Social protection in SADC: 
*exploring migration, sex work and trafficking*

Social Protection of Marginalised Migrants Groups

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Thanks to Marlise Richter, Becky Walker and Carole Vance
1. Marginalised migrant groups in SADC:
   – Why a focus on migration, sex work and trafficking?

2. Concerns relating to the conflation of trafficking, sex work, sexual exploitation and migration:
   – Public health, rights, legal frameworks, policy processes, immigration control/securitisation, policing, labour, moral panic

3. Suggestions on a way forward:
   – Improving social protection for all
The African Centre for Migration & Society at Wits

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UNDERSTANDING HUMAN TRAFFICKING

At present there is no systematic research available that provides comprehensive insight into the prevalence or patterns of trafficking into or out of South Africa or the Southern African region.

Understanding human trafficking

Local and international media often overstate the prevalence of human trafficking in South and Southern Africa, relying on claims that are not based on adequate research or substantive evidence. This factsheet provides an overview of the reality of human trafficking in Southern Africa and endeavours to separate myth from fact.

What is human trafficking?

The United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN General Assembly Resolution 55/25) defines human trafficking or trafficking in
What is trafficking?

According to the United Nations definition of trafficking, **three conditions** have to be met before a case of trafficking can be established:

1. The person must be **moved or transferred**, **harboured** or **received**;
2. There must have been some form of **coercion or deception** involved; **and**
3. The actions should be for the **purposes** of **exploitation**.

Sex work ≠ trafficking
(and migration)

- Most sex workers choose to take on sex work – albeit that this choice is constrained in many instances.

- Sex work is a job or a profession or a way of making a living/surviving (livelihood strategy).

- Just as no person wants to be sold into slavery, so no person would choose to be trafficked.

- Trafficking is a gross violation of human rights.
“The issues of sex work, sexual exploitation and trafficking are complex issues which have significant legal, social and health consequences. Due to such complexity, it is important that we do not conflate these three issues which deserve to be considered in their own right.

We cannot consider sex work the same way we consider trafficking or sexual exploitation which are human rights abuses and crimes.”

UN WOMEN, NOTE ON SEX WORK, SEXUAL EXPLOITATION AND TRAFFICKING 9 October 2013
Why a focus on sex work, migration and trafficking? (1)

• Confusion and assumptions exist and inform policy discussions/decision making
  – Migration and sex work =\= trafficking

• Increasingly restrictive immigration policies
  – Criminalising job-seekers, informal workers, lower-skilled migrants and leading to irregular migration processes

• Criminalisation of sex work
  – Moralised, victimised
  – Doubly vulnerable and marginalised
Migrant sex workers: *moralised, criminalised, victimised*

- **Double vulnerability:**
  - Sex work regulation
  - Immigration policies

- **Prevailing trafficking discourses:**
  - Migrant sex workers =\= victims of trafficking
  - Conflation and confusion
  - Moral agendas
  - Abolitionist agenda
  - Victimisation, marginalisation

- **Direct violence:**
  - Clients, police
  - Rape

- **Structural violence:**
  - Legislative frameworks
  - Stigma
  - Access to services

- **Public health implications:**
  - HIV
  - STIs
  - Safe termination of pregnancy

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Trafficking: 
*Article 20, SADC Gender Protocol*

Defines trafficking as

“the recruitment, transportation, harbouring or receipt of persons, by means of threat, abuse of power, position of vulnerability, force or other forms of coercion, abduction, fraud or deception to achieve the consent of a person having control over another person for the purpose of amongst other things, sexual and financial exploitation.”

Target:

• To enact and adopt specific legislative provisions to prevent human trafficking and provide holistic services to survivors, with the aim of reintegrating them into society.

Requires governments to:

• Establish bilateral and multilateral agreements to run joint actions against human trafficking among countries or origin, transit and destination countries; and

• Ensure capacity building, awareness raising and sensitisation campaigns on human trafficking are put in place for law enforcement officials.
Anti-trafficking legislation in SADC

- Not evidence-informed

- International agenda
  - US, Trafficking in Persons Report
  - Tier 1, 2, 3

- Rapid policy development

- 11/15 SADC states have legislative frameworks in place:
  - Angola, Lesotho, Madagascar, Mauritius, Mozambique, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe
Anti-trafficking bill in South Africa

- South Africa has signed the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ('Palermo Protocol').

- The South African Prevention and Combating in Trafficking in Persons (TIP) Bill was tabled and fast tracked through the Parliamentary process prior to the 2010 Soccer World Cup.

- Speed with which legislation was passed in comparison to other acts.

- Concerns about how the bill is interpreted and implemented.
Concerns

• Trafficking statistics are always a problem.

• Lack of clarity/conflation of terms.

• Some anti-trafficking initiatives can lead to human rights violations against sex workers.

• Avoidance/ignorance of other serious concerns and needs in SADC.
Are we dealing with the right issues?

Key issues that demand further attention:

1. **Regulation** of the informal sector.

2. **Support** for non-nationals as common targets of violence and abuse.

3. **Decriminalisation** of sex work to allow protection and support structures.
Points to consider moving forward

• Must not play into the “moral panic”

• Systematic and robust research can assist in the efforts to eradicate trafficking, ensure victims are properly assisted and help to shape legislation.

• Preoccupation with trafficking can distract and deviate important funding away from other serious issues in SADC.
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