



South Africa at the Crossroads of Human Trafficking:

War-Pushed and Hope-Driven



A RESEARCH PAPER

By

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“The trade in human persons constitutes a shocking offence against human dignity and a grave violation of fundamental human rights. ... Such situations are an affront to fundamental values which are shared by all cultures and peoples, values rooted in the very nature of the human person.”¹

-Pope John Paul II, 2002

Front cover: Migration routes in Southern Africa, Martens, Jonathan, Maciej Pieczkowski and Bernadette van Vuuren-Smyth “Seduction, Sale & Slavery: Trafficking in Women & Children for Sexual Exploitation in Southern Africa”, *Refugee Trafficking to South Africa*, 3rd Edition, International Organization for Migration (IOM), Regional Office for Southern Africa, May 2003

¹ Pope John Paul II, “*Twenty-First Century Slavery - The Human Rights Dimension to Trafficking in Human Beings.*” Letter for the 2002 conference, “Catholic Social Teaching on Human Trafficking”, available at: <http://www.ipic.org/links/HumanTraffickingAndCST.pdf> (last accessed October 16, 2009)

TABLE OF CONTENTS:

Meet the victim	3
1. Introduction	4
2. Background: Human Trafficking and Conflict	5
2.1 Kosovo: a Hub for Human Trafficking in the Balkans	5
2.2 Tajikistan: a Front for Conflict-Pushed Trafficking	6
2.3 An African Perspective on Conflict and Human Trafficking	7
2.4 A Framework for the Present Study	8
3. Legal Background and Interpretation	9
4. Data Analysis	13
5. Thematic Research Review and Analysis	17
5.1 Refugees and Internally-Displaced Persons (IDPs)	17
5.2 Effect of Peacekeeping Personnel	21
5.3 Effects and Implications of Border Control	23
5.4 The Situation on the Ground	25
6. Case Study: South Africa	27
6.1 Protection under the Law	28
6.2 Refugees' Vulnerabilities	30
6.3 Border Control	33
7. The Way Forward	34

Meet the victim...

Miselo, orphaned at the age of nine, fell into prostitution at 14. She worked as a sex worker in bars and clubs in the Zambian capital, Lusaka, sometimes waking up beaten, lost and dumped on the street. Now 18, she has an 18-month old daughter to care for. Hardly a charmed life – but it could have been much worse. In 2007, Miselo met a truck driver at a bar where she was working and they struck up a friendship that seemed more genuine than the usual quick-money relationships she was used to.

"He was nice to me and would give me extra money and buy me drinks," Miselo said, clutching her baby in her arms. *"One day he asked me if I wanted to have a nice job in South Africa and quit what I was doing. He said I could work in a restaurant or a shop and make lots of money and have a good life. Of course I said 'yes',"* she added, shaking her head at the memory.

Without a passport, travel documents or any form of identification, Miselo was bundled into a truck and driven south to the Zimbabwe border. While the driver – her 'friend' from the bar – waited for clearance, Miselo wandered into a café to buy some food.

"I saw some friends I knew from Lusaka and they said they knew the man I was with, and they told me he was bad," Miselo recalled. *"They said he takes girls to South Africa and they never come back, or if they do they are very sick and then they come back to die."*

Miselo hid in the café and, with help from her street-wise friends, eventually made her way back to Lusaka, escaping from a human trafficker who might have sold her into a grinding life of forced labour, domestic servitude, or, most likely, straight back into prostitution.

"I know I was lucky," Miselo said. *"I don't work in the bars anymore and I never will again. I want to go back to school for a better life."*²

The number of Miselos in the world, in Africa, or even in South Africa alone, remains a matter of speculation. In the meantime, we have a duty to protect and defend the dignity and right to life of every individual, regardless of their nationality, location, age, gender, or economic condition. Human beings are the fabric of our society, and protecting every human being makes society stronger.

² The case is an adapted version of the article "Zambian Government Addresses Human Trafficking" November 05, 2006, available at HumanTrafficking.com, a Web resource for combating human trafficking, <http://www.humantrafficking.org/updates/448> (last accessed November 16, 2009)

1. Introduction

As wars and instability continue to ravish Africa, a bygone scourge of humanity is making a devastating comeback: the sickness called human trafficking. Human trafficking has been on the rise globally, and Africa has been an integral part of the worldwide market in human beings. Although the figures are subject to some dispute, the US Department of State estimates that between 800 000 and 900 000 people become victims of human trafficking internationally every year. If the estimates for victims of trafficking *within* state borders are included, the International Labour Organization estimates that the figures add up to 12.3 million victims of trafficking-related crimes at any given time.³ Despite the fact that the authenticity of this data cannot be confirmed, even a gross overestimation would still mean that the number of victims trafficked worldwide is in the millions.

Africa's share in the scourge of human trafficking is not comparable to its share in slavery, but it is significant and on the rise. Various factors contribute to the global spread of trafficking, and none of them is uniquely African. Poverty, armed conflict, orphans and child-headed households, HIV/AIDS, lack of adult supervision, domestic violence, greed, discrimination – all these fuel this lucrative business. The problem of human trafficking is global and requires a global approach, but some regions are under greater threat and are affected by more of these conditioning factors simultaneously.

Situations of conflict, civil war, or social breakdown make it easier for traffickers to operate, because they exacerbate the underlying factors that contribute to human trafficking and make it tolerable. Some of these factors are poverty, political and economic instability, social breakdown, movements of internally displaced persons (IDPs), the porosity of borders, and so on. Wars and armed conflicts often contribute to the physical and administrative breakdowns of border posts and controls and malfunctions in passport and identification systems, while at the same time causing the movement of people *en masse* and a breakdown of community and family structures. As a continent severely affected by conflicts at the end of the 20th and early 21st centuries, Africa is particularly prone to these problems.

The core of the problem with the trafficking of human beings concerns their vulnerabilities, because trafficking "...begins not with the traffickers themselves, but with the conditions that caused their victims to migrate under circumstances rendering them vulnerable to exploitation."⁴ Post-conflict situations should receive particular attention because the problem of human trafficking "...is compounded by the instability of civil societies and the weakened rule of law which gives more scope to criminal activities and organized crime."⁵ Background research on the connection between human trafficking and conflict in Africa shows that the issue is under-explored. Nonetheless, a direct link between conflict-related circumstances and the escalation of human trafficking has been identified in at least two cases outside Africa – in Kosovo and Tajikistan. These cases should serve as a wake-up call for

³ US State Department, *Trafficking in Persons (TIP) Report 2009*, p.8, available at: <http://www.state.gov/documents/organization/123357.pdf>

⁴ Chuang, Janie, "Beyond a Snapshot: Preventing Human Trafficking in the Global Economy," *Indiana Journal of Global Legal Studies*, Winter 2006, Vol. 13, Issue 1, p.140

⁵ Konrad, Helga. "Trafficking in Human Beings - the Ugly Face of Europe," *Helsinki Monitor*, Issue 3, 2002, p. 256

governments, civil society and the faith communities across the conflict-ridden African continent.

2. Background: Human Trafficking and Conflict

2.1. Kosovo: a Hub for Human Trafficking in the Balkans

The dissolution of the former Yugoslavia began in the early 1990s and soon exploded into numerous independence struggles and armed border disputes, exacerbated by ethnic and cultural differences. Bosnia-Herzegovina, Montenegro, Serbia, Macedonia, Kosovo and Albania, along with other Balkan nations, were deeply involved in violent conflicts threatening the stability in the region. The international community had little choice but to intervene. However, instead of bringing lasting peace to the region, the intervention created and fuelled conditions for another form of violence and inhumanity: human trafficking.⁶

Studies conducted by Amnesty International (AI) clearly relate the influx of international forces into Kosovo in 1999 to the "...unprecedented escalation of the sex-industry based on trafficked women and girls."⁷ While previously virtually non-existent in the region, the market for trafficked women and girls expanded dramatically with the arrival of well-paid international personnel. In its study, AI estimates that in 1999 and 2000, international personnel or contractors amounted to 80% of the regulars at brothels and establishments housing trafficked women and girls.⁸ The premises believed to house victims of trafficking, including bars, restaurants, hotels, brothels, and clubs mushroomed from 18 in 1999, to around 2000 by January 2004.⁹ Undoubtedly, a causal relation between the presence of foreign personnel and the unprecedented escalation of human trafficking is evident in the case of Kosovo's peacekeeping missions; which has far-reaching consequences for the reputation and credibility of other peacekeeping operations.

Since peacekeeping operations are lightly armed, they rely extensively on their untainted reputation and the approval of the local population. Despite the efforts of the UN Secretary General and other high ranking officials to enforce codes of conduct, peacekeeping personnel, both military and civilian, are still frequently involved in such activities. Cracking down on their involvement in any of the stages of human trafficking has shown insufficient results in Kosovo. For instance, by 2002 AI was reporting a decrease to approximately 30% in the 'international' to 'national' clientele ratio, yet internationals still accounted for around 80% of the industry's income.¹⁰ In the case of Kosovo, "...it is clear that prostitution grew initially out of post-conflict militarization and the presence of a highly-paid international military and civilian community."¹¹ The involvement of peacekeeping forces in local and cross-border trading in human beings surely raises concerns for other conflict-ridden societies.

⁶ "So Does That Mean I have Rights? Protecting the Human Rights of Women and Girls Trafficked for Forced Prostitution in Kosovo," *Amnesty International*, May 2004, n.p.

⁷ "Kosovo: Facts and Figures," *Amnesty International*, May 2004, n.p.

⁸ *Ibid.*

⁹ "So Does That Mean I have Rights?," n.p.

¹⁰ "Kosovo: Facts and Figures", n.p.

¹¹ "Global Monitoring Report on the Status of Action Against Commercial Sexual Exploitation of Children. Serbia," *ESPAT International*, 2006, p. 12

Despite the presence of other systemic factors, such as acute poverty, in Kosovo corruption, ineffective border controls and a lack of effective policing and prosecution – all exacerbated by conflict and post-conflict conditions – have directly contributed to the escalation of human trafficking. Impunity is a further problem. For example, the UNMIK¹² Police Trafficking and Prostitution Unit (TIPU) has suspected approximately 25 peacekeepers of trafficking-related offences.¹³ However, most of these cases have not been investigated and have remained unpunished because it is difficult to produce evidence due to the clandestine nature of trafficking, especially whenever foreign personnel are involved.

With the conflict subsiding, by 2004 AI reported a decrease in the international clientele to approximately 20%, still significantly high compared to the international community's percentage of the local population (only 2%).¹⁴ This disproportionate involvement not only propelled, but also failed to prevent, the emergence and flourishing of abusive practices such as trafficking in persons. Unfortunately, the situation in Kosovo was not an isolated case – a number of other peacekeeping operations around the world have attracted serious criticism regarding issues of human trafficking and sexual exploitation. Clearly, the UN and countries that contribute peacekeeping troops need to implement and enforce stringent measures to prevent the development and creation of behaviour situations that might enable or fuel the trafficking in people and their exploitation.

2.2. Tajikistan: a Front for Conflict-Pushed Trafficking

The breakup of the Soviet Union in the early 1990s left Tajikistan and many of the other former Soviet republics vulnerable to ethnic and separatist conflicts. Fragmentation and dislocation were explicit consequences of the Soviet National Migration Policy of the 1950s, which "...instigated social-political competition between these populations from different origins for the control of local power structures..."¹⁵ Subsequently, violent civil wars and ethnic conflicts ravaged many of the new republics. War erupted in Tajikistan in 1992, soon after the dissolution of the Soviet Union, resulting in approximately 300 000 Tajiks emigrating, and a further 692 000 becoming internally-displaced.¹⁶ Political and social instability and continuous violence were only part of the factors that prompted this widespread migration, both voluntary and forced, in Tajikistan.¹⁷

In addition to worsened economic conditions and diminished security, conflicts gave rise to a culture of predation and dehumanization. As various studies have suggested, conflict unleashes the phenomenon of acute masculinity, which is associated with "...aggressive behaviour and even misogyny, and women and their bodies are viewed as territory and possessions to conquest in order to humiliate enemy men and reward oneself."¹⁸ This phenomenon is often not confined to one side of the conflict, but

¹² United Nations Mission in Kosovo

¹³ "Kosovo: Facts and Figures", n.p.

¹⁴ Ibid.

¹⁵ "Deceived Migrants from Tajikistan. A Study of Trafficking in Women and Children," *International Organization for Migration*, August 2001, p. 10

¹⁶ "Deceived Migrants from Tajikistan," p. 10-11

¹⁷ Mirzoyeva, Gulchehra. *Armed Conflicts and Human Traffic in Tajikistan*. Modar NGO Report, 2004 (accessed November 16, 2009)

¹⁸ Ibid.

plagues both sides and victimizes the most vulnerable non-combatants – women and children. Fleeing from conflict traps those who become victims of trafficking within a vicious circle, because the alternative to forced exploitation is a return to the hazards of the conflict zone. Suffice to note that civilians are the most common victims of conflict: their property raided, their livelihood destroyed, their lives threatened, leaving little hope for those who decide to stay.

Modar, a prominent small NGO established in 1997, is one of the organizations working on the issue of human trafficking in terms of both research and fieldwork in Tajikistan. In their work they have identified trafficking in persons as one of the “...most dangerous phenomena resulting from these armed conflicts [...] both within the country and abroad.” According to IOM, migrants from Tajikistan are inadvertently using the illicit services of organized crime groups that lure and deceive them into exploitative environments, abusing their vulnerabilities and forcing them to carry out illegal activities.¹⁹ Similar to the case of Kosovo, human trafficking became a major concern only after the conflict began in 1992, but has been increasing in importance ever since.

Forced displacement puts civilians running away from conflict zones into jeopardy from falling prey to traffickers. Displaced people lose their support systems and become easy targets of violence by “...other displaced persons, local inhabitants, fighters and security troops.” Modar further reports that throughout the conflict various armed detachments kidnapped and raped women and forced them to become “living containers” for drug smuggling before they were sold into slavery in countries such as Afghanistan, Pakistan and the United Arab Emirates.²⁰ The groups most vulnerable to trafficking in a conflict setting are children, female refugees, and internally displaced people. Many Tajiks belonging to these groups have reportedly been trafficked via established channels to countries such as Uzbekistan, Kazakhstan, Kyrgyzstan and Russia, further afield to Yemen, Iran, Saudi Arabia and the UAE, and via Russia to Germany and Poland.²¹

The incapacity of governments during conflict to provide security and stability in their countries has become a major factor in the proliferation of organized crime, the smuggling of arms and drugs, and the trafficking of human beings. The collapse of the Soviet Union left an array of new governments hamstrung by rising unemployment, a break-down in the production system, acute and rising poverty, a lack of established systems for service provision, and increasingly insoluble ethnic tensions.²² In these circumstances, many Tajik civilians, predominantly women and children, but men and young boys as well, have become victims of the conflict by being pushed into slavery.

2.3. An African Perspective on Conflict and Human Trafficking

It has recently been reported by the Africa Sun News that there are currently 17 African countries “involved in war, or [...] experiencing post-war conflict and tension.”²³ The apparent interconnectedness between conflict and human trafficking –

¹⁹ “Deceived Migrants from Tajikistan,” p. 66

²⁰ Mirzoyeva, n.p

²¹ Ibid.

²² “Deceived Migrants from Tajikistan,” p. 7

²³ “About Wars and Post-War Conflicts,” *Africa Sun News*, available at: <http://www.africasunnews.com/wars.html> (last accessed September 18, 2009)

so obviously the case in Kosovo and Tajikistan – is thus a particularly disturbing finding for conflict-ridden Africa; and it suggests that the response to human trafficking in Africa should largely be informed by the implications of trafficking in a situation of conflict or post-conflict instability.

The conflict-driven movement of people within and across borders is defined by the location of the conflict because it determines the creation of large refugee and internally-displaced communities in neighboring or other friendly communities.²⁴ While trafficking in human beings is not necessarily a phenomenon created by conflict, situations of instability in home communities create conditions that facilitate the operation of traffickers and increase the vulnerabilities of victims. Further research on the motivations of traffickers, and the conditions under which they operate is necessary, because most studies tend to “...focus on studying the victims, and less attention has been given to studying the traffickers, the clients, and law enforcement agencies who may be involved in different ways in creating the conditions under which trafficking can flourish.”²⁵ The hypothesis behind this study is that conflict, and especially protracted conflict, limits the choice of the affected populations to this dilemma: wait in destitution and danger or flee in search for peace and security.

Uprooting communities from their support structures, forcing them to seek shelter and survival in unfamiliar environments, and leaving them in a state of limbo in terms of security, exacerbates the levels of vulnerability to abuse. Moreover, conflict-induced migration, both across and within borders, raises concerns for human-trafficking cases among refugee and internally-displaced communities, among other vulnerable populations. By the end of 2007, the UN High Commissioner for Refugees (UNHCR) was reporting that 10.5 million people in Africa had been affected by conflict-related displacement either within or across borders.²⁶ These worrisome statistics necessitate further review and analysis of the legislative and practical measures that societies take to combat the trafficking of persons.

2.4. A Framework for the Present Study

Displaced, “uprooted” from their support systems and destitute—those fleeing from conflict can easily become victims of human trafficking for the purposes of forced or bonded labour, sexual exploitation, arranged marriages, organ extraction, adoptions, etc. Yet, information about the predominance of trafficking cases is scarce, and the field lacks comprehensive, systematic and methodological studies of the prevalence of the problem.

The deficiency of reliable data is just one of the factors that bedevil a meaningful study and an adequate response to the problem in the context of Africa. Despite such

²⁴ The geographic distribution of these countries is as follows:

West Africa - Cote d'Ivoire, Guinea, Liberia, Nigeria, Sierra Leone, and Togo

East Africa - Eritrea, Ethiopia, Somalia, Sudan, Uganda

Central Africa - Burundi, Democratic Republic of the Congo, Rwanda

North Africa – Algeria

South Africa - Angola and Zimbabwe

²⁵ Laczko, Frank and Elzbieta Gozdzia ed. “Data and Research on Human Trafficking: A Global Survey,” *International Organization for Migration*, Vol. 43 (1/2) 2005, p. 14

²⁶ UNHCR, “Regional Operations Profile – Africa. Working Environment,” available at: <http://www.unhcr.org/pages/4a02d7fd6.html> (last accessed September 18, 2009)

significant limitations, this research paper attempts to draw systematically on existing studies in the areas of human trafficking, conflict and migration, and is reinforced with practical observations of various organizations working in these fields within South Africa to study the nexus of the three. The paper covers several themes in a comparative perspective intended to allude to some of the junctures and crossroads between these fields; and it further strives to identify additional areas for empirical research.

In order to establish the existence of a correlation between conflict and human trafficking I have developed a framework consisting of four main components:

1. Legal Background – provides a legislative overview and a brief discussion of the definition of human trafficking, as well as applicable provisions in the law.
2. Data Analysis – establishes a comparative correlation between the prevalence of trafficking and experiences of conflict, drawing on data from the US Department of State Trafficking in Persons Report and the Uppsala University Conflict Database.
3. Thematic research review and analysis – examines, systematizes and analyzes existing studies supporting the alleged correlation between conflict and human trafficking. Three conflict-specific factors are featured within this framework: refugee living conditions, presence of peacekeeping units and border control.
4. Case study South Africa – draws on the experience of academics, leaders of faith-based organizations and civil society leaders who have explored the correlation between trafficking in human beings and conflict in their work. The case study focuses on South Africa as a destination for conflict-pushed migrants and scrutinizes their vulnerability in terms of legal protections, exposure to trafficking schemes and border control arrangements.

Although, information is limited, and mostly drawn from non-academic sources of diverse thematic representation, I attempt to focus my attention on the case study of South Africa because the country is the major destination for migrants from Southern Africa. The case study pays equal attention to cross-border and in-country trafficking of persons for diverse purposes of exploitation. Due to the narrow focus of this study, I look primarily at conflict-pushed migration in its various manifestations. The mutation and constant fluctuation of migratory flows affect host countries like South Africa, Zimbabwe, Swaziland, Angola, and Mozambique, but also affect the rural-urban flows in various ways. As suggested in a conference organized by the Imbisa Centre in Zimbabwe, the “psycho-social wastelands created by and through [...] conflicts have mutated the societies they affect, creating a new phenomenon, a new breed of refugee, “urban refugees,” and the internally displaced persons.”²⁷ Understanding migration as a diverse and flexible phenomenon is central to the depth of the conducted research.

3. Legal Background and Interpretation

Much of the debate on human trafficking revolves around how to define the phenomenon. The most universal and widely accepted definition of human trafficking can be found in the United Nations Protocol to Prevent, Suppress and Punish

²⁷ “Refugee Coordinators Workshop Imbisa Region,” *Imbisa Centre*, Harare, Zimbabwe, May 10-13, 1996

Trafficking in Persons, especially Women and Children (the Palermo Protocol) which supplements the United Nations Convention against Transnational Organized Crime (see together with Figure 1.) However, the ratification of the Palermo Protocol implies only the obligation of a member state to adopt minimal standards through the means preferred by the country itself.²⁸

Figure 1: Definition of human trafficking adapted from the provisions of the Palermo Protocol.

The acts of –	By means of –	For the purpose of exploitation
<ul style="list-style-type: none"> ■ recruitment; ■ transportation, transfer, harbouring; or ■ receipt of persons. 	<ul style="list-style-type: none"> ■ threat/use of force or other forms of coercion; ■ abduction; ■ fraud; ■ deception; ■ abuse of power or of a position of vulnerability; ■ giving or receiving payments or benefits to achieve the consent of a person having control over another person 	<ul style="list-style-type: none"> ■ Including, the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs

The minimum standards set forth in the protocol are broad enough to accommodate the most widely encountered practices of trafficking, yet insufficient to provide protection against abusive, culturally specific practices, such as certain cases of bride sales, forced marriages, and the practice of sending children to urban areas to stay with relatives under exploitative conditions. Even though many of these cases would not fit the definition of trafficking, some may comply with it. Unfortunately, the various national provisions more often than not reproduce the same definition without considering its limitations. For instance, the South African *Prevention and Combating of Trafficking in Persons Bill* fails to address these concerns, leaving a grey area open to wide interpretation.

The Bill advances the protocol in one very significant aspect in the context of South Africa by introducing the concept of in-country human trafficking. This may have undesirable consequences, however, despite the undoubted merit of addressing an abusive and exploitative pattern of in-country migratory routes. In an interview with the author, Professor Ingrid Palmary from the University of Witwatersrand, Johannesburg, voiced concern regarding the practice of sending young children who are not attending school to work in a city or other economically better-off region, for the purpose of supporting the family. Professor Palmary noted that “...it is profoundly unfair to start referring to poor parents as traffickers.”²⁹ Although she acknowledges

²⁸ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Article 5
 “States Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in [...] this Protocol.”

²⁹ Author Interview with Professor Ingrid Palmary, Forced Migration Studies Programme, University of the Witwatersrand, Johannesburg, September 21, 2009

that there are children working in exploitative conditions, "...whether it is begging, sorting through rubbish dumps or working on farms," she warns that "we are on really dangerous territory when we start labelling poor families and their livelihood strategies as trafficking."³⁰ Nonetheless, these questionable practices need to be discussed and analysed in light of the cultural, social and economic context in South Africa.

Other organizations, however, enter the debate from a slightly different perspective. The research and fieldwork conducted by ANEX CDW³¹ and shared by their director Julayga Alfred during a round table discussion on September 2, 2009,³² suggests that parents and relatives can, and in some instances should, be considered traffickers for the purposes of the law. ANEX also hosts the Child Helpline for the Western Cape Province, and reports that many of the cases encountered through the helpline or through police referrals suggest that the problem is significant and complex (see Case Study 1). During the nine months of its existence the counter-trafficking helpline has received 37 reports of cases of trafficking. Nine of these were signals of cross-border trafficking, but currently only five cases have been confirmed as actual trafficking cases.³³ Consensus between civil society and academia is reached at one point: in the case of South Africa legislation is needed, but timely and proper implementation is vital.

Case Study 1 (ANEX CDW)

In July 2005 Rita Brown, a 15 year old girl from the Malmesbury district, was fetched from the farm by her employer, Z. Her stepmother consented to her going to work as a domestic worker in Cape Town. The employer promised her stepmother that she would return home in December, and that the employer would send money to the family monthly. Rita had never been to Cape Town, nor had she ever worked as a domestic worker outside of the home. She was forced to drop out of school because her parents could not afford the school fees.

On her arrival in Cape Town she was placed at her employer's cousin's house until the following Tuesday. The next day she started working for Z. At the end of July, she was paid R200 (US\$30.) The wage for August was R300, for September R250, and for October R250. Her duties included cleaning the house, washing and ironing; she worked from Monday to Saturday from 8:00 until 19:00. In addition to working for the primary employer, there were two 'secondary employers'. The first of these paid her R250 for working ± three days a week, and the second paid her R20 a day.

Before she started work at the secondary employer she would be required first to clean the house of the primary employer. Some days she worked for 13 hours. Her living conditions included sleeping in the family lounge on a mattress.

When she informed the primary employer that she wanted to go home in February 2006, her clothes were thrown out of the door and she was told to leave. She was evicted and abandoned in a foreign city. She accessed help on arrival at the police station and was placed in a shelter.

³⁰ Author Interview, Prof. Ingrid Palmary

³¹ Activists Networking against the Exploitation of Child Domestic Workers (ANEX CDW)

³² Roundtable Discussion, "In-country Human Trafficking for the Purposes of Forced Labor in South Africa," Catholic Parliamentary Liaison Office, Cape Town, South Africa, September 2, 2009

³³ Author Interview with Matipa Mwamuka, ANEX CDW, Human Trafficking Coordinator, Cape Town, October 27, 2009

Nevertheless, even if addressing the peculiarities of the local context is not a priority for the Palermo Protocol, it should be a priority for national governments, including South Africa's. A contextual understanding of the problem should inform the activities of various civil society organizations providing services or informing legislation. Of particular concern is the special case of refugees coming into South Africa from situations of conflict and/or social unrest such as the Democratic Republic of Congo (DRC) and Zimbabwe. According to Ms Angelica Pino (Forced Migration Studies Programme) and Ms Nomfundo Mogapi (Trauma and Transition Programme), both of the Centre for the Study of Violence and Reconciliation (CSVr) in Johannesburg, some refugees have become victims of trafficking once in the country, which is a new nuance of the problem of human trafficking, and one that requires further assessment.

Clearly, the interpretations of the protocol's definition within the national context of each member state are important for the implementation of viable and balanced legislation. Regardless of efforts by various international organizations, such as UNODC, to harmonize trafficking legislation and foster international co-operation, interpretations of the protocol's provisions vary from country to country in their contents, form and interpretation of the key elements.³⁴ While the proposed Bill in South Africa does not reach too far beyond the provision of minimum standards, other countries such as the United States have taken a much firmer stand.

The interpretation of the United States³⁵ reaches well beyond the Palermo Protocol. The US has become a leading voice on the issue of human trafficking, both with the legislation enacted and with its attempts to address the issue globally. For example, the US assists other countries to comply with the minimum standards by issuing an annual progress report that serves as a 'watchdog' for states that have ratified the protocol. Janie Chuang captures the spirit of the US interpretation in the following summary:

*"The means by which people are subjected to servitude – their recruitment and the deception and coercion that may cause movement – are important factors, but factors that are secondary to their compelled service. It is the state of servitude that is key to defining trafficking. . . . The movement of [a] person to [a] new location is not what constitutes trafficking; the force, fraud or coercion exercised on that person by another to perform or remain in service to the master is the defining element of trafficking in modern usage."*³⁶

This account opens the door to another level of debate: causes versus consequences. The protocol appears to address the processes of recruitment, transportation and exploitation, but fails to address the underlying socio-economic and geo-political causes that trigger these processes in the first place. Thus, frequently repeated "...pledges to prevent trafficking by addressing its root causes seldom evolve from rhetoric into reality."³⁷ In such situations, economic migrants, refugees and internally displaced people become susceptible and vulnerable to trafficking for different

³⁴ Presentation by Mr. Johan Kruger, National Project Coordinator (SADC): Trafficking in Persons and Violence against Women at a Mini-conference on Human Trafficking, 22 September 2009, Johannesburg

³⁵ "Victims of Trafficking and Violence Protection Act of 2000 Public Law, 106–386," October 28, 2000.

Available at: <http://www.state.gov/documents/organization/10492.pdf> (last accessed October 16, 2009)

³⁶ Chuang, p. 152

³⁷ Ibid. 138.

purposes: forced and bonded labour, debt bondage among migrant workers, involuntary domestic servitude, forced child labour, child soldiers, sex trafficking, illegal adoptions and the removal of organs, among others. Pushed by conflict and insecurity in their familiar environments, these forced migrants flee in the hope of survival.

4. Data Analysis

Conflict, along with poverty and economic opportunism, is often cited among the primary factors that trigger and feed the business of human trafficking. However, few studies have been conducted with the goal of specifically identifying how conflict and civil instability may affect the trafficking of people. This section of the research is essential for assessing the possible correlation between conflict and a country's response to trafficking from a theoretical perspective. Targeting the conflict-specific conditions is important for the study, because "...to be effective, counter-trafficking strategies must also target the underlying conditions that impel people to accept dangerous labour migration assignments in the first place."³⁸ Since conflict is one of the major conditions unleashing a continuous flow of refugees, IDPs and asylum seekers, understanding the effect of conflict on the migration impetus is crucial.

For purposes of exhibiting the correlation of conflict and the counter-trafficking efforts of African countries, I have undertaken a comparative study of two databases: the US State Department's 'Tier System Country Reports' and the Uppsala University Conflict Database.³⁹ The methodology of this section is based on a comparative quantitative analysis of the two datasets. Firstly, I look at the distribution of African countries within the tier system (Figure 1.) Subsequently, I look at each Tier to identify the ratio of African states that have had significant conflicts, minor conflicts or no conflicts within the respective Tiers. The purpose of this analysis is to identify any possible correlation between the adoption, implementation and management of counter-trafficking measures, and the history of conflict within the particular Tiers. Such a correlation is readily identifiable from the data presented and summarized in the form of charts and graphs below.

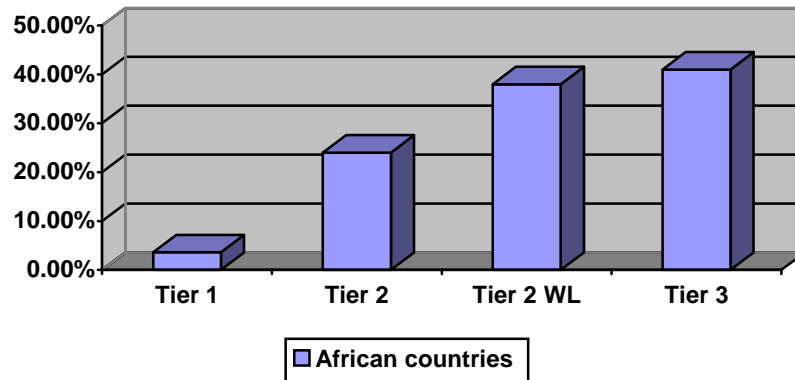
The data presented in Figure 2 indicates a significant prevalence of African countries in the lowest performing Tiers (Tier 2 Watch List and Tier 3), as compared to the better performing Tier 1 and Tier 2. Not only are African countries significantly less common among the best performing nations, but they also occupy large proportions of the worst performing sets. This correlation serves to prove one point: the majority of

³⁸ Chuang, p. 137

³⁹ The quantitative database analysis assumes the following definitions of the Uppsala database:
Interstate Conflict - a conflict between two or more governments
Intrastate Conflict - a conflict between a government and a non-governmental party, with no interference from other countries
Intensity level - the intensity variable is coded in two categories:
Minor: At least 25 but less than 1 000 battle-related deaths in a year
War: at least 1000 battle-related deaths in a year
Non-state Conflict - the use of armed force between two organized groups, neither of which is the government of a state, which results in at least 25 battle-related deaths in a year.
One-sided Violence - the use of armed force by the government of a state or by a formally organized group against civilians, which results in at least 25 deaths in a year. Extrajudicial killings in custody are excluded.

countries in Africa are not making sufficient progress to address the trafficking of people.

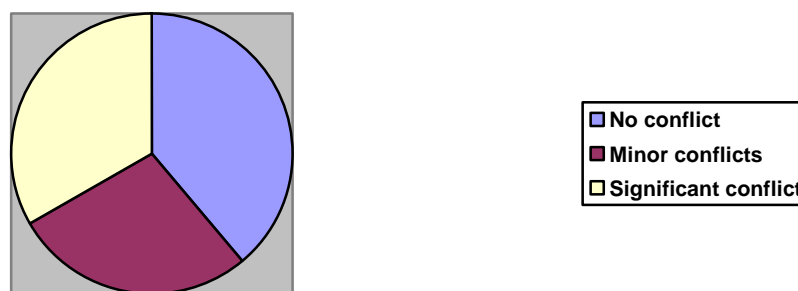
Figure 2: Proportional distribution of African countries within the Tier System of the US Department of State Report



Nigeria is the only African country out of 28 countries placed on the 2009 Tier 1 list of the Human Trafficking Report. Thus, African countries account for only 3.6 % of all countries in Tier 1. Nigeria has had three different minor conflicts with the last one terminated in 2004. However, between 2002 and 2006 the territory of the country has been an arena for thirteen different incidents of non-state conflicts, and between 1995 and 2005 two separate one-sided violence incidents. Most of these incidents of violence have been relatively minor and without the involvement of state forces. Arguably, the relatively peaceful situation has allowed for the adoption and implementation of measures aimed at curbing the trafficking of human beings. Efforts would include among others appropriate legislation, adequate border control and immigration policies, a satisfactory identification documentation system, accurate registries etc. Other meaningful inferences are impossible to draw due to the lack of grounds for comparison with other Tier 1 countries.

Tier 2 and Tier 2 Watch List are significantly more densely populated with African countries than Tier 1. In Tier 2 are placed 18 African countries, which means that these nations are performing relatively well in terms of human trafficking legislation and implementation efforts. Seven of them have had no conflicts or violent incidents since 1989, five of the 18 have had minor incidents, and six have had more significant outbreaks of violence (see Figure 3). Thus, 72 % of the African countries which have been performing relatively well within the US State Department classification system have had no, or only minor, conflicts since 1989. This positive correlation indicates that countries which have not experienced significant conflict are more likely to be able to respond to the plague of human trafficking. The established relationship is one of correlation rather than causation. Therefore, being classified as a Tier 2 country does not necessarily imply that the country is not experiencing high levels of trafficking. Furthermore, the existence of recent conflicts is not indicative of failure to address the problem. The conclusion to be drawn is rather that conflict is indeed a contributing factor to the trafficking of people both within and across borders.

Figure 3: Proportional distribution of African countries within Tier 2 of the US Department of State Report according to their conflict experiences



Ethiopia⁴⁰, Uganda⁴¹ and Rwanda⁴² are among the few countries in Tier 2 that have had conflicts recently. It is noteworthy that these conflicts have largely ended, and that the international community and the regional organizations have set significant efforts in place to tackle the pending social, political and economic problems. These efforts have significantly slowed down the influx of refugees from these countries. For instance, according to the employment database of the Scalabrini Centre in Cape Town,⁴³ the number of refugees that have arrived in South Africa from these countries during the last year is cumulatively less than 1% of the total refugee flow. In addition, refugees from these countries that have reached South Africa tend to be educated or skilled⁴⁴, which reduces their vulnerability to trafficking once in the country.

The migration scenarios and personal stories are not as favourable when it comes to countries on the Tier 2 Watch List ('WL'), which hosts 20 African states. Out of these, seven have had significant conflicts (such as Burundi⁴⁵, Angola, DRC⁴⁶, and Cote D'Ivoire⁴⁷); nine have had minor conflicts or incidents of violence (such as the Central African Republic, Cameroon, Djibouti and Mali); and four have had no significant conflicts (such as Gabon, Libya, Tunisia and Equatorial Guinea.) Eighty percent of the countries in Tier 2 WL have experienced minor or significant violence and armed conflict (see Figure 4). Refugees coming to South Africa from these countries amount to roughly 7% of the total influx. According to the Scalabrini database, about 36 new arrivals have been registered from DRC, four from Burundi, four from Angola, and

⁴⁰ Ethiopia: 1989-2000 seven different counts of Intra- and Interstate conflicts and wars with varying lengths and intensity, 2002-2006 19 different non-state conflicts of various duration and intensity, 1989-2007 two different incidents of one-sided violence

⁴¹ Uganda: 1987 Intrastate ongoing conflict, 2003-2007, six different non-state conflicts with various lengths, 1990-2007 five different incidents of one-sided violence with various duration

⁴² Rwanda: 1990-2002 Intrastate conflict with varying intensity, 1990-2007 five different incidents of one-sided violence of varying lengths

⁴³ Author Interview with Ms. Lena Opperman from the Scalabrini Centre during which the author received a copy of their unpublished database/registrar of refugees who seek jobs, Cape Town

⁴⁴ According to the database the three registered refugees from Rwanda had at least a high school diploma and occupied the same positions that they had at home: tailor, fashion designer and shop assistant

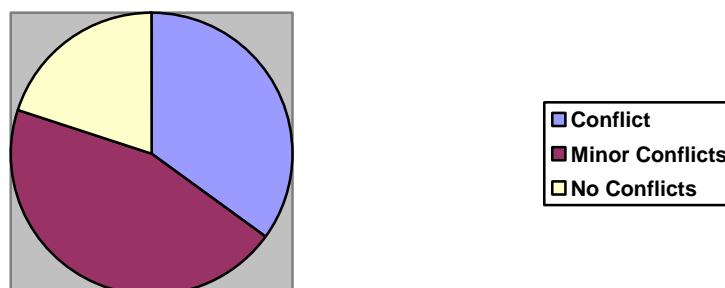
⁴⁵ Burundi (WL): 1991 Ongoing Intrastate conflict, 2003 and 2007 incidents of non-state conflicts, between 1995-2005 four different incidents of one-sided violent incidents

⁴⁶ DRC (WL): 1996 ongoing Intrastate Conflict, 2002-2007 eight different non-state conflicts, 1990-2007 thirteen different incidents of one-sided violence

⁴⁷ Cote D'Ivoire (WL): 2002-2004 Intrastate Conflict, 2002-2005 three different incidents of non-state violent conflicts and 2000-2004 three incidents of one-sided violence

two from Congo, with most of them occupying positions that do not correspond to their education and previous experience. The uncertainty of the situation in the country of origin, the difficulty of finding economically viable activities in the host country, and lingering issues of xenophobia contribute to their vulnerability upon arrival.

Figure 4: Proportional distribution of African countries within Tier 2 Watch List of the US Department of State Report according to their conflict experiences



The percentage of African countries within any particular Tier is largest in Tier 3, at 41%. They include Chad⁴⁸, Eritrea⁴⁹, Niger⁵⁰, Sudan⁵¹, Swaziland, Zimbabwe⁵² and Mauritania among others (see Figure 5). Unfortunately, membership in this Tier is least flattering for the countries that find themselves there. The correlation of the Tier 3 performance and conflict is even more glaring, with five out of the seven African countries in Tier 3 experiencing at least some kind of violent conflict or political instability since 1989, amounting to 71 % of the total number.

The majority of African countries within this category are still trapped in a cycle of violence and conflict, with few resources and little effort devoted to combating the trafficking of people. The migration flows out of and within these countries are often difficult to detect and even more difficult to register and keep record of. This analysis, however, does not serve to name and shame, but rather to encourage more attention from the international community, the relevant regional actors, and global civil society; and to encourage local initiatives to be on the alert for the danger of human trafficking in conflict and post-conflict situations. As conflict is commonly associated with the destruction of self-sustainable livelihoods such as subsistence farming, cattle-raising, firewood collection and small retail among others, large populations are forced to flee and seek shelter and survival elsewhere.

⁴⁸ Chad: 1987 Intrastate ongoing conflict, 1989, 1990, 1997 one-sided violence occurrences, 2006 and 2007 two separate non-state conflicts

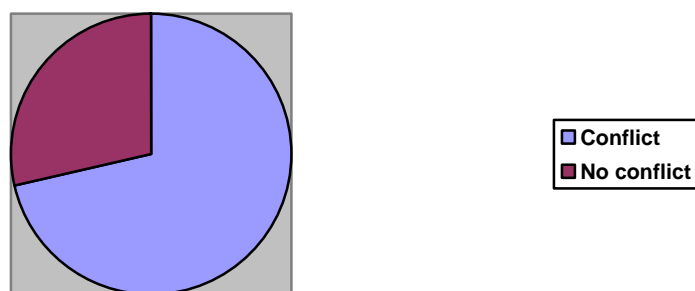
⁴⁹ Eritrea: Interstate conflicts 1989 with Djibouti and Ethiopia respectively

⁵⁰ Niger: 1991 ongoing Intrastate war, 1994 Intrastate Territorial dispute, 1995 Intrastate territorial dispute, 1990-1998 One-sided government violence

⁵¹ Sudan: 1983 Intrastate ongoing conflict, around 20 different instances of non-state conflicts between 2002 and 2008, around 7 different instances of various lengths of one-sided violence between 1989 and 2005

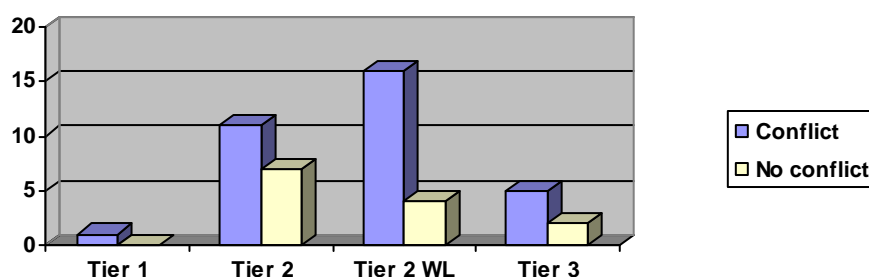
⁵² Zimbabwe: the country is experiencing violent government repressions since 2008

Figure 5: Proportional distribution of African countries within Tier 3 of the US Department of State Report according to their conflict experiences



The general tendency exhibited by this comparative database analysis is simple, even crude (see Figure 6). While the number of African states which have not experienced outbreaks of violence during the last fifteen years decreases from Tier 2 to Tier 3, the difference with the proportion of countries who have experienced conflict is disturbing. The correlation between conflict and the countries' performance concerning counter-trafficking is clear. However, the causes of this correlation are a subject for further research and analysis, the beginnings of which are presented in the rest of the current research paper.

Figure 6: Comparative Distribution of African countries within the Tier system according to their conflict experiences.



5. Thematic Research Review and Analysis

5.1. Refugees and Internally-Displaced Persons (IDPs)

Starting from the premise that conflict is one of the factors that may facilitate and/or enable human trafficking, the most obviously vulnerable populations would be refugees and IDPs. Several factors, endemic among refugee communities, are noteworthy for this research: living conditions; inadequate provision of essential services such as health care, education and psychosocial therapy; gender inequality; long-term security; xenophobia; and economic instability. These factors of vulnerability permeate the daily survival of both refugee and IDP communities. Regardless of the care model, for example a refugee camp or an integrative approach, such migrants experience a number of these vulnerabilities at any point in time. The natural instinct of people prompts them to flee when their lives and the lives of their loved ones are in danger. In the case of Southern Africa, Peter Henriot confirms that “[e]scape from war-torn regions of the Democratic Republic of Congo and other Great

Lakes countries [...] is a motivating factor. Indeed, displaced persons and refugees are particularly vulnerable to trafficking.”⁵³

Potentially, these vulnerabilities may expose a large part of the African population to a second wave of slavery – the ‘modern day slavery.’ According to Bridging Refugee Youth and Children's Services (BRYCS), the Office of Refugee Resettlement's national technical assistance provider on refugee child welfare, the largest refugee producing countries at present include Afghanistan, Iraq, Somalia and Sudan, while Colombia, Iraq, Sudan and the Democratic Republic of the Congo have the largest internally displaced populations.⁵⁴ The concentration of refugees and IDPs in Africa is disturbing and should alert us to the potential vulnerabilities inviting exploitation. The fight for daily survival starts with the most basic necessities that war and civil unrest have taken away from the people “...leaving many to struggle daily for the food and water, clothing, and shelter necessary for basic survival.”⁵⁵

With over 42 million refugees, including 16 million refugees outside their countries of origin and 26 million others displaced internally living in precarious and vulnerable situations, conflict-facilitated human trafficking has the potential to be destructive not only for specific individuals but for whole communities.⁵⁶ Fleeing from conflict, refugees disperse to various neighbouring and far-away countries in search of peace and security. UNHCR counts 29 different groups of 25,000 or more refugees in 22 nations who have been in exile for five years or longer. Major refugee-hosting nations in 2008 in Africa included Chad (330,500); Tanzania (321,900); and Kenya (320,600), and major countries of origin for refugees included Somalia (561,000); Sudan (419,000); and the Democratic Republic of the Congo (368,000). Nearly all of these countries are in the developing world. Not surprisingly, many of these refugee host countries are not exemplars of counter-trafficking success. Moreover, for 2008 South Africa (207,000) was the largest single recipient of individual asylum claims.⁵⁷ The refugee recipient-producer dynamics raise further concerns for the effective combating of trafficking in the developing world, and particularly in conflict-ridden Africa.

The few studies that touch on the issue of conflict and trafficking do express a concern that trafficking is a phenomenon that could acquire dangerous dimensions in conflict situations. In particular, the trafficking of women and young girls, Jeanne Ward warns, “...can be systematic, for the purposes of destabilizing populations and destroying bonds within communities and families, and expressing hatred for the enemy or supplying combatants with sexual services.”⁵⁸ In her study Ward profiles a number of

⁵³ Henriot, Peter, “Trafficking of Women in Zambia: A New Slave Trade for Africa?,” *The African Forum for Catholic Social Teaching*, Country Report: Zambia, p.20

⁵⁴ Bridging Refugee Youth and Children's Services (BRYCS) report available at: <http://www.brycs.org/aboutRefugees/refugee101.cfm> (last accessed July 9, 2010)

⁵⁵ Martens, Jonathan, Maciej Pieczkowski and Bernadette van Vuuren-Smyth “Seduction, Sale & Slavery: Trafficking in Women & Children for Sexual Exploitation in Southern Africa”, *Refugee Trafficking to South Africa*, 3rd Edition, International Organization for Migration (IOM), Regional Office for Southern Africa, May 2003, p. 21

⁵⁶ Guterres, António. “World Refugee Day: 42 million uprooted people waiting to go home,” *UN High Commissioner for Refugees*, 19 June 2009, available at: <http://www.unhcr.org/4a3b98706.html> (last accessed July 9, 2010)

⁵⁷ Guterres, n.p.

⁵⁸ Ward, Jeanne. “If Not Now, When? Addressing Gender-based Violence in Refugee, Internally Displaced, and Post-Conflict Settings: A Global Overview.” *The Reproductive Health for Refugees Consortium*, April 2002, n.p.

countries involved in conflicts or recovering from them, such as the Republic of Congo, Rwanda, Sierra Leone, Afghanistan, Pakistan, Burma/Thailand, East Timor, Azerbaijan, Bosnia and Herzegovina, and Kosovo. Not only are women and children exposed to the destruction of their securities, their livelihoods and their families, but often times they are used as a weapon in the fight. In the absence of protection from their warring men, the female population becomes an easy target for coercion and deception.

The millions who flee the conflict areas most often find themselves in one of two situations: they either get herded into ‘temporary’ refugee camps or find themselves in a host country roaming the streets and trying to fend for themselves. In both scenarios the refugees do not have sufficient resources, services are at best sporadic and insufficient, and security is an elusive concept. Both life on the streets of urban centres and within the confinements of refugee camps is fraught with danger. It is often marked by xenophobia, acute poverty, high levels of unemployment, and stigmatization.

Healthcare and education are among the scarcest services provided in conflict and post-conflict situations as basic necessities such as food and shelter get priority. Paradoxically, these services are essential for the wellbeing of the individual and the community as well as for building peace. Education is also the most effective tool for preventing the trafficking of people. Education is recognized by the UNHCR “...as a tool to protect girls and boys from sexual abuse, child labour, and forced military recruitment, as well as a tool that empowers refugee girls and helps to build human capital.”⁵⁹ Not only is education important for preventing the trafficking of people, but also for peace-building and development.

Nevertheless, a survey by UNHCR signals significant gaps in the provision of education. The primary indicators reviewed in the study are education enrolments and teacher-student ratios as indicators for the capacity to raise awareness and run prevention campaigns.⁶⁰ Across a wide range of surveyed refugee camps, the enrolment in primary school appears rather low, with only 37 % reporting full enrolment rates, 20 % reporting partial enrolment (70-99%), and 43 % below the 70 % benchmark for enrolment.⁶¹ These low rates highlight another problem: children not attending school, and instead looking for opportunities to earn an income, become an easy target for opportunist traffickers or family members who wish to exploit them.

The situation with secondary school enrolment is even more compelling. Only 9 % of the camps reported full enrolment rates; 9 % reported partial enrolment (70-99%), and a staggering 82 % were below the 70 % benchmark.⁶² The situation with refugees in South Africa (which has an integrative, rather than a camp, system) is no different. Although projects such as Three2Six (after school-hours classes for refugee children) operating in various communities strive to address the difficulties faced by refugee children, many of them remain outside the school system because of their inability to pay school fees, language difficulties, or xenophobia. In the communities where this

⁵⁹ “Well-being and Living Conditions of Refugees: Case Studies,” *UNHCR Statistical Yearbook*, Chapter IV, 2007, p.55

⁶⁰ “Well-being and Living Conditions of Refugees”, n.p.

⁶¹ *Ibid.*, 55.

⁶² *Ibid.*

project is operative, 189 children have enrolled, yet the waiting list has bubbled-up to over 100.⁶³ The implications of these statistics are alarming, leaving large numbers of adolescents roaming the streets seeking employment and ready to take on enticing opportunities for work or study in far away places.

The problem is further exacerbated by a tendency towards gender inequality in the provision of refugee education, a factor which increases the vulnerability of young girls to being trafficked for purposes of sexual exploitation, forced labour, bonded labour, domestic work, etc. The UNHCR study suggests some disturbing inequalities: in primary schools for refugees, girls make up only 44 % of all students enrolled, a figure that drops to 38% in high schools.⁶⁴ The question is, what happens to those girls who drop out of school? Some of them may marry or become pregnant at 15-16 years of age, others may be engaged in economic activities within the household or the camp, and still others may be among the disputed numbers who become victims of trafficking.

The situation in many of the refugee camps is dreadful; they are seriously overcrowded and lack basic needs such as water, sanitation, health, nutrition and shelter. These conditions put a strain on both the refugees and the host communities, leading to various illegal activities when the immediate survival of either community is at stake. In such circumstances, the refugees are no more secure in the camps than on the battlefield. UNHCR is trying to cope with the situation, but finds itself continually burdened with new arrivals in the camps, such as Adnan Amir Haji, a 19-year-old refugee from Hawl Wadaag, north-west Mogadishu, who arrived in Dadaab, Kenya after a shell hit his home and killed his entire family:

*"I came home and saw the bodies of my family in the rubble. I will never get that image out of my head. I took a bus and then walked for two days to get here but I don't feel safe anywhere, not even here."*⁶⁵

While new refugees keep arriving, running away from conflict and violence at home, many have spent a lifetime hoping to return. For example, Zainab Mohamed Hassan, a mother of four who fled central Somalia in 1992, says,

*"Unless there is peace in Somalia, we will lose hope of ever returning back home,"*⁶⁶

Having no home to return to, and uncertain about their security and immediate survival, these people have few options for the future. This situation of uncertainty and general insecurity makes them more vulnerable to promises of escape to a 'better' life, with secure shelter, regular food, education and medication, all of which are absent from the camps. In these circumstances, traffickers can find an attractive source of income.

⁶³ Bodenstein, Maren. "A Place of Refuge and Learning," *Catholic Institute of Education*, Volume 18, Issue 2, July 2009, p. 4

⁶⁴ "Well-being and Living Conditions of Refugees, p.56

⁶⁵ Hassan, Yusuf. "UNHCR chief visits Dadaab, draws attention to 'dramatic' Somali refugee crisis" *UNHCR News Stories*, 5 August 2009, n.p., available at: <http://www.unhcr.org/4a7955db6.html> (last accessed November 2, 2009)

⁶⁶ Hassan, n.p.

In countries where integration is the norm, refugees are not fully protected either. According to Scalabrini's Lena Opperman, refugees often have difficulty accessing the services they need even though they are entitled to them by law.⁶⁷ In an integration system, as applied in South Africa, refugees experience much more uncertainty as to their legal entitlements because institutions find it hard to deal with the influx of undocumented migrants.⁶⁸ In the meantime such refugees, who often lack any documents at all, are forced to provide for themselves in a foreign society. This system of self-reliance is "...a challenge, as a legal framework is often missing and refugees become third-class citizens working in the informal sector or in wage-earning activities that do not adequately remunerate for labour."⁶⁹ These conditions are often conducive to illegal activities and exploitation, often exploitation of one's own family and friends.

Fleeing away from conflict and violence rarely becomes a durable solution to the lives of millions of refugees and asylum seekers. Even when they reach their destination, they constitute a vulnerable population that can be abused, lured and deceived for exploitation due to their uncertain status. Many find themselves in a situation of legal and economic limbo, scrambling to secure documents and "...[languishing] in isolated and insecure camps, or as unassisted and unprotected persons."⁷⁰ The nirvana of security and good life are often tarnished by xenophobia, poverty and exploitation in the community of destination leaving them vulnerable to secondary abuse one example of which can be human trafficking.

5.2. Effect of Peacekeeping Personnel

Contrary to expectation, peacekeeping troops have often been suspected of increasing the rates of human trafficking and of the sexual exploitation of local and foreign vulnerable populations. Human trafficking has become an alarming issue for a number of peacekeeping missions, such as the one in Kosovo. Concerns about the prevalence and gravity of the practice in certain conflict-affected states and territories have led to stringent measures being taken by the United Nations. The UN policy paper on 'Human Trafficking and United Nations Peacekeeping' states:

"In the peacekeeping context, human trafficking is simultaneously a gross violation of individual human rights and an assault on the rule of law. Human trafficking in post-conflict environments feeds social vulnerability and, in many instances, it is a major organized crime activity, which undermines the rule of law and supports the corruption of power structures, thus impacting on efforts to build a sustainable peace. Human trafficking is a low risk, high revenue primer for organized crime activities. Often the same figures that were in a position to exploit war-time economies are in a position to move quickly into high revenue, illicit goods and service economies in post-conflict environments."⁷¹

⁶⁷ Author Interview with Lena Opperman, Scalabrini Centre, October 15, 2009

⁶⁸ Author Interview with Prof. Ingrid Palmay, Johannesburg, September 21, 2009

⁶⁹ "Well-being and Living Conditions of Refugees, p. 63

⁷⁰ Loescher, Gil and James Milner. "The Missing Link: The Need for Comprehensive Engagement in Regions of Refugee Origin," *International Affairs* Vol. 79, Issue 3, 2003, p. 609

⁷¹ United Nations. "Human Trafficking and United Nations Peacekeeping," *DPKO Policy Paper*, March 2004, p. 4-5

Conflict and post-conflict environments are fertile ground for ‘black-market’, ‘grey’ and ‘shadow’ economies of various types. Government officials, business entrepreneurs, civilians and soldiers alike often get involved in lucrative, but illegal, business exchanges that are rarely regulated or policed in times of conflict. In effect, conflict is used as a justification or in defence of illegal operations, because there are no operational rules and laws *per se*. As the study in Kosovo suggests, soldiers and civilians in conflict situations are involved in schemes of human trafficking and other sex-related crimes. Although, the United Nations has taken stringent measures to curb the prevalence of these crimes among its personnel, the significant number of reported allegations against peacekeepers and other UN personnel in the field is still worrying.

Taking into consideration the low levels of trafficking and prostitution in Kosovo before 1999 “...all the available evidence suggests that without the presence of the international community and an influx of readymade western consumers, Kosovo would have remained a relative backwater in the Balkan trafficking industry.”⁷² The presence of numerous UN peacekeeping forces on various mandates across Africa suggests a troublesome potential for trafficking to and from conflict zones as well as high levels of sexual exploitation. In 2008, for instance, 83 allegations were made against UN peacekeeping personnel, while the previous year saw 127 allegations filed. These allegations resulted in 82 completed investigations, 65 of which were deemed credible, with penalties ranging from repatriation to “...disciplinary action such as suspension, dismissal, censure, demotion, and referral to employers.”⁷³ This statistical information, however, is doubtfully representative of the real situation on the ground as conflict is not conducive to accurate and in-depth investigations.

According to the UN’s internal bookkeeping and investigations, field missions have reported 371 new allegations of various forms of sexual exploitation against UN peacekeeping personnel. The countries affected are also, not surprisingly, among the worst-performing ones in terms of counter-trafficking legislation and implementation. Figure 7 below illustrates the breakdown of the UN missions according to their performance within the US Department of State Tier Systems.

Figure 7: Distribution of the peacekeeping mission according to the ranking of the host country within the US Department of State Tier System indicating the number of reported violations and officers’ misconduct contravening the Secretary General’s Bulletin on Sexual Exploitation and Abuse.

Tier 2:	Tier 2 Watch List:	Tier 3:
Liberia: UNMIL - 71 Sierra Leone: UNIOSIL - 2 Ethiopia: UNMEE - 1	Congo: MONUC - 176 Burundi: ONUB/BINUB - 24 Cote D’Ivoire: UNOCI - 6	Sudan: UNMIS - 19 Eritrea: UNMEE - 3 Western Sahara: MINURSO 1

⁷² “So Does That Mean I have Rights?,” p.8

⁷³ “Stopping Human Trafficking, Sexual Exploitation, and Abuse by International Peacekeepers,” *Trafficking in Persons Report 2009*, United States Department of State, available at: <http://www.state.gov/g/tip/rls/tiprpt/2009/123143.htm>

Congo, Burundi and Sudan, countries with ongoing conflicts and large peacekeeping operations stationed on their territories, are leading the list. The peacekeepers' position of power and reputation of impartial security for innocent civilians puts them in a power dynamic that is easy to abuse. They are among the few that have access to, and control over the distribution of, food, shelter and services. In situations of destitution, they are often the only sign of peace and security, yet some abuse their position to gain personal advantages and/or sexual services. The Bulletin of the Secretary-General on Sexual Exploitation and Abuse "...explicitly recognizes that the procurement of sexual services from nationals in a vulnerable context by a UN staff member (in a position of disproportionate power) constitutes an act of sexual exploitation, even where prostitution is not a crime."⁷⁴ However, the cases reported within the system suggest the possibility of a much more widespread phenomenon, which requires closer attention.

5.3. Effects and Implications of Border Control

Contemporary progress such as rapid telecommunications, advanced transportation and increasing levels of globalization, have had adverse effects on border control and on the significance of borders. Millions of people cross international borders daily for various reasons, such as business, tourism, seeking asylum, work and study abroad. National boundaries are almost disappearing in some regions as states open them to take advantage of economic development and international co-operation. Factors such as economic advantage, better opportunities, conflict, violence, poverty and insecurity as well as stark inequality have triggered new migration patterns. In these circumstances, borders and their control require a re-thinking and re-evaluation of their purpose and inevitability.

Opening borders for economic advantage widens the possibilities for the illegal and unregulated transport of goods, human beings, drugs, arms, etc. Nowadays, probably the most developed model of regional co-operation is the European Union, with other regions such as Northern America, South-east Asia and Southern Africa attempting to follow suit. The implications of this contemporary tendency are not sufficiently clear. Europe can serve as an example of both the benefits and the challenges of this development model. On the one hand, the European Union is a model of economic and monetary union envied by the rest of the world. However, illegal migration and the rapidly aging population of the West raise numerous concerns about the validity of this 'open door' policy.

Illegal migration is not a foreign concept. Europe, for instance, has historically been a destination for large migration flows. According to the study of Loescher and Milner on migration in Europe, several counterintuitive trends can be observed from the statistical data available in the European context. The study draws four important trends which, if applied to Africa, may shed some light on patterns of migration on the continent:

1. The number of countries that are a source of refugees and/or asylum seekers is relatively limited
2. People tend to migrate within their own region

⁷⁴ United Nations, "Human Trafficking and United Nations Peacekeeping," *DPKO Policy Paper*, March 2004, p. 7

3. Source countries tend to remain such for relatively long periods

4. The asylum seekers and refugees who have been arriving in "...Europe since the early 1990s have come not simply to escape poverty, but frequently to flee grave internal disorder and civil strife or severe repression."⁷⁵

The harsh political, social and economic conditions in most of Africa have triggered the "...push factors that [pressed people to flee from situations of] disintegration of states, civil wars and a lack of democracy..."⁷⁶ to places of perceived relative stability and opportunities for a better life. Within Africa, boundaries and national frontiers are an illusive concept; the borders drawn on the map do not necessarily delineate ethnically, culturally, religiously or linguistically cohesive populations. The challenge, therefore, is to understand the implications of these somewhat arbitrary borders for peace and security in Africa. As Jeffrey Herbst notes, Africa "...cannot be divided into natural frontiers, and there is really no way to divide people because loyalties are diffuse and quite capable of changing, depending on the specific politics of the nation-state."⁷⁷ In essence, Africans have never really experienced the stringent controls and security that borders seek to provide.

But understanding borders in Africa as simply artificial, arbitrary, and porous is rather premature and oversimplified. If that were the case, the introduction of stringent border controls would be a solution for most conflicts in Africa. However, analysis of the Uppsala Conflict Database suggests that the number of international or border disputes is overwhelmingly smaller than other types of violence in Africa; in fact, with the exception of the conflicts between Ethiopia/Eritrea and Eritrea/Djibouti, most conflicts have occurred within state borders or without the involvement of the state. Thus, understanding borders in Africa and worldwide requires a more nuanced and holistic approach. European evidence suggests that more control does not necessarily mean fewer problems; observations show that "...measures aimed at tackling illegal immigration greatly increase the risks to migrants, including loss of life."⁷⁸

In the case of South Africa, researchers of migration issues express similar sentiments. Prof Ingrid Palmary, for instance, suggests that trafficking is related to border control, but is more likely "...not related to the ease of it, as immigration control has become more and more repressive."⁷⁹ This has been certainly true for the 'fortress' of Europe, where "...the number of deaths at European borders since the tightened control introduced in 1995 [amounts] to at least 7 182."⁸⁰ In South Africa, particularly at the border with Zimbabwe, a significant number of 'trespassers' fall victim to robbery, rape, and even death on their way through the bush heading for a better life in South Africa.⁸¹ According to IOM's report, the majority of migrants found in the border areas have used informal means for crossing the border, such as crawling under or

⁷⁵ Loescher, p. 597

⁷⁶ Konrad, p. 269

⁷⁷ Herbst, Jeffrey. "The creation and maintenance of national boundaries in Africa," *International Organization*, Autumn 1989, Vol. 43 Issue 4, p. 688

⁷⁸ Spijkerboer, Thomas. "The Human Costs of Border Control," *European Journal of Migration and Law* 9, 2007, p. 132

⁷⁹ Author Interview with Prof Ingrid Palmary

⁸⁰ See Table 5 in Spijkerboer, p. 136

⁸¹ "Migrants' Needs and Vulnerabilities in the Limpopo Province, Republic of South Africa," *International Organization for Migration*, Report on Phase One, November - December 2008, p. 17-18

jumping a fence (56 %), evading authorities while crossing through the border post (24 %), and only 19 % have crossed the border legally through an official post.⁸²

As might be expected, the “...lack of legal access will, in turn, continue to increase the numbers of asylum seekers and migrants alike turning to smuggling and trafficking networks, fuelling the international criminal economy and pushing many migrants and asylum seekers to the margins of social and economic life.”⁸³ Drawing from the European experience, it is clear that people fleeing conflicts and situations of absolute destitution are not diverted from their goals by increased border control; on the contrary, “...these migrants have simply chosen more dangerous migration routes, routes that expose them to even greater risks.”⁸⁴ Surely, this pertains to South Africa’s borders as well.

Unfortunately, over a quarter of those interviewed by IOM experienced some kind of violence in transit, with the main perpetrators (in 79 % of the cases) being the *Mgumagumas* (border smugglers and criminals.)⁸⁵ This trend is particularly prevalent in situations of conflict and violence because many people opt to leave through informal means. Avoiding the authorities makes these illegal migrants more vulnerable to crime. The attractive power of safety, the “...high level of prosperity and the temptation of high wages...”⁸⁶ at the destination, draw migrants to countries of relative stability and affluence. Yet, these same powers push them away from their safety nets and their known environment, and put them in precarious situations far different from their expectations. Most commonly, refugees are expected to return to their home countries after a peace is reached, yet “...millions of refugees around the world exist without a hope for durable solution for years on end.”⁸⁷

5.4. The Situation on the Ground

Migration in Africa is not a new phenomenon; many of the ethnic groups have a tradition of nomadic or semi-nomadic life. In modern times, migration has not ceased to exist, but has been triggered by a variety of new push and pull forces such as conflict, violence, artificial and natural environmental changes, poverty, rural-urban disparities, and economic development among others. The trafficking of human beings feeds into and from these migratory trends. It is a “...multi-dimensional social phenomenon that is perpetuated by both the socio-economic challenges facing populations which make them vulnerable to recruitment, also known as ‘push factors,’ as well as demand for the exploitative use of individuals whether in forced labour or the commercial sex industry, also known as ‘pull factors.’”⁸⁸

Situations of conflict or repressive social regimes such as the DRC, Sudan, Zimbabwe and Burundi, among others, create spaces for synergies of both push and pull factors, adding to the level of vulnerability of large groups of migrating people across Africa. This vulnerability does not necessarily make them an immediate target for traffickers;

⁸² Ibid. , 17.

⁸³ Loescher, p. 595

⁸⁴ Spijkerboer, p.131

⁸⁵ “Migrants’ Needs and Vulnerabilities,” p.17-18

⁸⁶ Konrad, p. 269

⁸⁷ Loescher, p. 609

⁸⁸ Bermudez, Laura Gauer, M.S.W. “ ‘No Experience Necessary:’ The Internal Trafficking of Persons in South Africa,” *International Organization for Migration*, Pretoria, South Africa, 26 August 2008, p. 12

however, if the opportunity is in place it is easier for opportunistic individuals and groups to exploit this fertile ground. This kind of victimization affects “...disproportionately [people] of lower socio-economic status [...] desperate to seek work and in doing so overlook[ing] the potential hazards of accepting an offer.”⁸⁹ The existing migratory routes in Africa are easy to exploit as people who embark on the journey find themselves in unfamiliar environments, unable or unwilling to go back, and ready to take risky opportunities. For convenience, I consider these routes as theoretically divided into Northern and Southern routes (see Figures 8 and 9).

Figure 8: Migration routes in Northern Africa⁹⁰

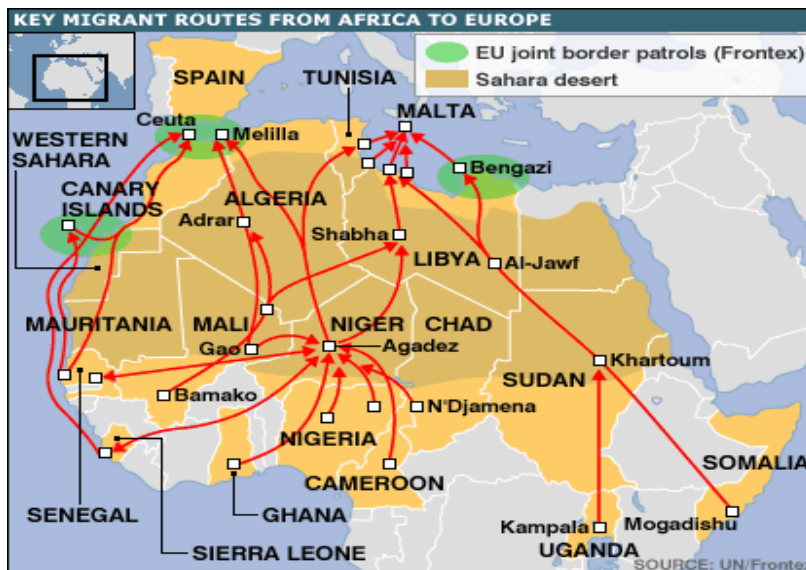


Figure 9: Migration routes in Southern Africa⁹¹



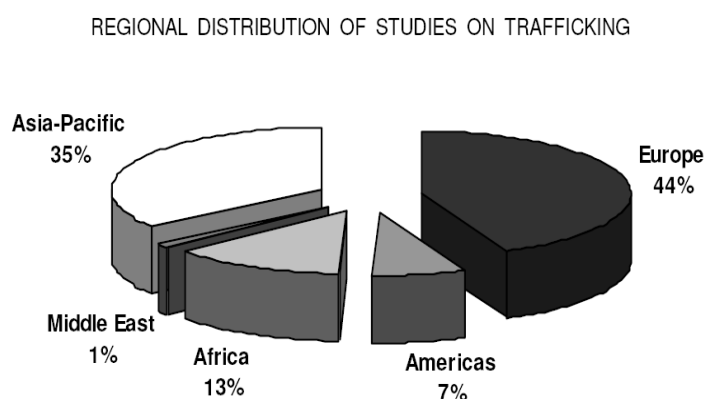
⁸⁹ Bermudez, p. 12

⁹⁰ BBC News, “Key facts: Africa to Europe migration,” Monday, 2 July 2007, Available at: <http://news.bbc.co.uk/2/hi/europe/6228236.stm> (last accessed November 5, 2009)

⁹¹ Martens, p. 26

Often, the lives of refugees are aggravated by inequality, poverty and lack of opportunity in the host community, forcing them into situations of servitude and exploitation which they cannot reasonably leave of their own will. One common feature to both route groupings is that, while not all people who flee conflict areas or poverty in their home countries become victims of human trafficking, some do. Although the routes are equally important, the Northern routes have attracted more scholarship and research because Europe, being the main recipient, has prioritised it. South Africa, however, is known to absorb the largest portion of the Southern stream migration, but the issue is much less of a priority here, and attracts significantly less attention (see Figure 10.)

Figure 10:⁹² Global Survey on Available Human Trafficking Studies



Note: N=260 titles

Source: "Human trafficking bibliography", IOM, Geneva.

6. Case Study: South Africa

The problem of human trafficking in South Africa is not well understood or documented despite the commendable efforts of both government and civil society to disseminate information, raise awareness and create the necessary legal framework. International organizations, such as IOM and UNODC, regional and local coalitions, such as SANTAC and CTC, as well as local organizations, such as ANEX CDW and Molo Songololo (Western Cape), have been blowing the whistle against the trafficking of people for about a decade now. According to a study by IOM, Southern Africa is a region of "fertile ground for traffickers, who capitalize on the vulnerabilities caused by war, poverty, illiteracy and unemployment."⁹³ Despite fierce arguments as to the credibility of international statistics, insufficient local data and lingering doubts about the existence of the phenomenon in South Africa, cases and suspected cases are frequently reported in the news and identified by organizations working on the ground. Within the context of the Southern African region, South Africa is identified mainly as a "country of destination for trafficking victims and [...] a transit point."⁹⁴

⁹² Laczko, p. 8

⁹³ "The Trafficking of Women and Children in the Southern Africa Region, Presentation of Research Findings." *International Organization for Migration*, Pretoria, 2003.

⁹⁴ Mabuza, Ernest. "Lack of laws lets human trafficking flourish- UN," *Business Day*, August 13, 2007, n.p.

This case study's structure highlights the counter-trafficking provisions in South African law, strives to assess the vulnerabilities of conflict-pushed migrants (refugees), and discusses the implications of border control (or the lack of it) on human trafficking in this context.

6.1. Protection under the Law

South Africa is one of 150 countries that are party to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol), ratified in February 2004.⁹⁵ Under the obligations of Article 5 of the Protocol,⁹⁶ the South African government undertakes to adopt and implement legislation affording at least the minimal protection⁹⁷ standards of the Protocol to all its residents without discrimination. In response to these obligations, the SA Law Reform Commission has drafted the *Prevention and Combating of Trafficking in Persons Bill*. The Bill is currently awaiting discussion in Parliament and is expected to be enacted some time in 2010.

In the absence of comprehensive legislation, the country's police and judiciary operate within the parameters of the existing, patchy, legal framework. Some provisional measures can be found in: the Criminal Law (Sexual Offences) Amendment Act, 2007, The Children's Act, 2005, the Basic Conditions of Employment Act, 1997, the Prevention of Organized Crime Act, 1998, the Immigration Act, 2002, the Witness Protection Act, 1998, the Extradition Act, 1962, the International Co-operation in Criminal Matters Act, 1996, and the Films and Publications Act, 1996.⁹⁸

Unfortunately, these Acts provide only partial or insufficient remedies; none deals specifically with refugees and asylum seekers who may become a victim of trafficking while on the run from conflict or, secondarily, when they arrive at their destination. Therefore, it is pertinent to consider the provisions of the South African Refugee Act

⁹⁵ „United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,” (Palermo Protocol) *United Nations Treaty Collection*, Available at: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en

⁹⁶ Palermo Protocol, Article 5: “State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in [...] this Protocol.”

⁹⁷ Palermo Protocol, Article 3:

(a) “Trafficking in persons” shall mean 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

⁹⁸ For further reference see Cucumanova, Vanya. “Human Trafficking Legislation: Status and Prospects,” Catholic Parliamentary Liaison Office, *Briefing Paper 220*, October 2009

of 1998⁹⁹ in the search of protection for conflict-pushed victims of trafficking. This Act should be viewed in conjunction with the draft human trafficking legislation as the only comprehensive protection against the trafficking of human beings to, from and within South Africa.

The Prevention and Combating of Trafficking in Persons Bill will potentially provide protection and redress for victims of human trafficking, which will not be limited to nationals of the Republic or particular social groups. The definition in the draft Bill is a broad reproduction (if slightly expanded) of the one used in the Palermo Protocol. Under the draft Bill, human trafficking is defined (Chapter 1, Art. 1) as:

Phase 1: The act of: recruitment, sale, supply, procurement, transportation, transfer, harbouring, disposal or receipt of persons or the adoption of a child facilitated or secured through legal or illegal means, within or across the borders of the Republic;

Phase 2: By means of: the use of threat, force, intimidation or other forms of coercion, abduction, kidnapping, fraud, deception, debt bondage, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control or authority over another person;

Phase 3: For the purpose of: abusing vulnerability or exploitation

However, these provisions are conditional on the ability to acquire and sustain refugee status. The Refugee Act (Chapter 1, sections 1(v) and (xv)) defines ‘asylum seeker’ as a person who is seeking recognition as a refugee in the Republic, and ‘refugee’ as any person who has been granted asylum in terms of this Act. According to section 2(a)&(b), “no person may be refused entry into the Republic, [if this may result in the person being] subjected to persecution [or endanger] his or her life, physical safety or freedom...”¹⁰⁰ The Refugee Act (Chapter 5, section 27) entitles all individuals who have been granted refugee status to rights such as full legal protection, the rights set out in Chapter 2 of the Constitution of the Republic, identity and travel documents, as well as to seek employment and access basic services such as healthcare and education. Among the protections afforded by Chapter 2 of the South African Constitution are some non-derogable rights such as human dignity, life, freedom and security of the person as well as freedom from slavery, servitude and forced labour.

Naturally, these provisions should be sufficient to protect refugees from the hazards of human trafficking. However, despite the Refugees Act being considered one of “...the most gender progressive... in the world,”¹⁰¹ refugees in South Africa (particularly women and children) are in danger of human trafficking by their own family members and strangers alike. The outstanding problem in the case of South Africa, however, is that the process of acquiring and renewing refugee status documents is lengthy and cumbersome, leaving large groups outside the protection of the law. One of the major concerns for organizations working with victims remains the problem of undocumented refugees.¹⁰²

⁹⁹ South Africa Refugee Act 1998, available at:

http://cgrs.uchastings.edu/documents/legal/gender_guidelines/South%20Africa%20-%20Refugees%20Act130%20of%201998.pdf

¹⁰⁰ South Africa Refugee Act 1998, Chapter 1, Article 2

¹⁰¹ Palmery, Ingrid “For Better Implementation of Migrant Children’s Rights in South Africa,” *United Nations Children Fund*, 2009, p. 12

¹⁰² Author Interview with Susan Le Roux, International Organization for Migration, Johannesburg, September 22, 2009

6.2. Refugees' Vulnerabilities

With civil wars and political and social instability devastating many African countries, South Africa has become one of the major destinations for refugees and asylum seekers in the Southern migrations stream. During 2008 60 000 people applied for asylum in South Africa,¹⁰³ but in the same year 312 733 illegal immigrants were detained and subsequently deported, which indicates a large number of people must be present without appropriate documentation. However, these figures are doubtfully representative of the actual flows of illegal migration. Smuggling and 'border jumping' are far more common ways for undocumented migrants and victims of human trafficking to cross South Africa's borders. And refugees and asylum seeking are often exploited or abused in the process of attempting illegal border crossings, which makes the collection of accurate data nearly impossible.

Some of the most significant in-flows of migrants (refugees and asylum seekers) to South Africa come from countries such as DRC, Burundi, Angola and Zimbabwe (see Figure 11).¹⁰⁴ What is disturbing, however, is that the "...majority of SA trafficking victims were refugees that were already in the country or came from the SADC region, Thailand, China and Eastern Europe."¹⁰⁵ These trends are particularly worrying because they confirm the correlation between conflict and trafficking. Even though it is not conflict that causes human trafficking to occur, the destruction of livelihoods and family structures has forced many women and children to assume "...the role of breadwinner and *de facto* head of their households as male relatives fall victim to violence and forced migration."¹⁰⁶ This trend is problematic and potentially provides opportunities for practices of human trafficking to occur in migrant communities that are overwhelmingly male.

Concerns about the vulnerabilities of migrant communities are picked up by Martens who infers that in South Africa roughly 95% of the refugee population is male, many of whom "...have fled violence and persecution in their homelands only to find that neither the law, nor the widespread xenophobia among South Africans, make basic survival in South Africa easy."¹⁰⁷ When these men find themselves destitute, it is not hard to imagine that they will be willing to exploit every possible resource, such as relatives at home or others residing in refugee camps across Southern Africa. A further confirmation of the relationship between conflict and trafficking is noted by Chief Justice Pius Langa, who has commented that "[r]efugees from other African countries already in South Africa often arrange for close female relatives to join them." In many cases, these females are subsequently exploited for labour or in the sex industry.

¹⁰³ Department of Home Affairs, South Africa, Annual Report 2007-2008

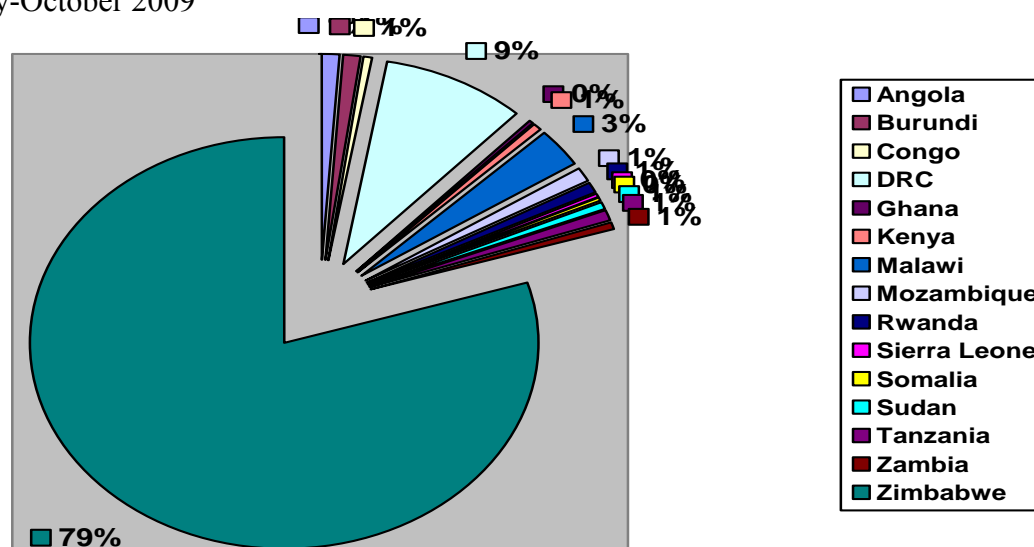
¹⁰⁴ A snapshot of the refugee distribution in South Africa reflecting their participation in the Scalabrini Centre, Cape Town Refugee Assistance Programs

¹⁰⁵ "Combating Human Trafficking a Priority in South Africa," HumanTrafficking.org, News and Updates, available at: <http://www.humantrafficking.org/updates/759> (last accessed November 19, 2009)

¹⁰⁶ Martens, p. 22

¹⁰⁷ Martens, p. 23

Figure 11: Adapted from the employment register of the Scalabrini Centre Cape Town, July-October 2009



Experience and extensive field research also confirm these findings. A researcher in Zambia, Merab Kiremire, is reported to have “...smashed a scam where 30 young girls aged between 13 and 19 were camped at some night club in Lusaka’s Garden Township waiting to be trafficked to South Africa.”¹⁰⁸ The news media in Zambia (a transit country) often report on trafficking cases that get intercepted en-route to South Africa. Unfortunately, the cases that are intercepted are the exception rather than the rule, because borders in the region are porous and migration remains largely uncontrolled. These girls often come from countries in the region that are experiencing conflicts and violence such as DRC, Burundi and Angola. Stories of refugees’ success are often enough to lure and attract those who long for safety and have no realistic option to return to their home countries.

Big cities and wealthier countries are a natural ‘dream destination’ for many running away from conflict, but also for economic migrants. Martens notes that some of the big port cities in South Africa such as Cape Town and Durban “...provide the most potential for substantial earnings because of their high profile as South Africa’s premier tourist destinations, and Cape Town’s appeal is further bolstered by its reputation as the sex capital of South Africa.”¹⁰⁹ This makes it difficult to distinguish between different categories of migrants. Some of those coming from conflict areas will self-categorize themselves as economic migrants, while others will seek refugee status as a way to remain in the country even when there is no significant risk for their safety and security at home. The dubious status and motivation of many of those seeking refugee status makes it extremely difficult for governments to look after the well-being of refugees.

The border areas with Zimbabwe provide a case in point. Due to the unstable political and social situation in the county, many cross the border out of fear of persecution.

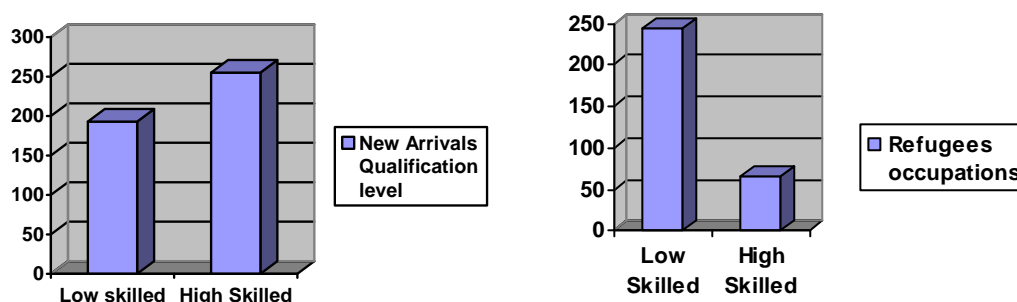
¹⁰⁸ Kaluba, Frederick. “How deeply rooted is human trafficking in Zambia?” *Times of Zambia*, available at: <http://www.times.co.zm/news/viewnews.cgi?category=8&id=1235031323> (last accessed October 8, 2009)

¹⁰⁹ Martens, p. 19

However, the number of those abusing the volatile situation is also significant. A study of migrants' vulnerabilities in the area, carried out by IOM, shows that the motivations for leaving their home country vary among Zimbabweans as "...the majority of respondents cited economic hardship reasons such as hunger (30%), lack of employment opportunities (25%), poverty (28%) [and only] 13% of respondents left their homes out of fear of persecution."¹¹⁰ These findings signify an evolution in the essence of being a refugee, namely, to find temporary safety and security in a peaceful community. IOM's study suggests that "...as many as 50% of documented migrants were in possession of asylum permits, indicating that in the absence of other legal migration channels, the asylum process remains the only available option to many."¹¹¹ The newly emerging category of economic refugees has different expectations of and plans for life in the host community, yet these are rarely met.

Instead of finding peace and stability, many join the ranks of unemployed, poverty ridden, homeless and exploited people. This is particularly the case in South Africa, where refugees experience hardships finding job, accessing services and establishing a life in the midst of rising prejudice and xenophobia. The employment assistance database kept by the Scalabrini Centre illustrates these hardships vividly (see Figure 12.) Over half of those who have acquired some skills and education in their country are forced to accept low-skill labour simply in order to fend for themselves and their families. Others can only rely on social and disability grants, as happened with a woman from Burundi who was assisted by the Scalabrini Centre. She had fled the country after loosing her family and her husband, and upon arrival in South Africa she had to have her leg amputated due to a bullet wound she had received during the conflict. With one child left behind in Burundi and another one to care for in South Africa, she succumbed to the lure of another man, and soon afterwards found herself pregnant and HIV-positive. Although this is a rather extreme case, many of the people who seek help at the Centre are in really desperate situations.¹¹²

Figure 12: Refugee employment: Actual skills compared to level of skills required at current occupation, author adaptation from data acquired from the Scalabrini Employment Database



Every week the Scalabrini Employment Help Desk registers between 5 and 15 new clients. Although limited in the time covered and the number of clients, this database exhibits some of the trends observed by NGOs and faith-based organizations on the ground who struggle to provide the basic services such as food, shelter and clothing to

¹¹⁰ "Migrant Needs and Vulnerabilities," p. 15

¹¹¹ Ibid.

¹¹² Author Interview with Lena Opperman

the numerous migrants who need them.¹¹³ The ineffective system of documentation and the backlog of refugee applications in some of the reception centres has made access to services even more difficult. In the meantime, Martens reports,

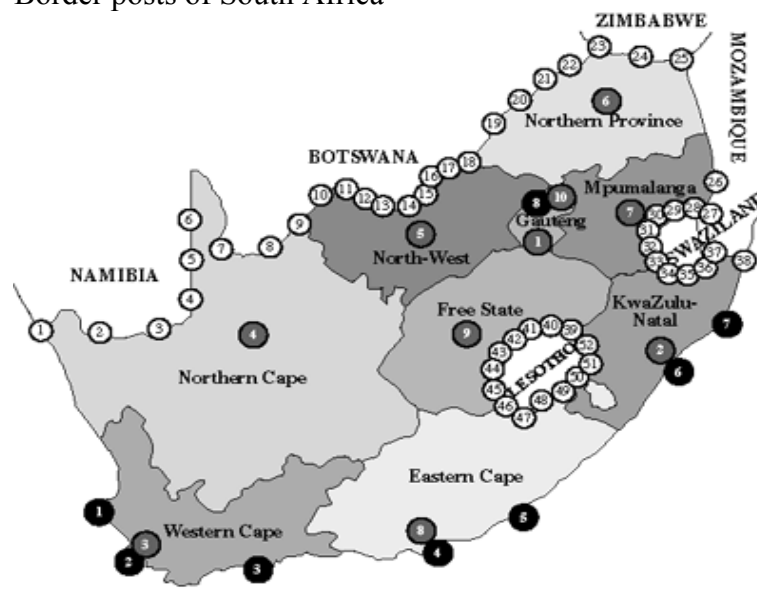
“Refugee victims merge into the sex scenes of [big] cities, joining others who are pimped by gangs or are on the streets of their own accord. Competition for clients is fierce, both on the streets as well as in surrounding clubs and escort agencies. Refugee victims work long hours and in dangerous conditions to earn the nightly sum demanded by their traffickers. Not only are they subject to abuse by clients who refuse to pay them, and police who sometimes take their earnings, but they also face violence should they return home without the required sum.”¹¹⁴

In such situations, refugees and displaced people become extremely vulnerable to exploitation and manipulation. Human trafficking feeds from the vulnerabilities of these individuals and plagues the whole community.

6.3. Border Control

Porous borders, a lack of effective training, and unclear regulations, are some of the factors contributing to the widespread use of illegal migration routes. South Africa’s official border posts (see Figure 13) are not the primary channel for illegal migrants. IOM’s field study in Limpopo province suggests that the majority of migrants cross the border at informal locations “...crawling under or through a fence (56%), evading authorities while crossing through the border post (24%), or by other means (1%).”¹¹⁵ Although still a matter of some concern, corruption of border-post officials is not so strongly featured in these findings.

Figure 13:¹¹⁶ Border posts of South Africa



¹¹³ Interviews with Angelica Pino at the Centre for Violence and Reconciliation, Nomfundo Mogapi at the Trauma and Transition Programme (CSVR), Rev Thomas-Rene.A.Y.Kitutu Z'Ikossi from the Christians for Peace in Africa and Lena Opperman at the Scalabrini Centre in Cape Town

¹¹⁴ Martens, p. 19

¹¹⁵ “Migrant Needs and Vulnerabilities,” p. 17

¹¹⁶ Minnaar, Anthony. “Border Control and Regionalism. The Case of South Africa,” *African Security Review*, Vol. 10 No 2, 2001 n.p.

From a regional perspective, the absence of appropriate legislation and effective training for border control officials makes effective regulation of the migration streams difficult to exercise. The porous borders of South Africa are not a unique phenomenon; they are characteristic of the Southern African region as a whole. Research by the US Department of State, for instance, identifies Zambia's strategic location and ineffective border control as a "...nexus for transnational trafficking from the Great Lakes region and Congo to South Africa for agricultural labour."¹¹⁷ Local and regional news agencies report on some of the cases that have been intercepted in Zambia en route to South Africa. For instance, in 2004, "...police arrested eight Congolese nationals at a roadblock on the Great North Road when they were being trafficked to South Africa by an unknown Congolese compatriot living in Zambia."¹¹⁸

Later in 2005, "...officials at Chirundu Border Post intercepted a 29-year-old Congolese woman whom they arrested for attempting to smuggle 14 children from the Democratic Republic of Congo (DRC) to South Africa after one of the girls in the group tipped [off] an immigration officer."¹¹⁹

In the midst of fierce debates on the numbers of actual cases and the causes behind the trafficking of people, numerous cases of trafficking do in fact occur. Unfortunately, law enforcement authorities are often ill equipped to deal with them, due to a lack of appropriate legislation or insufficient training. The reported cases are worrying on several levels: they indicate that people embark on dangerous routes to evade the authorities; that borders are not well protected, which facilitates the operation of smugglers; and last but not least, smuggling scenarios may easily turn into trafficking scenarios.

Anthony Minnaar emphasizes this concern, because "...people who are smuggled are themselves exploited and will more than likely end up in bondage or will be forced to participate in criminal activities in the country of their destination."¹²⁰ Other than clear migration policies and careful screenings of the migration flows, further attention should be paid to any suspected cases of trafficking. While stricter control may not be the complete solution to Southern Africa's illegal migration, clear guidelines and effective training of border-control personnel would enable authorities to intercept more actual and potential victims of trafficking.

7. The Way Forward

In lieu of a conclusion, I would like to offer some recommendations and share my vision for the way forward. The myths about human trafficking need to be challenged; contextualized and integrated solutions need to be sought. Human trafficking as a complex crime needs to be addressed in a holistic manner. The '3-Ps' paradigm of prevention, protection, and prosecution is insufficient to address the complexity of the trafficking of people, particularly in areas of conflict. A progressive and effective strategy should address issues beyond the *act* of the crime; going back to the root

¹¹⁷ US Department of State Trafficking in Persons Report 2009

¹¹⁸ Kaluba, n.p.

¹¹⁹ Ibid.

¹²⁰ Minnaar, n.p.

causes, their correlations, and the implications of both policies and actions. Using dichotomous concepts such as voluntary versus forced migration, illegal versus legal migrants, is rather simplistic and fails to capture the complexity of migration in the context of conflict and human trafficking.¹²¹

Addressing the root causes of the problem, however, is not a simple task because the factors of vulnerability may vary according to the context and the individuals involved. Some of the factors of vulnerability have been identified in the literature on human trafficking as poverty, inequality, conflict and oppression, political, social and economic instability, lack of reasonable and realistic opportunities, domestic violence and disintegration of the family structure, gender inequality, lack of access to education and information, etc.¹²² To address the vulnerabilities of 'endangered' populations no government or organization can manage on its own; this endeavour would require "...bringing together key actors from source, transit, destination and return countries. It requires going beyond national approaches to develop regional and cross-regional strategies."¹²³ There are several important hubs, or key communities, that need to be addressed individually and within an integrated strategy: source communities, transit communities, destination communities, and return communities. Each of these communities is 'infected' with its own specific vulnerabilities that need to be understood and addressed.

Partnership between government, civil society and the faith communities is essential for effectively preventing and dealing with the crime of human trafficking. While partnership efforts in South Africa on local, national and regional levels are vibrant, these networks need to be mapped¹²⁴ and strengthened. Knowing who does what in preventing and dealing with the crime of trafficking is essential for developing effective counter-trafficking measures. Acknowledgement of this necessity is already quite vocal in the religious community with Cape Town's former Anglican Archbishop, Njongonkulu Ndungane, calling on "religious organizations that helped bring down apartheid [to play] a critical role in abolishing the multi-billion dollar crime of human trafficking."¹²⁵ The importance and urgency of the problem necessitates that every opportunity for raising awareness and researching this dangerous phenomenon plaguing our society should be pursued.

The Southern African Catholic Bishops' Conference has already adopted such an integrated and multi-faceted approach to dealing with migration and addressing some of the factors of vulnerability.¹²⁶ The Catholic Church has embarked on a mission, as

¹²¹ Campbell, John R. "Caught between the ideology and realities of development: Transiting from the Horn of Africa to Europe" Migration Studies Unit Working Papers No. 2009/01, p. 2

¹²² "Root Causes of Human Trafficking," *Caritas International*, available at: http://www.caritas.org/activities/women_migration/caritas_migration_trafficking_and_women.html?cnt=431 (Last accessed November 13, 2009)

¹²³ "Population Mobility and HIV/AIDS," *International Organization for Migration*, Programme Info Sheet, July 2006

¹²⁴ A concept developed by John Paul Lederach about peacebuilding efforts in various communities which strives to describe and analyze who does what for peace in the particular context. In the case of counter-trafficking measures, this mapping exercise should include local, provincial, national, regional and international relevant players.

¹²⁵ "Churches urged to fight new slavery," *Weekend Argus*, April 7, 2007

¹²⁶ Ndlovu, Bishop Louis S. OSM, "Report for the Pontifical Council for the Pastoral Care of Migrant and Itinerant People 2008-2009," *Southern African Catholic Bishops' Conference*

Fr Peter-John Pearson¹²⁷ has rightfully put it, to bring to a halt “slave-like practices [that] pose an affront to human dignity.”¹²⁸ The most basic and inalienable rights of people to life, dignity and respect are virtually extinguished in conflict situations and circumstances of complete social disruption. These rights are hardly a consolation for the millions who flee in danger of their lives and find themselves in strange settings, barely able to survive the day. In such situations, people are exposed to exploitation, trafficking, abuse, denigration and de-humanization. The proper way forward should be only one – the way of humanity and respect for the individual.

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Research Intern

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¹²⁷ Director of the Catholic Parliamentary Office of the Catholic Bishops' Conference, Cape Town, South Africa

¹²⁸ Rassool, Michail. “Slavery still alive 200 years after abolition,” *The Southern Cross*, April 11-17, 2007



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