative as a means of survival, and others conducting small, but regular, land border trafficking as part of larger operations to smuggle undocumented migrants into South Africa. Still others are linked to the multi-million dollar trade in women and children that touches Southern Africa.<sup>95</sup>

The stories of the Thai women interviewed provide a good example of the wide range of traffickers involved. The IOM report identifies two different types of operations. The first is what they refer to as ‘cottage industry’ trafficking, where a handful of women are trafficked by small groups of Thai men, South Africans who make promises of marriage, previously trafficked women and brothel owners. The second comprises larger-scale activities run by Thai and Chinese organised crime groups.<sup>96</sup>

The Molo Songololo reports record similar trafficking patterns, including the recruitment of Eastern European women into the commercial sex trade, the recruitment of migrant girls *en route* to their destination for both the commercial sex industry and the personal sexual gratification of the trafficker, and the abduction of children, again for both the trafficker’s own sexual gratification and prostitution.<sup>97</sup> They also suggest other patterns. For instance, while the women’s report describes the trafficking of Thai women into South Africa, the authors argue that only a minority of these women were already sex workers and knew that they would be working as prostitutes.<sup>98</sup> They argue that most were rural women procured by recruitment agencies and strangers on the promise of jobs as domestic workers and waitresses.<sup>99</sup> The reports also identify specific domestic trafficking issues, such as the:

- selling of children to brothels, syndicates and gang leaders for both commercial sexual exploitation and the buyer’s own sexual gratification;
- selling of girls as child brides to older men; and
- recruitment by teachers of youngsters into debt-bondage situations where they are expected to provide sex in exchange for the payment of school fees.<sup>100</sup>

The authors believe that parents play an important role in the domestic trafficking of children. They argue that parents are often complicit in the exploitation of their children, not only offering them to prospective clients but also 'selling' them for financial gain or to pay off debt.<sup>101</sup> They also link the trafficking of women into and through South Africa to African, Eastern European and Chinese organised crime groups.<sup>102</sup>

### ***Prevention, support and reintegration infrastructure***

The TECL studies examine the prevention and support infrastructure available in South Africa. This research provides data on what governmental and NGOs are doing with respect to the commercial sexual exploitation and trafficking of children, but does not consider in any detail the services available for adult victims which fell outside their remit.

The TECL reports show that some government departments, police services and a small number of national and provincial NGOs working with children touch on trafficking issues in campaigns aimed at raising awareness about child abuse. However, only a handful of organisations, such as the Amazing Grace Children's Centre in Mpumalanga and Molo Songololo in the Western Cape, are involved in trafficking-specific activities – although Molo Songololo's focus appears to be on the commercial sexual exploitation of children as opposed to trafficking *per se*.<sup>103</sup> A few organisations, such as ChildLine, Streetwise and LifeLine, may indirectly address aspects of trafficking through their efforts to prevent children leaving home to live on the streets or to re-unite street children with their families, but this happens by chance rather than design.<sup>104</sup> Support services are equally limited. Efforts by the TECL programme to develop support services for sexually exploited and trafficked children in the provinces of Limpopo, Mpumalanga, KwaZulu-Natal and the Western Cape may result in more facilities becoming available in the future, but it is unclear to what extent this initiative will help children not being sexually exploited.

### **What the data does and does not tell us**

The findings suggest that both internal and cross-border trafficking are issues of concern in South Africa. They provide valuable preliminary data on possible trends and patterns, while pointing to the tremendous diversity of experience that is likely to exist. As in many other countries, though, our understanding of the problem remains rudimentary. We know nothing about



how prevalent trafficking is, extremely little about trafficking that is not for the purposes of sexual exploitation, and for methodological and definitional reasons we cannot be sure how well the data on sexual exploitation reflects what is happening in South and Southern Africa. There is also a lack of depth to our knowledge of the phenomenon. The review shows that although several studies have been conducted since the pioneering work by Molo Songololo and the IOM, most borrow liberally from these pieces of research and provide relatively little new information. The IOM report itself draws on the earlier findings published by Molo Songololo, and both the Molo Songololo and IOM reports share a common researcher.

### *Methodological issues*

As with much of the international literature, the studies referred to here take the form of short-term exploratory projects aimed at providing a 'snapshot' of the issues, as opposed to longer, more detailed investigations. Like other studies of their kind, sample sizes are small and the findings are based primarily on interviews with governmental and non-governmental stakeholders, as well as a few conveniently chosen individuals with firsthand experience of trafficking. The IOM study, for example, conducted interviews with 232 people, of which 25 were victims of trafficking.<sup>105</sup> Molo Songololo researchers spoke to a total of 69 sex workers, children and parents, of whom less than 25 were victims of trafficking.<sup>106</sup> Some studies, such as the one by UNICEF, interviewed no victims and their findings are based exclusively on cases described by those working in support organisations or law enforcement.

Most of the studies are also limited in geographical scope, and while several speak in national terms, their findings are extrapolated from discussions with individuals in a limited number of sites. Data collection for the Molo Songololo reports, for example, was confined to South Africa's four major cities (Pretoria, Johannesburg, Durban and Cape Town), with interviews for the children's report conducted primarily in Cape Town.<sup>107</sup> This information may tell us something about what is happening in these locations, but very little about the situation in rural areas or other smaller towns and cities. All but two of the interviews for the children's report were conducted with Afrikaans-speaking respondents, suggesting that the findings also represent the experiences of a very specific group of people.

As with most international research, none of the studies included control groups, which also makes it difficult to determine where and how the experiences and characteristics of 'trafficking victims' differ from those of

others. This is particularly important when it comes to identifying or analysing the factors that encourage trafficking. It is equally essential in delineating 'trafficking' from generally exploitative work conditions in some sectors, or the high levels of sexual opportunism and abuse that appear to exist in our society. The Molo Songololo and IOM reports both identify a range of factors, from poverty through to fragmented and inadequate service delivery and domestic violence as encouraging trafficking. Common sense suggests that such factors are indeed likely to increase vulnerability. However, given the pervasiveness of poverty and exclusion in South and Southern Africa, and the high levels of violence to which people are exposed – a national youth victimisation survey, for example, found that 21% of South Africans under the age of 18 had been exposed to domestic violence – it is not clear what sets trafficking victims apart from the millions of people living in comparable circumstances.<sup>108</sup>

Another major weakness of the studies is that they have not grappled with the definitional issues suggested by experience elsewhere. With the exception of the Molo Songololo reports, none of the studies explicitly state how trafficking is defined, and the research provides no definition of key concepts such as 'exploitation'. The definition used in the children's report is very broad and includes "all acts by adults involved in the sexual exploitation of children for ... financial gain".<sup>109</sup> This essentially conflates child prostitution and trafficking, making it unclear how much the report actually tells us about trafficking.

Several of the studies fail to distinguish between trafficking and transactional sex in exchange for basic necessities, better grades, protection or luxury goods. The children's report by Molo Songololo construes cases of girls having sex with their teachers in exchange for payment of school fees as trafficking.<sup>110</sup> Such manipulation by adults is clearly undesirable, but these cannot be considered commercial sexual relationships (the stated focus of the report) and it is highly questionable whether they fall within the spirit of exploitation envisaged in most prevailing definitions of trafficking.

Many studies similarly fail to differentiate child trafficking from child abuse. A good example of this is found in the IOM report, where the authors describe the 'trafficking' of Basotho street children by South African men. The report describes how children are kidnapped or lured across the border with false promises of work, held captive in the 'trafficker's' home, raped and physically assaulted before being dumped at the border.<sup>111</sup> These incidents again represent an extreme violation of children's bodies and rights, but it is not clear if they should be considered trafficking (as opposed to kidnapping,

child abuse, statutory rape or assault) – or whether the ends of justice are any better served by labelling them trafficking. The notion of trafficking implies that someone derives a financial benefit from the labour or services of the trafficked person, and dropping this distinction risks making the concept too broad to be useful.

There is a danger that research on trafficking for the purposes of extracting organs and body parts could share these weaknesses. The TECL report on Mpumalanga, for instance, draws attention to the problem of *muti* (witchcraft-related) killings, noting that many murdered children are found with body parts missing.<sup>112</sup> This conforms broadly to the definition adopted in the Palermo Protocol, which provides little clarity on what the “removal of organs” entails, yet also raises several questions including the purpose of intent. If the primary aim is to kill someone to extract their organs, can this be seen as intent to exploit or is this straightforward murder? Can murder be considered a ‘route’ to exploitation? Given that murder is already taken very seriously by the legal system, what is achieved by labelling such killings trafficking, other than perhaps making them more complicated to prosecute?

Such questions point to the need to look long and hard at how trafficking is conceptualised in South African research. They also underscore the need to think carefully about if, where and how the notion of ‘trafficking’ adds to the arsenal available to law enforcement and judicial personnel. It may be tempting to throw the net wide, but too broad a definition risks making an already unwieldy concept more difficult to apply and blunting legislative instruments designed to combat it. It could also result in an over-estimation of the problem and the diversion of already scarce criminal justice sector resources to deal with issues that are already addressed in South African law and law enforcement.

### ***Content issues***

The literature’s focus on the trafficking of women and girls for sexual exploitation means that we know virtually nothing about trafficking for other purposes, such as labour exploitation, carrying drugs or the extraction of body parts – or if and when issues like drug running or *muti* killings should fall under the trafficking umbrella. This has obvious implications for designing comprehensive responses to the problem. But a preoccupation with sexual exploitation may also result in less money being made available for research in other areas and may fuel a cycle of ignorance that could leave

many men, women and children without the help and support they need.<sup>113</sup> Other broad gaps in the literature as a whole include:

- *The trafficking of South Africans abroad:* The data provides preliminary information on South Africa's role as a destination and transit country, but it says very little about the trafficking of South Africans to other countries. Cases of South Africans trafficked overseas have come to the attention of assistance and support organisations such as the IOM and law enforcement, but this is an issue that has yet to be researched properly.
- *The trafficking of men and boys:* The emphasis on women and girls in sexual exploitation means that our current understanding is biased towards the experiences of a very specific group of people and tells us little or nothing about male victims of sexual exploitation, or the men, women and children who may be trafficked into other sectors.
- *The structural factors creating an environment conducive to trafficking:* As with much of the international literature, the focus is on studying the factors that contribute to trafficking, the profile of victims, and mapping the routes and relationships between countries of origin, transit and destination. We still know very little about the structural factors that create an environment conducive to trafficking. While studies highlight a broad range of 'push' and 'pull' factors, none have examined in any detail what role law enforcement personnel play in trafficking, or how factors such as corruption, societal attitudes and demand may create a market for trafficked individuals in South Africa.
- *What makes some more vulnerable than others:* There has also been no analysis of why some people are more vulnerable to being trafficked than others. Understanding what makes some people susceptible and what differentiates those who do and do not become victims of trafficking, should be the first step in designing meaningful prevention activities.
- *Traffickers and trafficking networks:* The research suggests several different types of traffickers, as well as a range of trafficking arrangements and levels of organisation. Beyond broad references to profit motives or economic need, the literature tells us little about what motivates traffickers and where trafficking networks are involved, how these are structured or how they work. This is crucial given the Palermo definition's association of trafficking with organised crime.

- *Support infrastructure and needs:* While the TECL reports provide insight into the services available to trafficked children, no research has examined what resources are available for adults or what is needed to expand and improve the facilities available to victims. South Africa's trafficking legislation will include provisions for victim support and protection, and data is urgently required on what needs to be put in place to fulfil these requirements.

There is thus an urgent need for more and better data on trafficking for the purposes of sexual exploitation, as well as information on trafficking in other areas. If we are to design comprehensive responses to the problem, there is a need for information not only on the environment within which trafficking occurs but also the knowledge and attitudes of potential victims and the communities into which actual victims must reintegrate.



## CHAPTER 5

# LESSONS FROM THE INTERNATIONAL LITERATURE

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Although much of the international literature on trafficking is constrained by weak methods and definitions, uncritical analysis and an overly narrow focus on trafficking for the purposes of sexual exploitation, there are lessons to be learned for designing better research in South Africa. Some of the more recent work, in particular, has moved beyond simply trying to prove that trafficking is a problem, to asking thoughtful questions about the quality of the data and what information is needed to understand and respond to an issue as complex as trafficking.

This section examines what the literature tells us about trafficking elsewhere, as well as some of the arguments and questions that have emerged over the past six years. It also discusses issues raised in the broader literature on migration and prostitution that may have bearing on trafficking but have yet to be examined in the trafficking context. The aim is not to provide a comprehensive review of the literature, and instead to highlight issues that may be worth thinking about when designing future research in South Africa.

### **A diverse phenomenon**

As already discussed in Chapter Two, trafficking can result in a wide variety of outcomes. Although most of the literature has focused on the trafficking of women and children into the commercial sex industry, several generally newer studies also show that large numbers of men, women and children are trafficked into a range of work outside of the sex industry.

A detailed study of confirmed trafficking and forced labour cases worldwide by the ILO shows that although sexual exploitation accounts for the single largest category of exploitation, a little over half of all those trafficked were involved either in some kind of economic exploitation or in mixed or undisclosed activities (see Figure 3).<sup>114</sup> The study, which collected data on validated reports of forced labour from police and governmental sources, trade unions, academics, NGOs and the media, suggests that much forced

labour occurs at the margins of the formal economy, usually among those with irregular employment or migration status.<sup>115</sup> Abuse appears particularly common in the agricultural or horticultural, construction, garment, textile, catering, restaurant and domestic industries – although coercive recruitment and employment practices affect migrant workers in other mainstream sectors, including food processing, health care and contract cleaning.<sup>116</sup> Data gathered on Russian migrant workers, for instance, shows that coercion is part and parcel of most job experiences, rather than the outcome of a deliberate trafficking or deceptive recruitment strategy.<sup>117</sup>

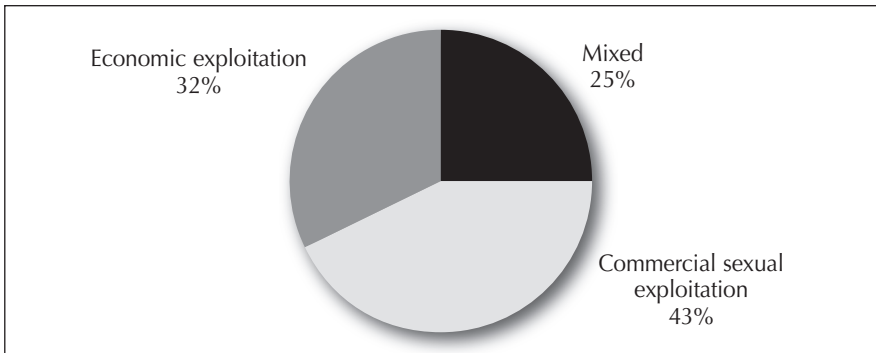
This and other studies also highlight the involvement of individuals in several less conventional and often informal or illegal trades. The report describes the debt bondage of rickshaw pullers and street traders in Madagascar, while an earlier ILO report describes the involvement of particularly children in activities like street hawking, begging and even drug running and petty theft.<sup>118</sup> Other reports, such the 2005 *Trafficking in Persons* report by the US Department of State, link trafficking to the use of child soldiers in some conflicts and sporting-cum-cultural events, such as camel racing in the Middle East.<sup>119</sup>

There is great variety within these different activities. Returning to the issue of commercial sexual exploitation, for example, there are a wide variety of commercial sex arrangements, ranging from highly organised establishment-based prostitution where defined working relationships exist between those involved and intermediaries who are paid to put clients in touch with women, through to single men, women and children plying their trade on the street.<sup>120</sup> Depending on the legality of prostitution, some activities may be very visible, while others may be accessible only to those in the know. The services falling under the heading of commercial sex also vary, and depending on how commercial sex is defined may include anything from actual sex through to ‘virtual’ web-based or telephone sex and pornography. Conditions of work will vary considerably in these different arrangements. In a study on child prostitution in Tanzania, Kamala and colleagues found that the circumstances of children working in brothels were very different from those working on the street. Interestingly, they report that although all the children worked in difficult circumstances, those working on the street generally fared better than those working in brothels, who had less to eat and lived in cramped and overcrowded conditions.<sup>121</sup>

The profile of those involved is equally diverse. The literature shows that not only are men and boys sexually exploited, but that men, women and

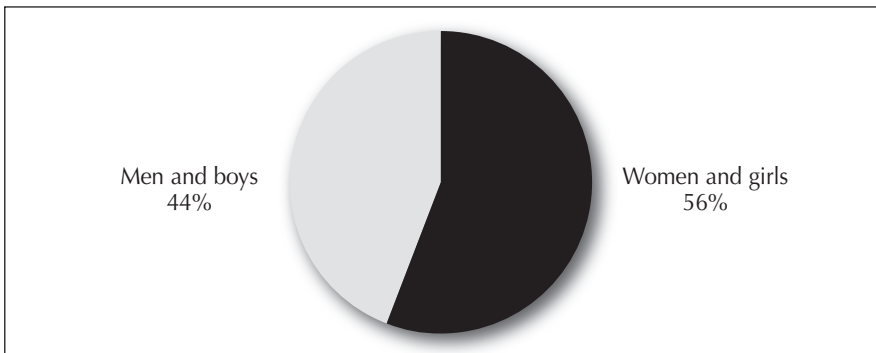


**Figure 3: Trafficked forced labour by form**



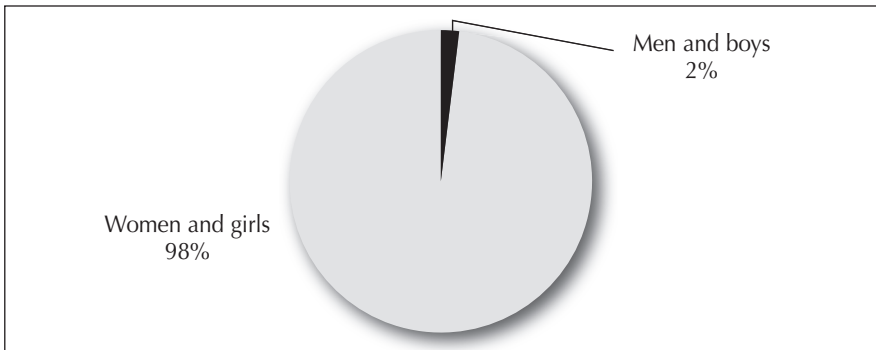
Source: ILO, 2003.

**Figure 4: Forced economic exploitation by gender**



Source: ILO, 2003.

**Figure 5: Forced sexual exploitation by gender**



Source: ILO, 2003.

children are trafficked into other sectors. The findings of the ILO study on global forced labour described above, for instance, show that women and girls made up just over half of those trafficked into economic exploitation, while men and boys make up as much as 2% of all those trafficked into sexual exploitation (see figures 4 and 5).<sup>122</sup> It is likely that experiences of men and boys will differ from those of women and girls in the sex industry, as will the experiences of women trafficked into other sectors. This underscores the importance of extending studies on trafficking beyond a narrow focus on female sexual exploitation.

The age and characteristics of those trafficked also vary, although this may be more so in some sectors than in others. As Anderson and O'Connell Davidson argue, such factors as age, race, demeanour and ethnicity may be of less importance in the carpet or garment industries, for example, but may be extremely important in the sex or domestic industry where users are interested in the person of the individual rather than just their labour.<sup>123</sup>

### **Possible links between different types of trafficking**

A handful of studies also suggest a need to look at the relationships between different kinds of trafficking. Hughes, for instance, notes that women trafficked into the European sex industry are sometimes exploited in local sex industries before being trafficked transnationally.<sup>124</sup> A study on child prostitution in Tanzania suggests linkages between sexual and domestic exploitation. The report notes that at least half of the 246 girls interviewed worked in some kind of debt bondage, under which they were not only required to sell sexual services to repay their debt but were also often expected to clean and cook for their employer. The study found that 62 out of the 246 girls interviewed (25%) had worked as child domestic workers before being recruited into prostitution.<sup>125</sup>

There is no detailed data on reverse linkages between trafficking-related labour and sexual exploitation, but other studies point to the often repeated victimisation experienced by child labourers. The IOM report on trafficking in Southern Africa notes unconfirmed cases where children offered genuine employment on farms were required to provide sexual services to their employer to confirm or keep their job.<sup>126</sup> These findings are supported by a UNICEF study on child labour which shows that even where not associated with trafficking, child labour often results in multiple layers of abuse with children exploited both physically and sexually.<sup>127</sup>

## Complex causes

As with most social phenomena, drawing definite conclusions about the 'causes' of trafficking is impossible: each country suggests a different set of factors, or different combinations of factors, that are unique to its particular situation.<sup>128</sup> Most studies nevertheless mention a range of 'push' and 'pull' factors associated with trafficking. On the 'push' side the majority focus on such factors as poverty, a lack of opportunities, dislocation, gender, racial and ethnic inequalities, and the break-up of families. Common 'pull' factors include the promise of a better life, consumer aspirations, lack of information on the risks involved, established patterns of migration, porous borders and fewer constraints on travel.<sup>129</sup> These are clearly important issues in understanding trafficking; but as Kelly notes there is also a need for more sophisticated analysis.<sup>130</sup>

At one level this may involve looking in greater depth at some of these seemingly obvious factors. Research by Kelland and Sanogo on child migration in Burkina Faso, on the one hand, suggests that migration requires financial and social resources, and it is the slightly better off who are most likely to send their children away.<sup>131</sup> The ILO, on the other hand, argues that while this may be true for migration, it is not true for trafficking – it is precisely because individuals have few or no resources that they are vulnerable to being trafficked. A preliminary analysis of data gathered by IOM return and reintegration programmes in Eastern Europe supports Kelland and Sanogo's argument, showing that most of those helped have been neither rural nor particularly poor.<sup>132</sup> Determining which of these two standpoints is more relevant in a particular setting has bearing on the design and targeting of interventions.

It also necessary to examine the structural factors that facilitate trafficking. An increasing number of studies locate trafficking within both localised anthropological and historical contexts and broader political economies. Such studies link regional patterns to cultural attitudes on labour, gender and childhood, as well as more specific trade and geographic links between origin, transit and destination countries.<sup>133</sup> These analyses indicate that the factors underlying trafficking are complex and extend well beyond individual needs and desires to encompass uneven patterns of development, demand for cheap labour, criminality, the global and national policy environment, and societal attitudes towards using potentially trafficked labour.<sup>134</sup>

Many commentators on trafficking argue, for example, that trafficking is intimately linked with various aspects of globalisation. They believe that

improvements in transport and communication infrastructures have created a greater incentive for people to migrate and made it easier for traffickers both to locate women and organise trafficking processes. Many believe that globalisation has led to increased levels of tourism, and arguably fuelled trafficking through growing levels of sex tourism – although a recent report by UNICEF on child labour argues that the effect of sex tourism on trafficking may be overestimated.<sup>135</sup> It is widely argued that the opening up of global markets has also resulted in growing competition, which has not only increased unemployment and poverty in many areas of the developing world but has put employers under enormous pressure to reduce costs (see Box 2). These dual dynamics have intensified the need to migrate, while at the same time created a demand for cheap, malleable labour: dual imperatives that are highly conducive to trafficking.<sup>136</sup>

Many analysts have also linked trafficking to the reworking of gender relations against the backdrop of the more general ‘feminisation’ of poverty in developing countries. As Ramirez et al note, rising levels of poverty and unemployment in many poorer countries as a result of both stringent economic policies and globalisation, combined with higher costs of living and a desire for equality, have resulted in women entering the ‘productive’ economy in ever greater numbers over the past three decades.<sup>137</sup> This has not been accompanied by a re-ordering of domestic roles and most women are still expected to fulfil their domestic responsibilities. This too has created a demand for cheap – but in this case primarily female – labour, with better off women increasingly hiring others to cook, clean and provide care.<sup>138</sup>

The political and legislative policies adopted by governments also appear to play an important role in trafficking. In the face of growing incentives to migrate, for instance, restrictive immigration policies can fuel trafficking as enterprising entrepreneurs seize the opportunity to make large profits not only smuggling people across borders, but also exploiting the vulnerability brought about by their illegal status.<sup>139</sup> Bilateral migratory agreements can also serve to fuel trafficking. The ILO notes that with the exception of those covering domestic work, most visa agreements cover predominantly male occupations.<sup>140</sup> This makes it difficult for women to migrate legally and confines their legal options to marriage or low paying, low status work in a sector notorious for its high levels of abuse. The failure of states to create or enforce legislation on employment rights can similarly facilitate, if not encourage, trafficking. As the ILO comments:

A major incentive for trafficking in labour is the lack of application

## Box 2: Market competition and labour: The example of gangmasters in the United Kingdom

Labour contractors, or gangmasters, are a common feature of the British and Western European food production and packing sectors. Fruit and vegetable growing and packing businesses in the British Midlands, for instance, supply major supermarkets throughout the country. They source workers through three or four well-known gangmasters operating in and around Birmingham.

Most gangmasters recruit legal migrants and provide their workers with contracts, sick pay and holiday benefits. Faced with pressure from supermarkets and competing foreign producers, however, growers are demanding cheaper labour and a small number of more dubious operations have emerged. Such contractors recruit and employ irregular migrants from a range of regions, particularly Eastern Europe and Southern Asia. These workers have no contracts or benefits and live in fear of being reported to the authorities. The number of such operators appears small, but studies by the British Rural, Agricultural and Allied Workers' Union suggest that those gangmasters that do comply with the law are facing increasing pressure from illegal contractors who are able to supply below market-cost labour.

It is unclear if and to what extent the workers supplied by such contractors are trafficked. The ILO argues that relatively lengthy supply chains in which each link squeezes the next to reduce costs, the tendency towards verbal contracts and the attractiveness of income earning opportunities in Europe, create an environment highly conducive to trafficking. They note that while many European countries recruit foreign workers to address a chronic shortfall of agricultural workers through regulated seasonal work schemes, the permitted quota of workers has as much as halved in some countries over the past few years. This creates a market for illegal labour that overstretched immigration officials have difficulty in stemming.

Source: ILO, 2003.

and enforcement of labour standards ... tolerance of restrictions on freedom of movement, long working hours, poor or non-existent health and safety protections, non-payment of wages, substandard housing, etc. all contribute to expanding a market for trafficked migrants who have no choice but to labour in conditions simply intolerable and unacceptable for legal employment.<sup>141</sup>

As noted in Chapter Two, some sectors where trafficking is common are extremely difficult to regulate. It is also hard to put in place monitoring mechanisms where services or labour are provided in the home by people who are not legally or socially constructed as 'employees', such as wives, au pairs or adopted children. Overcoming such problems would require an enormous investment of resources and as Anderson and O'Connell Davidson note, governments are generally unwilling to make funds available, particularly where most abuses occur in the 'private' realm of the household. Trade unions too tend to be slow to organise and protect workers in these sectors.<sup>142</sup>

These factors link to the broader issue of societies' attitudes and values towards using trafficked labour. Trafficking requires people who are prepared to see others as commodities and, most importantly, clients and employers who are comfortable with using trafficked workers – assuming, of course, that they are aware of their status. Such demand is often grounded in and reproduces wider social attitudes towards gender, age, race, ethnicity, nationality and caste. It is also linked to people believing that they need or want a particular product or service, as well as what they think they can get away with. Anderson and O'Connell Davidson argue that racism and xenophobia, or prejudices against minority groups, not only construct certain groups as 'naturally' suited to specific tasks but make it easier for users to convince themselves that their practices are justified and acceptable. As two employers of foreign domestic workers report in their study on demand for trafficking:

Its difficult having someone working for you from the same race because we have this idea of social class in our minds, don't we? And that would be uncomfortable in your house. Whereas when it's somebody from a different country, you don't have all that baggage ... there's none of that middle class, working class, upper class thing ... it's just a different race.

I employed her because I felt sympathy for her situation. She came from the country with an agent and she was deceived and had to work without payment for one year. She could not go back home because she didn't have enough money and still wanted the opportunity to work. I employed her at that time.<sup>143</sup>

### **Understanding how and why people stay in exploitative situations**

With the exception of coerced sex workers or those working in some sweatshops, people are seldom kept in exploitative labour using physical means. More often than not employers use more subtle methods of coercion to push down or withhold wages, or make people work in poor or unsafe working conditions.<sup>144</sup> These methods vary from threatening to denounce employees with irregular immigration status to the authorities, to using the psychological power of magical rites.<sup>145</sup> Anderson and O'Connell Davidson argue that the threat of deportation can be a particularly powerful control mechanism, even where workers are in a country legally. They note that legal migrants often have their documents seized, wages withheld or their safety and liberty threatened, and whether trafficked or not, many are vulnerable

to abuses precisely because they have migrated legally under work permit schemes that tie their stay to a named employer.<sup>146</sup>

Even where there are no obvious constraints, Kelly argues that owing money to relatives can encourage people to stay in all sorts of exploitative situations even where they have the chance to leave. Faced with the guilt or shame of having failed to improve or even worsened their families' fortunes, she argues that many may choose to try and work off a debt in the hope of eventually earning some money, rather than returning empty handed to their family or community.<sup>147</sup> Kelland and Sanogo similarly argue that many failed child migrants are simply too embarrassed to return home – and this is one of the reasons why information on the risks of migration never trickle back to rural areas.<sup>148</sup>

This points to an important issue that is seldom explored in the literature, namely, how much communities know about trafficking and how societal or community attitudes may facilitate or block both awareness raising and the return of victims to their old lives. A study of Nigerian women trafficked to Italy, for instance, notes that repatriated 'victims' (a lack of conceptual clarity leaves it unclear as to how many of these women were in fact trafficked) were often derided for not having migrated successfully, with some even rebuked and told to find their way back to Europe. The same study highlights the ambivalent attitudes that some have about trafficking; one respondent whose daughter was supposedly trafficked felt that trafficking was not a problem as long as some money eventually trickled back to the families at home.<sup>149</sup>

This also highlights the importance of understanding why people embark on migratory projects in the first place. As Chapkis argues, many trafficking 'victims' are before anything else economic migrants, and earning money is both a key motivation for leaving home and remaining in exploitative conditions. She cites the director of a migrant prostitute project in Amsterdam:

These are women with both serious economic problems and lots of ambition ... The thing is, the women in general are absolutely not interested in being defined as victims, even those ... who certainly qualify. Even where we can guarantee that if they submit a complaint against a trafficker or pimp that they'll be given a shelter address, a temporary residence permit, and a welfare check, that doesn't address their real need. Their real need is to make money any way they can.<sup>150</sup>

This is supported by the findings of the Nigerian study which suggests that many of the women repatriated from Italy find their way back to Europe within six months, with most seeking the help of their original recruiters to do so.<sup>151</sup> Other studies show similar findings but attribute the returns to re-trafficking or the psychological hold that traffickers have over their victims.<sup>152</sup> Even if this is the case, and some of the women in the Nigerian study were migrant prostitutes rather than trafficking victims, this finding nevertheless highlights that people have good reasons for migrating that influence how they respond to their situation. It also suggests the need to look at how both members of civil society and 'victims' define trafficking, which as Kelly notes has direct bearing on whether people seek advice or help, as well as how they respond to questions intended to discover if they have been trafficked.<sup>153</sup>

### **The issue of agency**

Another area where more sophisticated understandings are needed is in the representation of, and research with, those who have been trafficked.<sup>154</sup> Whether intentionally or unintentionally, most discussions on trafficking assume powerlessness on the part of those studied. Analysts such as Doezema trace this back to the very beginnings of the trafficking debate in the late 19<sup>th</sup> century, where images of innocent, defenceless young girls lured into prostitution fuelled moral outrage over a 'white slave trade'.<sup>155</sup> Doezema and others believe that the continued association of trafficking with prostitution, and the debates around the coerced or voluntary nature of sex work, has led to the construction of 'trafficking victims' as primarily vulnerable women and children in need of rescuing.

Ditmore and Weijers believe this is clearly seen in the different wording of the protocols on trafficking and smuggling, which address the movement of people with differing levels of agency. In the trafficking protocol, trafficked individuals are viewed as innocent victims, while smuggled people are seen as active agents complicit in breaking the law. Although the protocol on smuggling speaks in largely gender neutral terms, Ditmore and Weijers believe the trafficking protocol implies a division of agency along gender lines, with smuggled migrants envisaged as proactive men and trafficked persons as duped, usually female victims.<sup>156</sup> This is echoed by Agustin, who notes that:

[Once having made the decision to leave] men, women and transsexuals alike ... will probably have to borrow money; they will have to get the right papers for travelling and they will have to trust



a series of people along the way. When difficulties arise, as happens often enough, outsiders expect the male traveller to overcome them and do not jump to conclusions that disasters have occurred. When difficulties arise for a female traveller, however, outsiders are now jumping conveniently to the conclusion that they are catastrophic and that she will not be able to overcome them by herself.<sup>157</sup>

This is partly the product of a deliberate effort by those working on trafficking issues to highlight the abuses associated with trafficking, as well as the responsibility of governments to ensure that victims receive protection and support rather than being treated as criminals. However well intentioned, this approach not only downplays the abuses suffered by men, it also works to erase the agency of most female migrants. The emphasis on 'women and children' also risks infantilising women (Enloe corrects the term to 'womenandchildren') and ignoring the often quite different circumstances of the two groups.<sup>158</sup>

Denying individual agency is not only problematic, it is also patently incorrect. As discussed previously, many people's migration experiences fall in a grey area between totally voluntary migration and entirely forced trafficking. Most exercise some degree of choice, albeit at times in a context where their options are limited.<sup>159</sup> Even where deceived, the majority of people enter the trafficking chain with a very specific project in mind, such as to marry 'well', see something of the world, support dependents or build a better life for themselves or their children, and are proactive in pursuing these ambitions.<sup>160</sup> Where they must travel internationally, many are aware that their documents will be forged or that they will illegally cross a border or overstay a visa, and are complicit in some degree of illegality.<sup>161</sup> There is very little research on what people do or how they cope once in the trafficking process, but there is no reason to believe that they stop exercising agency – whether this is by trying to escape, making decisions about how to best protect themselves physically or emotionally, or developing strategies to try and get at least something out of their bad experience.

Granting people agency and allowing them to speak for themselves can help in better understanding what trafficking involves, as well as in designing more effective interventions. Examining how people extricate themselves from trafficking situations and the routes and mechanisms they use to return home, for instance, may help in designing programmes aimed at assisting individuals to leave exploitative situations or reintegrating back into their communities. Likewise, understanding people's reasons for embarking on migratory projects may help in designing better prevention campaigns.

Most importantly, better information on where and to what extent people exercise agency can help in better targeting interventions at those that need them most.

Research that fails to understand properly the choices and decisions people make can result in measures that are both ineffective and harmful. Interventions that deny the agency of female migrants, for instance, ignore the increasingly important role they play in supporting their families – and, in many countries, national development – and often adopt paternalistic measures that prevent women from migrating. For instance, the Indonesian government in 1996 announced that women would no longer be allowed to work overseas as domestic workers following reports of maids being abused by their employers.<sup>162</sup> This policy is no longer in effect, but illustrates the danger of how oversimplified understandings of the problem may result in ‘quick-fix’ measures that further victimise people rather than putting in place strategies to support and protect their rights.

Another, more controversial, example of this is found in policies aimed at clamping down on the sex industry as a way of controlling trafficking. Most countries currently criminalise prostitution in some form or another, either prohibiting all aspects of prostitution or specific acts such as profiting from or buying sex. In many instances this legislation is based on the belief that all prostitution is by its very nature coerced and that women need legal protection from third parties that wish to exploit them.<sup>163</sup> While aiming to shield women from abuse, many analysts argue that such laws only serve to isolate and marginalise them, locking them deeper into sex work and exposing them to high levels of abuse, while deterring no one.<sup>164</sup>

### **Questions over extent**

The issue of agency links to a further concern raised in the literature, namely, the question of how extensive trafficking really is. As discussed in Chapter Two, the figures on trafficking are frightening, with some estimates suggesting that hundreds of thousands, even millions, of people are trafficked each year. There is no way of knowing how accurate such figures are, although as discussed earlier there are many methodological reasons to be cautious about the data. There are also definitional problems. Those who see prostitution as an abuse of vulnerability, for instance, generally conflate figures on prostitution and trafficking, leading to much higher estimates of prevalence. There may be other reasons to look critically at the data. Kelly draws attention to the possibility of what have been called ‘advocacy

numbers', where estimates are inflated (if not deliberately, then through conscious neglect of sound methodological practice) for awareness and fundraising purposes.<sup>165</sup> It could also simply be that the issue is an emotive one and that sensationalism sells.

Doezema, for example, compares current claims about the extent of trafficking to those made about the 'white slave trade' at the turn of the 19<sup>th</sup> century, noting that although images of innocent girls lured into sexual slavery captured the imagination on both sides of the Atlantic, there appear to have been relatively few cases of actual forced prostitution. What was portrayed as a slave trade was in fact primarily a wave of migration from Europe to the US and Latin America, in which many sex workers chose to leave the UK to ply their trade in the Americas.<sup>166</sup> Statistics on prostitution were nevertheless used, and often misrepresented, in making the case for action to stop the 'trade'.<sup>167</sup>

In a more contemporary example, Chapkis describes how one feminist organisation in the US co-opted statistics from a 1999 Central Intelligence Agency (CIA) briefing on global trafficking for its own ends. She notes that while the CIA estimated that between 45,000 and 50,000 men, women and children were trafficked into the US for sweatshop labour, domestic servitude, agricultural work and prostitution each year, the organisation reported on the trafficking of 50,000 women and girls trafficked into "sexual slavery" to motivate for public and legislative action against the issue.<sup>168</sup>

Slippery numbers and the difficulty of finding victims to research has led some analysts to wonder whether mainstream estimates on the prevalence of trafficking are not wildly inaccurate.<sup>169</sup> Gozdzia and Collett argue that despite claims that upwards of 14,000 people are trafficked in the US each year, the US Office of Refugee Resettlement, which is responsible for certifying victims of trafficking so that they can access state benefits and support, had of March 2005 only certified 717 victims of trafficking since the adoption of the TVPA in 2000.<sup>170</sup>

Many would argue that the low numbers of identified victims reflect the hidden nature of the problem. This may often be the case, but the huge disparities between estimated and recorded numbers are difficult to ignore and suggest that there is a need for careful, critical research on the extent of trafficking. In the African context, in particular, there is the question of how big a market there is for trafficked labour on the continent. Trafficking presents clear benefits for employers in developing countries but the advantages are less obvious for employers based in Africa, where very high

levels of unemployment, low wages and weakly enforced labour regulations create an already cheap, malleable workforce.

### **Distinguishing rites of passage and safety nets from trafficking**

The issue of agency also suggests a need to look carefully at what is considered trafficking in the context of well-established patterns of migration, particularly in Africa. Evidence from West Africa suggests that trafficking is often most usefully understood as exploited migration, where traffickers take advantage of traditional migratory practices to recruit people. As Kelland and Sanogo note, the custom of sending rural children to live with better off relatives and acquaintances in urban areas often conceals the exploitation of children as domestic servants.<sup>171</sup> In this context, Adepoju argues that analyses of the root causes of trafficking need to look at how traditional norms of child placement, child fostering and domestic work may contribute to trafficking.<sup>172</sup>

African research also points to the importance of looking carefully at what does and does not constitute trafficking. Even though Kelland and Sanogo draw attention to the abuse of migratory systems by traffickers, they note that sending children to live with and work for others in exchange for an education or life experience is a well-established tradition that is generally not linked to trafficking.<sup>173</sup> Likewise, while intermediaries in West Africa usually accept compensation for helping migrating children to reach their destination or find a job, Castle and Diarra argue that labelling such transactions as trafficking (as often happens given the difficulty of proving the intention to exploit) grossly oversimplifies a complex reality. They argue that the use of an intermediary is obligatory for most social and economic activities in the region, and while paying someone to find a child employment may appear to constitute trafficking, it is for the most part simply an acceptable and necessary social convention. Moreover, while NGOs tend to associate intermediaries with negative experiences, their research on child trafficking in Mali shows that children who travel without an intermediary are much more likely to be seriously exploited or harmed.<sup>174</sup>

### **Understanding traffickers**

Very little is known about traffickers. This is partly due to the fact that trafficking is dynamic, with patterns constantly changing in response to local circumstances and global shifts in opportunities and enforcement. It is also

linked to the problem of finding and interviewing traffickers.<sup>175</sup> As discussed below, some trafficking operations are also enormously complex and involve a diverse range of actors, which makes it difficult to determine who should be studied.

Research on trafficking for sexual exploitation suggests that it is a fairly organised phenomenon, involving anything from large, complex transnational groups to more nebulous networks that form alliances for particular projects and smaller, localised groupings.<sup>176</sup> Hughes, for instance, argues that the trafficking of Eastern European women within Western Europe is often carried out by organised crime rings with the assistance of willing collaborators in diaspora communities who work within migrating populations to build transnational criminal networks.<sup>177</sup> D’Cunha similarly notes that local and international crime syndicates play an important role in the Thai sex industry. These have contact with other crime groups, centres of power and law enforcement personnel who facilitate their activities.<sup>178</sup>

Far less is known about the level of organisation of trafficking into other sectors. In one of the few discussions on the topic, the ILO argues that the networks involved in labour trafficking are generally less sophisticated than those associated with the sex trade. They note that such trafficking often takes place under legal cover, through private recruitment agencies, contract work or even the abuse of seasonal work schemes.<sup>179</sup> Another ILO report nevertheless suggests interesting linkages with organised crime groups, stating that some crime networks make huge profits ‘hiring out’ their infrastructure, including transport, corrupt officials, safe houses and personnel, to others for the movement of both contraband and people.<sup>180</sup>

Hardly any studies consider less formalised arrangements, such as those highlighted in the South African literature. However, the information that is available suggests that this is something that needs to be looked at in greater depth. The Nigerian study on women trafficked to Italy, for instance, indicates that while some highly organised criminal groupings are involved, many trafficking groups are loose networks of primarily opportunistic family members;<sup>181</sup> while research into forced child labour in the European Union shows that trafficking is often not linked to networks at all. A review of 180 case files of children brought to France, for example, reveals that at least 50 were West African girls brought to France by families from the same country to work as domestic servants. In many cases the girls were distantly related to the family concerned and seem to have been recruited directly by their employer.<sup>182</sup> This again points to the need to consider if and how the Palermo Protocol’s definition should be applied in the African context. This is not to

suggest that lower standards for judging exploitation and abuse should be applied to Africans, but rather that research and policy should not confine itself to trafficking by formalised, transnational organised crime groups.

There is very little information available on the nature or structure of either organised or loosely structured trafficking networks, and not much is known about how they work.<sup>183</sup> The information that is available suggests that a wide range of actors and activities may be involved. The report on the trafficking of Nigerian women to Italy, for instance, shows that the more complex trafficking networks include:

- recruiting agents;
- native doctors (witch doctors) who administer magical rites to ensure the cooperation of victims;
- lawyers who draw up contracts and debt agreements;
- estate agents who help invest the proceeds of trafficking;
- bouncers;
- travel companies and touts;
- various ‘agents’ who ensure that journeys go smoothly; and
- assorted transport providers.

Other role-players include document forgers and corrupt law enforcement personnel.<sup>184</sup> Each of these actors has a very different profile, and while some play a direct role in trafficking, others operate on the periphery and are only nominally involved in the operation. This underscores the question of who should be considered a ‘trafficker’.

More is known about recruiters, although the literature again suggests immense diversity. Broadly, it shows that while some people are recruited by strangers or through recruitment agencies, advertisements and other ‘impersonal’ mechanisms, many are recruited by people known to them. In some cases recruiters are well known in the area and may be viewed positively by some community members. The ILO notes that recruiters in the Lao People’s Democratic Republic, for instance, are ‘popular’ among the young people in their villages because they can help them to get to

Thailand.<sup>185</sup> Several studies highlight the important role played by friends and family. The study on Nigerian women trafficked to Italy shows that just over half of those spoken to had been recruited by close friends or family.<sup>186</sup> UNICEF draws attention to the role parents play in trafficking. They note numerous reports of parents inducing or forcing their children into trafficking either because they believe it will provide their children with a better future or because this is seen as a survival strategy.<sup>187</sup> This raises the important issue of how to address the complicity and incrimination of parents in trafficking while safeguarding the legal rights of the family.<sup>188</sup>

In some cases, former victims may become recruiters. There are numerous reports of former sex workers returning home to recruit others; although it is not entirely clear how many of these women were victims of trafficking. Cases of 'second wave' trafficking have also been reported in other sectors. In northern Tanzania, for example, trafficked youth are sometimes sent back to their villages to recruit new children for work in the tanzanite mines.<sup>189</sup> The implication in most of the literature is that these recruiters operate on behalf of others; but little or no research has examined whether they do it for personal financial gain or whether they are still being controlled.<sup>190</sup>

As with push and pull factors, however, the data on traffickers remains fairly superficial and there is still a need for information on how and why recruiters become involved in trafficking. Kelly asks, for example, whether some recruiters are also deceived about the nature and conditions of the work victims will be involved in, or whether they too are subject to threats and coercion. She also asks whether there is a 'trafficking career', and whether individuals begin at the lowest levels but then develop a network and style of recruitment that allows them to move up into a more sophisticated and profitable network.<sup>191</sup>

## **Consequences of trafficking for victims**

In addition to the information needs identified above, there is also a need for information about the consequences of trafficking for victims and their families. The little information that does exist suggests that trafficking has significant implications for victims' health and well-being. A multi-country study on the health consequences of trafficking by Raymond and her colleagues indicates that virtually all of the 146 women interviewed had sustained some kind of injury. The most commonly reported were vaginal bleeding (40%), bruises (40%) and internal pain (33%). Just over one-quarter reported head trauma and injuries to the mouth and teeth (both 28%), while

one-sixth (16%) mentioned fractures or other bleeding.<sup>192</sup> Women reported even higher levels of emotional, behavioural and mental problems. A little under four-fifths (75%) of the women interviewed reported feeling depression or sadness, while roughly two-thirds felt self-blame or guilt (65%), or anger and rage (64%).

These findings are echoed in data on trafficked women gathered by the POPPY Project, a shelter and sex-worker health outreach project in London, which shows that virtually all (92%) of those helped suffered some kind of mental distress, including:

... near universal problems with sleeping/nightmares, anxiety and fear and common problems with loss of appetite and controlling aggression. Many women also talked about experiencing panic attacks, memory problems, self blame ... flashbacks ... thoughts of suicide, self-harm and crying constantly. One woman accurately sums this up as feeling like she is “screaming inside all the time”.<sup>193</sup>

Raymond and her colleagues found that long working hours, lack of rest, inadequate food, poor sanitation and high levels of violence make many women vulnerable to a wide range of ailments, from pulmonary tuberculosis to sexually transmitted infections (STIs) and even cervical cancer. They also found that most women had only limited access to health care. Interviews among women working in the Thai sex industry, for instance, showed that factors such as women’s irregular migration status, the stigma associated with sex work, lack of free time and the disparaging attitudes of medical staff all served as barriers to accessing health services. Women reported routinely taking pills provided by their establishment or bought over the counter to suppress menstruation and avoid pregnancy, although several had undergone unsafe and self-induced abortions by using abortifacients or getting others to stamp on or punch their stomachs.<sup>194</sup>

The findings also highlight the secondary victimisation suffered by many women working in the sex industry. This is most clearly seen in the policies and practices adopted with respect to HIV/AIDS and other STIs. As D’Cunha notes in her discussion of the Thai sex industry, sex workers have historically been targeted as sources and transmitters of STIs, which has justified their social and legal control in the name of public health measures.<sup>195</sup> Thai sex workers report being forced to undergo HIV testing, without any of the pre- or post-test counselling that is accepted internationally as essential to the testing process. Many of the women also note that a lack of confidentiality makes it easy for brothel owners to obtain women’s test results, which are



used to expel those found to be HIV-positive. Many expelled women face further victimisation on returning to their countries. Burmese women, for instance, risked punishment by the Burmese authorities for unauthorised emigration, their involvement in prostitution and having contracted HIV.<sup>196</sup>

Studies on the implications of forced labour suggest that it may be equally damaging, although few appear to have moved beyond simply listing the likely impacts. A report by the ILO on child domestic labour, for instance, notes that children working in the 'worst forms' of child labour are exposed to a range of physical hazards, from a lack of food through to exposure to dangerous cleaning chemicals and work in confined, hot and poorly ventilated environments. They are often expected to undertake jobs that are inappropriate for their age and physical strength, while long working hours may make them accident prone, creating risks even where tasks are not normally dangerous. Many also suffer the multiple effects of isolation, marginalisation, subservience and maltreatment. Some may be sexually abused, which may result not only in pregnancy and unsafe abortions but in children being thrown out of the household and sometimes rejected by their families.<sup>197</sup>

A handful of other studies also draw attention to the broader implications of trafficking for children's development. Kelland and Sanogo, for instance, argue that children who are prematurely separated from their parents in West Africa are not only statistically less likely to have their basic needs met, but are also less likely to go to school.<sup>198</sup> Kane notes that even where child labourers go to school they often have difficulty attending regularly and have problems concentrating in class or doing their homework.<sup>199</sup> Informal education mechanisms, particularly the intergenerational transfer of knowledge between parents and children (assuming this exists), may also be eroded.<sup>200</sup> Together, such factors may eliminate any chance poor youngsters have of improving their lives and may lock both them and their children deeper into poverty.

In some cases the effects may be more immediate. The study by the ILO on child prostitution in Tanzania, for example, found that where girls have given birth to children, these youngsters are often locked in their quarters while they go to work, often without proper care or supervision.<sup>201</sup>

### **Impact of policies and programmes**

As alluded to earlier in this chapter, the literature also highlights the need for an awareness of, and research into, the effects of policies and programmes

on trafficking. This is a highly complex issue and one that has not been addressed by many studies. Yet several pieces of research make passing reference to the highly adaptive nature of trafficking and both the intentional and unintentional implications of a range of policies on trafficking.

Most commonly mentioned is the impact of restrictive and gender biased immigration policies, previously referred to in this monograph. Rather than addressing illegal migration or trafficking, the evidence suggests that such policies simply drive migrants underground, creating opportunities for smugglers and traffickers and increasing the vulnerability, particularly of female migrants, to exploitation and violence. Also discussed is the contentious issue of how criminalising prostitution may cut women off from potential sources of protection and support, leaving them especially vulnerable to abuse. UNICEF too points to the need for awareness of the unexpected consequences of policies aimed at combating forced labour. They describe how media attention on the use of girls to manufacture garments in Bangladesh in the 1990s saw countries such as the US banning imports made by children. While well intentioned, this resulted in thousands of girls being summarily dismissed, leaving many worse off than they were before.<sup>202</sup>

A small number of studies also highlight the potential dangers of attaching overly prescriptive eligibility criteria to victim assistance and support programmes. The data collected by the POPPY project, for example, suggests that narrow definitions may act as a filter to support. The authors argue that strict rules by the British Home Office (and personal choice) mean that less than half of the 114 women referred to the project for assistance received the help they needed, while less than one-quarter received shelter.<sup>203</sup> This suggests a need for care in determining who interventions should target. It also raises questions about whether specific 'types' of trafficking victim should be singled out for such services as counselling, shelter and reintegration, or whether it is more appropriate to develop trafficking-related support measures as part of a broader effort to strengthen the infrastructure available to vulnerable individuals who may have suffered similar abuses but who do not qualify as 'trafficked'.

### **Applicability of trafficking concepts in law enforcement**

Almost no research has examined in detail how notions of trafficking are interpreted in by law-enforcement agencies or how definitions of trafficking are applied in everyday policing. As discussed earlier, broad, varied and often nebulous conceptualisations of trafficking will be difficult to apply in practice.

Abstract definitions may also, as Aromaa notes, prohibit both the effective identification and recording of trafficking cases. His exploratory research among Finnish police officers suggests that although broad definitions allow for the prosecution of a wider range of offences, conflicting legal definitions of trafficking can hamper regional and international police cooperation. It highlights too the difficulty of acting on or proving intent, with officers noting that they have to wait for a crime to be committed before they can make an arrest. This underscores the need for more research on the issues and challenges faced by law enforcement and judicial personnel in policing and prosecuting trafficking cases.<sup>204</sup> It is the experiences at this level that will make or break legislative measures to combat trafficking, and it is vital that the realities of these groups are considered in the design of new legislation.

### **Summary of key findings and issues**

- Trafficking occurs in a broad range of areas outside of the sex industry. Trafficked individuals may find themselves involved in a range of legal and illegal activities in both the formal and informal economy.
- The age and characteristics of victims vary widely. While the trafficking literature has tended to focus on the sexual exploitation of women and girls, studies suggest that not only are men and boys sexually exploited, but that significant numbers of men, women and children are trafficked into other sectors.
- There may often be links between different types of trafficking.
- While poverty, inequality and a range of other factors such as the promise of a better life, a lack of information, established patterns of migration and fewer constraints on travel may encourage trafficking, studies need to consider trafficking in its local anthropological, historical and politico-economic contexts.
- Only some victims of trafficking are physically coerced into remaining in exploitative conditions, with most employers finding more subtle, often psychological, methods of control. Some people may choose to stay because they do not wish, or cannot afford, to go home empty handed.
- Although much of the literature assumes powerlessness on the part of those studied, most 'victims' exercise agency. Research on trafficking

needs to recognise that people make proactive choices in their given circumstances, which need to be understood and recorded.

- There is a need to look critically at the motivations driving the trafficking debate as well as at the accuracy of estimates on the extent of the problem.
- Researchers need to consider how and where traditional practices may conceal trafficking while at the same time being sensitive to customs that may resemble, but be distinct from, trafficking.
- Traffickers are a highly diverse group and the level of organisation involved in different trafficking operations varies widely. There is, however, a great deal more to be learnt about traffickers and trafficking networks.
- Trafficking has significant implications for victims' health and well-being and there is again a need for detailed research in this area.
- Policies and programmes aimed at reducing trafficking, exploitative labour, prostitution or immigration can inadvertently fuel trafficking. Victim assistance and support programmes that adopt overly restrictive eligibility criteria may leave many without the help and support they need. Researchers should be sensitive to such problems and should incorporate analysis of them into their work.
- Broad, abstract definitions of trafficking may be hard to apply in a law enforcement context. There is a need for research into the issues and challenges faced by law enforcement and judicial personnel in policing and prosecuting trafficking cases.

## CHAPTER 6

# TOWARDS MORE CRITICAL AND SOPHISTICATED ANALYSES

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The discussion in the preceding chapters suggests that there is an urgent need for conceptually and methodologically sound, comparable data on trafficking in South Africa. Information is needed about:

- recruitment and transportation;
- the nature and extent of exploitation of victims;
- the organisations and organisational networks involved in trafficking;
- the characteristics and motivations of both clients and victims; and
- the infrastructure available both to help prevent and respond to trafficking.

There is also need for more critical and sophisticated analysis of these issues. This requires clear definitions, careful examination of the assumptions underlying the trafficking discourse and, given the difficulties associated with studying trafficking issues, innovative methodologies. This section explores what is required to define trafficking. It considers the validity of the assumptions underlying the push for both legislation and research, and provides examples of creative methodologies that could be adapted and expanded on in the design of more refined research.

### **Clear definitions**

As discussed in Chapter Three, South African studies have generally adopted broad and ill-defined notions of trafficking that appear to make little distinction between 'trafficking', prostitution and child abuse. This not only makes it difficult to determine how much the data tells us about trafficking in South Africa, but also raises questions about the data's usefulness for the design of policy and legislation. If research is to inform effective, responsive policy, it needs to establish as clearly as possible what the parameters

of the problem are, where and how trafficking differs from related issues such as irregular migration, prostitution, forced labour and exploitative labour practices, as well as which aspects of trafficking can and should be criminalised.

This requires clear definitions that unambiguously establish what is being studied. There is an assumption in both the South African and international literature that trafficking in different sectors follows similar patterns, but the little international data on trafficking for labour exploitation that does exist suggests that the dynamics vary across sectors. It may therefore be necessary to clarify and develop definitions for different types of trafficking. Careful thought needs to be given to what is included in these definitions.

As discussed in the previous section, the adoption of too broad a definition is likely to make legislation and policy extremely difficult to implement, and the desire for an inclusive definition will need to be balanced against the practical requirements of a workable legal definition that can be readily applied by law enforcement and judicial personnel. It will also be important to decide whether to emphasise the process of trafficking or the exploitation that results from it.

The drafting and publication of the SALRC's issue paper in 2004 generated dialogue about how trafficking should be defined and what should be included in legislation; however, there needs to be a great deal more debate. Discussions with governmental and non-governmental role-players during the writing of this monograph suggest that deception, the transportation of people away from their familiar surroundings, and their inability to leave an exploitative situation may all be important components of a definition. There is much less agreement on how exploitation should be conceptualised, or the activities that should be included under the trafficking umbrella. These discussions, as well as those in the previous chapter, suggest a need to examine not only what constitutes sexual and labour exploitation but whether such issues as forced adoption or baby selling, the deceptive recruitment of individuals into domestic servitude, drug running or *muti* killings should be included in the South African definition of trafficking.

### **Questioning the assumptions**

Human trafficking is a powerful concept. The image of human beings sold into virtual or actual slavery creates a moral imperative to act that seems inhuman to refuse. Descriptions of utter betrayal, abuse and suffering,

particularly of women and children, tap into the most basic concepts of right and wrong in most societies and lend urgency to calls for action against the trade. The discovery of apparent trafficking cases in South Africa has attracted equal levels of concern and given impetus both to research and the promulgation of specialised legislation. Underlying this push for research and legislation is the assumption that trafficking:

- is an extensive problem;
- is primarily for the purposes of sexual exploitation, and affects mainly women and children;
- can and should be clearly distinguished from migration, smuggling and forced labour; and
- is inextricably linked to organised crime.

However, as discussed in the previous two chapters, it is far from clear how big an issue trafficking is, either internationally or in South Africa. While trafficking undoubtedly occurs in South Africa, there is too little information available to make any claims about the size of the problem. The increasing scepticism shown by international commentators towards the reported prevalence of international trafficking flows suggests that we should be cautious about simply assuming that trafficking is a significant problem. Future research needs to give more attention to assessing how significant a problem trafficking is and how many of our criminal justice system's already scarce resources need to be dedicated to combating it.

It will be equally important to explore the scope of trafficking. The South African literature's focus on the sexual exploitation of women and girls has, like elsewhere in the world, been based on the assumption that most trafficking is for sexual exploitation. The international evidence suggests that this is broadly true, but also suggests that significant numbers of men and boys are trafficked into sexual exploitation, while men, women and children are trafficked for other purposes. The experiences of these individuals are likely to vary considerably. More research is required to understand the activities into which people are trafficked and to understand how and where their experiences differ.

There is a similar need to examine the organisation of trafficking networks. The limited information available on trafficking in South Africa indicates that while trafficking may sometimes be linked to organised crime networks,

much is associated with opportunistic individuals or loosely structured groups that do not fit the criteria of organised criminal groupings. It appears that the South African government will adopt a broader definition of trafficking that is not confined to the activities associated with organised crime groups. There nevertheless remains a need to understand better the actors involved, their motivations, as well as the nature and structure of the relationships between the different role-players.

Consideration should also be given to how necessary it is to distinguish trafficking from smuggling and forced labour. While there is a political imperative to differentiate between these activities, the need to do so is less clear from a human rights perspective. As discussed in Chapter Two, the lines between smuggling, forced labour and trafficking are frequently blurred; all are inherently abusive and 'victims' suffer many of the same abuses. Although South Africa is well on its way to developing specialised anti-trafficking legislation, there is still a need for discussion around what approach such legislation should take. There is a concomitant need for research into the commonalities and differences between smuggling and forced labour, and whether and where distinctions should be made. There is also a need for critical research into the potential for legislation on migration and labour rights to constrain and/or strengthen national responses to trafficking.

### **Innovative methodologies**

A more critical approach must be complemented by rigorous methods that can provide better data on both the extent and nature of trafficking. Such methodologies have still to be widely adopted, but increasing criticism of the prevailing rapid assessment approaches, as well as the demand for more concrete information, has seen recent studies experimenting with new methodologies that have extended the scope of trafficking research. This section provides examples of such innovative approaches. It does not provide comprehensive review, but is intended simply to stimulate fresh ideas for studying trafficking in South Africa.

### ***Mapping the sex sector***

Dickenson headed a six-month project in 2003 to map the commercial sex sector in London.<sup>205</sup> The main focus of the study was on off-street prostitution, where the majority of trafficked women in the UK are believed



to be exploited. There were several components to the project, including:

- a telephone survey of establishments;
- monitoring of websites used by clients to share their experiences;
- collection and collation of official information on the sex industry in London;
- a small survey of sex worker outreach programmes; and
- in-depth interviews with sex workers.

A variety of methods were used to obtain phone numbers and where possible addresses, ethnicities and numbers of women working in so-called flats, parlours and saunas. In an attempt to quantify the number of establishments selling sex and women working in them, the research team:

- collected and captured the advertisements and information available in local newspapers, as well as the information contained in printed and web-based London sex guides. This information was verified by sex worker outreach organisations working in the various areas;
- monitored websites used by clients to share information about their experiences;
- gathered and collated official information on the sex industry in London; and
- distributed questionnaires to health and sex worker outreach projects across London.

All the information gathered was extensively cross-referenced with the other data collected to avoid 'double counting'. Addresses were checked against an electronic database (the Yellow Pages Online).

The team also collected qualitative information from women assisted by a sex worker outreach programme called the POPPY Project. The women were interviewed by their support workers about where they had worked, if they had received sexual health or outreach services and whether they felt able to estimate the degree of trafficking among other women selling sex in flats, parlours and saunas.

Men were employed to telephone all the numbers identified. Callers dialled 141, an anonymous phone code, before calling so that they could not be traced. They asked questions about location, the number of women available and their nationalities or ethnicities. This approach proved very effective and agencies only appeared suspicious of this line of questioning when they were called several times on the same day, which happened initially as agencies often use different names for the same telephone number. A total of 16 afternoon or evening telephone mapping sessions took place over a period of five months, with every establishment contacted three times. This approach did not allow for estimation of the exact number of women working in each establishment, but did allow for the calculation of ranges of numbers.

A similar approach could be applied in South Africa to understand better the size, nature and dynamics of the formalised commercial sex sector, as well as to gain a preliminary sense of how many foreign women there are working in this part of the industry. Although such an exercise would not provide definitive information on trafficking, it could improve our understanding of this sector of the industry. A telephone survey would not, however, capture information on individuals working on the street or those without an advertised address and phone number. A telephone-based mapping exercise would thus need to form part of a larger research project that gathers information about the sex industry as a whole. Analysis of local and international websites could provide information on sex tourism.

### ***Counting 'hidden' populations***

Brunovskis and Tyldum conducted a six-month study in 2003 on prostitution and trafficking in Norway, with a focus on women from East and Central Europe.<sup>206</sup> The objectives of the study were to estimate both the number and origin of prostitutes working in Oslo, as well as trafficking methods and mechanisms. There were five components to the study, namely:

- a telephonic survey of establishment-based sex workers;
- the use of 'capture-recapture' (CR) methods to estimate the number of women working on the street;
- in-depth interviews with returned victims in Norway and origin countries;
- in-depth interviews with control groups of 'trafficked' and 'non-

trafficked' women in Norway and countries of origin; and

- in-depth interviews with health personnel, officials and NGOs in Norway and origin countries.

As in the London survey, the research team obtained the names and addresses of establishments from newspapers and internet sites, which they called to establish whether the numbers were still in use. Numbers were called up to seven times if there was no answer; calls were made at various times of the day but mostly in the afternoon and evening. This was done over a three-month period. The research team found that most establishments had two or three different numbers.

A short questionnaire was developed and administered telephonically. This collected information about the basic background characteristics of the women working in each site. The methodology is not totally clear but it appears that the questionnaires were administered to women themselves, as opposed to Dickenson's approach of gathering more general information.

The CR technique involved repeatedly observing an area where prostitutes were known to gather. Where large numbers of the same individuals were observed each time, it was assumed that the total population was not much different from that observed and vice versa. This information was used to calculate the total size of the population in the study area. The research team used social workers familiar with the sex workers to help determine whether the same women were being seen repeatedly. Observations were carried out over four different evenings.

The interviews with returned victims obtained life-histories, information on the women's social background, the circumstances under which crucial decisions were made, what alternatives they saw as being open to them, what other actors were involved in their decision-making processes and who was responsible for organising their experience. The research team also interviewed a control group of 'non-trafficked' foreign prostitutes working in Oslo to gather information on their experiences working in other countries. Both groups of women were accessed through NGOs and government institutions. Interviews were often translated, using translators from the NGOs.

The research team also spoke to key informants from NGOs and government institutions working with prostitutes. The team also interviewed a small number of women trafficked into labour exploitation to determine how their experiences differed from women trafficked into sexual exploitation.

Such an approach could provide data on the commercial sex industry in South Africa. The combination of CR techniques with a telephone survey of advertised establishments, in-depth interviews with victims, non-victims and service providers would provide more detailed information on a broader range of those working in the industry than could be gathered from a telephone survey alone. The use of control groups would also allow for better understanding where the experiences of trafficking victims converge and differ from those in comparable circumstances. There are several well-established reproductive health and HIV/AIDS-oriented projects already working with sex workers in South Africa. These could provide valuable information on the industry, as well as contacts and assistance in the implementation of similar research. Such an approach would, however, only provide a snapshot of a given area, and the results from one research site could not necessarily be extrapolated to other parts of the country. The fluidity of the South African sex industry would also limit the temporal relevance of the findings.

It may also be possible to use CR methods to examine specific trafficking issues. The ILO has applied the principles of CR – in this case the creating and comparison of verified trafficking cases – to estimate the size and nature of global trafficking flows.<sup>207</sup> This approach could offer definitive data on the extent of the trafficking in South Africa, as well as providing the basis for more methodologically sound, testable and comparable estimates.

### ***Quantification of child migration***

Kelland and Sanogo published a study in 2002 on the magnitude and determinants of child labour in Burkina Faso.<sup>208</sup> The study used a quantitative survey to collect data on the migration of children from the rural areas of Burkina Faso to urban areas and other countries. Owing to the difficulty of finding and tracing child migrants in other countries, the research team chose to gather data from parents in rural households.

The study adopted a randomised, stratified sample. Using data from Burkina Faso's 1996 census, the researchers selected 150 villages. The number of households visited in each village was proportionate to the size of the village's population. Female interviewers targeted primarily women with children under the age of 18. Interviewers were drawn from the province in which the interviews were conducted. Where children's parents were dead or absent, at least two women in the household were asked to provide information about the youngster's whereabouts. Data was gathered on a

total of 23,542 children younger than 19, of whom 14,738 were between the ages of six and 17 years old. The questions were designed to illicit information about both child migration and possible cases of trafficking.

Similar surveys could be conducted in South Africa to obtain information on both child migration and child labour. While such surveys may provide information on attitudes, perceptions of trafficking and data on the extent of child migration and labour, they would not provide conclusive data on trafficking. However, given the dearth of quantitative data on either child migration or labour in South Africa, these tools could help to provide a more detailed, nationally representative picture of the migration and labour patterns that may conceal or encourage trafficking. Surveys could also be used to collect information on a range of other topics, including the public's awareness and attitudes towards trafficking and trafficking victims.

### ***Causes and consequences of child migration***

Castle and Diarra in 2002 examined the causes, context and consequences of youth migration in eight at-risk communities in Mali.<sup>209</sup> Their approach involved:

- a scan of households to determine whether they contained trafficked children;
- a snowball sample of child migrants;
- in-depth interviews with the identified children; and
- focus groups with parents and in-depth interviews with community leaders.

The eight villages were chosen either because they were subject to high levels of migration or were home to children identified as having been trafficked. The study focused on children between the ages of ten and 18. It involved conducting a series of scans to identify possible respondents and then interviewing children who fitted into four predetermined criteria. A total of 950 children were screened using a range of methods, namely:

- a brief survey conducted among randomly selected households;
- the identification of candidate households by village chiefs and elders;

- a purposive survey of households identified by NGOs working in the area; and
- snowball sampling of returned child migrants.

A total of 108 children were eventually interviewed, although only four fulfilled all the criteria for having been 'trafficked'.

The research team ran focus group discussions with parents and interviewed community leaders about their perceptions of child trafficking. Focus group discussions were also held with transporters, local government officials, representatives of NGOs working with children in the study areas, and law enforcement and judicial personnel.

This multi-layered approach could provide both quantitative and qualitative information on the extent, nature and determinants of child and adult trafficking in South Africa. Household scans in 'high risk' areas may provide a relatively quick and inexpensive way of gathering data on the number of people trafficked, as well as more efficiently and rigorously identifying possible respondents for further study. High risk areas would need to be identified with the assistance of the existing literature, service providers and law enforcement personnel, but a similar study could conceivably involve a statistically representative scan of households in an area, followed by in-depth interviews with identified victims, interviews with important local stakeholders such as NGOs, the police services and traditional authorities, as well as focus groups with non-victims and other role-players. Such instruments could be used to collect information of people's awareness and attitudes towards trafficking. They could also be used to collect information on source communities beyond South Africa's borders.

### ***Quantifying forced labour***

The ILO Special Action Programme to Combat Forced Labour in 2003/04 commissioned 12 international studies on trafficking and other forced migration outcomes of migration.<sup>210</sup> The studies adopted both quantitative and qualitative approaches. The research was conducted in five origin and seven receiving countries and involved:

- administering a standardised questionnaire to returned migrants in countries of origin;

- focus group discussions with returned migrants;
- in-depth, semi-structured interviews with key informants in countries of origin; and
- in-depth interviews with 15 trafficked or forced labourers in identified destination countries.

Open-ended questionnaires were used to collect information on migrants' demographic characteristics, their pre-migration situation, how they obtained their job abroad, how their travel was organised, the conditions of work abroad, the forms of coercion used, their awareness of available assistance and how they managed to exit or escape from their situation.

Respondents were accessed by snowball sampling returned migrants as well as random sampling of individuals in public places. Interviewers were asked to select an equal number of men and women. Interviews were conducted with victims of 'trafficking' or forced labour and a control group of successful migrants to determine what specific factors made the former vulnerable to being trafficked.

The research in destination countries was qualitative in nature. Local researchers were asked to identify at least 15 cases of trafficking or forced labour in each country. These included cases from various economic sectors, including the agricultural, construction, catering, domestic service, entertainment, transport and textile industries, as well as sweatshop production. In some cases the researchers were asked to focus on a specific ethnic group, such as Chinese immigrants in France. The cases were identified through media reports and court proceedings as well as interviews with support organisations, trade unions and the 'gatekeepers' of specific migrant communities.

Interviews with migrants in countries identified as origin states could provide valuable information on the motivations and experiences of those migrating to South Africa. Interviews with returned South African migrants, and victims in particular, could provide information on the poorly understood issue of the trafficking of South Africans abroad. The use of control groups would help to provide more concrete information on the specific factors that may make some people more vulnerable to trafficking than others, while also showing where the experiences of 'trafficked' and 'non-trafficked' migrants overlap.

### ***Research on demand issues***

Anderson and O'Connell Davidson in 2003 reported the findings of an eight-month multi-country pilot study on the demand side of trafficking.<sup>211</sup> The study involved:

- a small quantitative survey of potential users;
- semi-structured, in-depth interviews with a smaller sample of actual users; and
- control interviews with non-users.

Interviews were conducted with employers of domestic workers in Sweden, Thailand, India, Italy and Hong Kong, as well as with the clients of sex workers in Denmark, Thailand, India and Italy. The methodology is not entirely clear but appears to have involved a small quantitative survey of potential users, complemented by semi-structured, in-depth interviews with a smaller sample of actual users. Control interviews with non-users were conducted at each site. Although the research team originally aimed for consistent sampling methods across all the research sites, the conditions in each country necessitated the use of different sampling techniques. It is unclear exactly how clients were approached, but employers were accessed through a variety of mechanisms including personal contacts, access through placement agencies, door-to-door visits and street surveys.

A total of 390 clients of sex workers were surveyed, and 37 client and 17 control interviews conducted respectively. A total of 192 employers of domestic workers were surveyed, while 34 employer and 14 non-employer interviews were conducted. It is not clear whether those selected for in-depth interviews were chosen from among those who responded to the quantitative survey, but this would be one way to conduct such a study.

As a small pilot study, the research makes no claims to representivity but suggests interesting ideas for similar, more expansive projects in South Africa. Local research could examine the preferences of sex worker clients as well as the attitudes of employers to using potentially trafficked farm labourers and domestic workers. The precise methods used to identify respondents would vary according to the target group but, as mentioned above, could broadly involve a brief scan of potential users, followed by in-depth interviews with self-identified users. Research could also consider visitors' feelings on sex tourism. Combining interviews with potential and actual sex



tourists with information from internet-based sex guides such as the World Sex Guide could provide preliminary data on an issue that remains largely un-researched in South Africa.

### ***Ethnographic research in related fields***

There is also scope for the use of detailed ethnographic research to examine a wide range of issues from the dynamics in the more hidden segments of the sex industry, to the policing and prosecution of trafficking cases by law enforcement and judicial personnel. Although elements of ethnography – or the direct observation and description of a small society or group – have been used internationally to study trafficking, its application in the field appears limited.<sup>212</sup> Ethnographic approaches have, however, been used to study related issues such as drug trafficking and policing.

In the 1970s and 1980s, for example, Adler used ethnographic tools to examine a network of smugglers and dealers involved in importing and distributing cocaine and marijuana into the US.<sup>213</sup> Acting as a participant observer, she conducted 24 in-depth interviews and observed a total of 65 smugglers and high-level dealers in California county over a 10-year period. Respondents were accessed through key informants who introduced the researchers to the smugglers and dealers.

Kerstetter used similar tools in the early 1980s to study police and prosecutorial responses to sexual assaults against women in Chicago.<sup>214</sup> These included:

- participant observation of detectives as they investigated sexual assault complaints;
- in-depth interviews with high-level personnel; and
- the quantification of case data.

Researchers devoted approximately 150 hours to observations and conducted 20 in-depth discussions with supervisors about the decisions made during a sexual assault investigation. This ethnographic information was later supplemented by 2,201 quantitative questionnaires, which collected docket and other information on victims and offenders, the circumstances of the incident, the availability of evidence and police enforcement activities.

In the mid-1990s, Venkatesh collected quantitative information on the financial activity of an American street gang.<sup>215</sup> This study contained three elements, namely:

- participant observation among gang members;
- the collection of quantitative information on earnings; and
- longitudinal tracking of gang members.

Participant observation techniques were used to collect numerical data on the economic practices of a street gang (including wage and non-wage expenditures). The project captured qualitative information on gang members' views, daily activity patterns, household relations, as well as how much they earned and how their earnings changed as they 'aged' in the gang. A former gang member who had access to the financial records maintained by a single gang between 1991 and 1995, provided information on the earnings of the gang and its members. These 'books' recorded the price and quantity of drugs sold, other sources of revenue, and expenditures on wages, weapons, funerals and other items. In the third phase of the study, Venkatesh worked with a macroeconomist to track longitudinally nearly a dozen gangs over several years. Data on wages and expenditures were periodically collected from the many different dealers active in the study area. This ongoing observation provided information on the various organisational structures in which drug trafficking takes place, as well as data on how gang members age during their tenure in the gang.

Such approaches can yield highly detailed information. The longer time horizons involved also enable the building of trusting relationships with respondents, which can facilitate the gathering of information on hidden, hard to reach groups. Longer, generally more intimate research also enables better understanding of complex dynamics and relationships that may otherwise be difficult to decipher. As with many of the approaches described, however, the data produced is highly context-specific and cannot be extrapolated to other groups or areas.

Ethnographic approaches have traditionally been carried out over several months or years but can be applied in shorter-term projects. In 2002, for example, the Institute for Security Studies conducted essentially ethnographic research among police personnel to better understand what the police do. For a period of approximately one week, researchers shadowed police personnel on their shifts where they observed how personnel spent their time, how they

responded to calls and the issues and constraints they faced in the execution of their duties.<sup>216</sup> This data, combined with observation of police stations and interviews with senior personnel, provided comprehensive information on the realities of policing that would be difficult to obtain through other research methods.

Such approaches, together with those described above, suggest several useful tools that could be used in designing future research. These would need to be adapted and refined in response both to particular research questions and the realities of fieldwork. However, as summarised in Table 1, several basic elements could be applied to a broad range of issues in South Africa.

The multi-layered methods used by Tyldum and Brunovskis and Castle and Diarra are particularly promising as they capture both the quantitative data desired by policy makers and the qualitative data that enables a more detailed examination of complex issues. The use of multiple methods enables the gathering of information on a broader range of issues and respondents, while the feeding of results from one phase into another allows for learning and adaptation of methodologies during the research process. Although often more time-consuming, ethnographic approaches also have the potential to overcome many of the problems involved in studying elusive subjects such as traffickers and trafficking networks. While there is scope for more rigorous sampling and quantification in many aspects of trafficking research, much information on trafficking can only be obtained by getting to know the operations and people involved. Much data needs to be gathered 'from the street up'. Ethnography presents one of the most effective ways of gathering such data.



## CHAPTER 7

# CONCLUSION

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Human trafficking has emerged over the past three decades as an issue of considerable concern for the international community. Increasing engagement around the globe has seen large amounts of funding being allocated to address the phenomenon. Governments around the world have committed themselves to enacting legislation to combat the trade. By ratifying the Palermo Protocol, South Africa has undertaken to formulate specialised anti-trafficking legislation. Provisions on trafficking have already been included in both the Children's Bill and the revised Sexual Offences Act, and the SALRC is drafting new legislation.

### **Data on trafficking in South Africa**

Despite being well on our way to adopting specialised anti-trafficking legislation, however, remarkably little is known about the scope and nature of trafficking into, through and from South Africa. A handful of studies provide preliminary data on possible trends and patterns, but our understanding of the problem remains rudimentary. Few studies have looked specifically at trafficking, and reports on the trade in South Africa draw almost entirely on three pieces of primary research by Molo Songololo and the IOM. These focus on the trafficking of women and children for sexual exploitation. There are no studies on trafficking for the purposes of labour exploitation, although research into domestic labour has documented cases of possible trafficking. There has also been no research on trafficking for purposes of harvesting organs or body parts. What information is available comes from a small number of newspaper articles, which seem not to make any distinction between the seemingly consensual but illegal removal of organs and trafficking.

Like many international studies on trafficking, the South African projects have been limited by small sample sizes, 'quick and dirty' methodologies and restricted geographical scope. As with most of their international counterparts, they have also failed to grapple with how trafficking should be defined. Thus, while the studies provide valuable preliminary data on possible trends and

patterns, the combination of weak methodologies, broad, nebulous definitions and a bias towards sexual exploitation mean that we still know very little about trafficking in South Africa. We know nothing about how prevalent trafficking is and extremely little about trafficking that is not for the purposes of sexual exploitation. It is also uncertain how well the data on sexual exploitation reflects what is happening in South and Southern Africa. Designing responsive, effective legislation – and the policies and programmes that should accompany it – will require a sound understanding of the problem, and research is urgently needed to fill these gaps. There is a need for data on:

- how extensive the problem is;
- the extent to which South Africans are trafficked to other countries;
- the profile and motivations of both victims and traffickers;
- the types and nature of exploitation involved;
- the social, economic and political environment in which it occurs;
- the factors that makes some people more vulnerable to being trafficked than others;
- the extent of both prevention activities and the support infrastructure available to victims; and
- South Africans' knowledge and attitudes on the issue.

### **Learning from the international literature**

Review of the international literature suggests that research into these issues will need to adopt a broader and more sophisticated approach than that adopted to date. While much of the international literature on trafficking is constrained by weak methods and definitions, uncritical analysis and an overly narrow focus on trafficking for the purposes of sexual exploitation, some of the more recent work asks important questions about the quality of the data as well as the information needed to understand and respond to an issue as complex as trafficking.

Such studies reaffirm the need to move beyond a narrow focus on the trafficking of women and children for the purposes of sexual exploitation,

to explore both the sexual exploitation of men and boys and the wide range of other sectors into which men, women and children are trafficked. They underscore the need to examine the deeper, structural factors that create an environment conducive to trafficking. They also highlight the need to: examine the linkages between different types of trafficking; collect more and better information on both traffickers and trafficking networks; gather data on the implications of trafficking for victims; and gather information on the practical application of definitions by law enforcement and judicial personnel. Additionally, the studies highlight the importance of generally more nuanced understandings of the problem that:

- are sensitive to the cultural and social contexts in which trafficking occurs;
- recognise that ‘victims’ have agency; and
- consider how existing and planned policies may fuel rather than address trafficking.

The literature also suggests a need for clear definitions that unambiguously establish what is being studied, as well as more critical analyses that examine the assumptions underlying the push for legislation in South Africa. Among the most important of these are the assumptions that:

- trafficking is an extensive problem;
- most trafficking occurs for the purposes of sexual exploitation;
- it is inextricably linked to organised crime; and
- trafficking can and should be distinguished from migration, smuggling and forced labour.

## **The way forward**

Undertaking such research is no mean task. Conducting research on trafficking is extremely difficult and it is hard to access victims or infiltrate trafficking networks. However, growing criticism of the prevailing rapid assessment approaches, as well as the demand for more concrete information, has seen more recent studies experimenting with new methodologies that extend the scope of trafficking research. While the bulk of international studies on

trafficking adopt fairly standard techniques such as a review of the literature, in-depth interviews with 'experts' of various kinds, the occasional mapping exercise, the examination of case files and limited discussions with usually rescued victims, these studies use a combination of ethnographic, survey and CR techniques to gather more comprehensive data. They also move beyond the victim-centred approach adopted in most of the literature to consider such issues as demand, the context in which trafficking occurs and the practices and attitudes that may fuel trafficking. Such approaches provide a useful starting point for designing more extensive and representative investigations into human trafficking in South Africa.

Trafficking is a highly emotive and politicised issue, and both research and action on trafficking are often fraught with emotion. This is understandable but does not make for either good legislation or policy. Thorough, dispassionate research can play a vital role in grounding the trafficking debate in South Africa. This research needs to move beyond advocacy to stimulating debate about how trafficking should be conceptualised in South Africa and gathering the information necessary to inform the design and practical application of law and policy. It needs to build on the lessons from the international literature. Researchers need to be clear about the purpose of research, ask critical questions, look beyond a narrow focus on victims and adopt rigorous methodologies that can provide concrete, comparable data. The discussions in this monograph show that this will not be easy, but studies elsewhere suggest that it can be done.



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