

Optimise criminal justice response, prevalence data, and research

The prevailing confusion about the nature and prevalence of trafficking in persons (TIP) in South Africa has had far reaching consequences: From the consequences of the strict visa regulations imposed by the Department of Home Affairs in 2015 to curb child trafficking to ongoing policy debates regarding prostitution law reform in South Africa. There has been much discussion and disagreement around the magnitude of trafficking in persons in the country. An even-handed consideration is needed of the evidence and circumstances that present TIP as a multi-layered and complex reality.

A research study* was conducted to gain insights into the nature of TIP in South Africa and provide recommendations to strengthen the response. The study explored the spectrum of available quantitative and qualitative evidence from civil society organisations, South African Police Service statistics, and ongoing and successful TIP prosecutions. The study found that South Africa is a source, transit, and destination country for TIP. Furthermore, the claims in historical and ongoing research that TIP is rarely encountered and that there is little evidence of sex trafficking are misleading, obscure the day-to-day realities of adult and child trafficking victims, and fail to employ the legally binding definition of the Prevention and Combatting of Trafficking in Persons (PACOTIP) Act in research.



If you monitor me you die:
Wording on shirt of accused who was sentenced to life imprisonment for sex trafficking charges.
Photo by Marcel van der Watt

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KEY TAKEAWAYS

- **Release** up-to-date statistics on TIP as part of the quarterly and annual police crime statistics.
- **Comply** with policy guidelines related to the functioning of Provincial TIP Task Teams, Provincial Rapid Response TIP Task Teams, and the National Inter-Sectoral Committee on TIP (NICTIP). Take action against non-compliance.
- **Recognise** the National Human Trafficking Hotline as an official TIP reporting mechanism that supplements other official reporting structures in South Africa.
- **Strengthen** relationships and secure service-level agreements with key civil society organisations for improved information sharing and timeous responses to calls for response services.
- **Include** available TIP evidence in relevant policy discussions and law reforms related to gender-based violence, prostitution, migration, labour and employment.

The number of TIP prosecutions is disproportionately low when compared to calls for response services and data from civil society, available police statistics, media coverage, and practitioner perceptions related to the nature and prevalence of the phenomenon in South Africa. Deficiencies related to overall TIP intelligence, data management, and frontline responses by the police contribute to some research studies' role in undercounting TIP in the country. Despite these shortfalls, both quantitative and qualitative evidence points to TIP as a multi-layered and complex reality enabled by entrenched structural vulnerabilities, perpetuated by corruption, and hidden by widespread societal indifference. Sex trafficking continues to make up most of both reported cases and prosecutions of TIP, while labour trafficking prosecutions, similar to trends observed internationally, are not prominent.

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The prosecutorial successes related to TIP are dependent on committed individuals, while transdisciplinary expertise and institutional knowledge are confined to a small number of practitioners diffused within government, civil society, non-governmental organisations and academia. Law enforcement responses to TIP are overwhelmingly reactive, and persistent calls for increased specialised and intelligence-led investigations by veteran practitioners remain unheeded.

Consumer-level demand as a root cause and motivation for TIP is evident. In 10 separate cases, where multiple brothels were active over a prolonged period, the prominence of consumer-level demand was evident in potentially thousands of sex buyers who “used the services” of adult and child victims of sex trafficking. Also, in one example of online sexual exploitation (S. versus Seleso), the victim was exploited with the use of a live-streaming platform employed by her traffickers. The child victim’s profile had more than 6,000 log-ins from sex buyers who spanned the globe. Furthermore, at least five prominent adult websites, some advertised on public roadways, were implicated in multiple adult and child TIP cases, including successful prosecutions. Little or no effort is targeted at suppressing consumer-level demand that fosters trafficking for sexual exploitation and forced labour. As noted in one case:

“People’s lives are worth what the next person pays.”

— S. v Matini

Evidence of child trafficking is convincing, and includes children who were sexually exploited during “elaborate and organised criminal” activities between South Africa and Mozambique (S. v Dos Santos), and in a “sordid ... world of drug abuse, prostitution and exploitation” (S. v Eze). An unknown, yet significant number of possible victims, will never be identified in several TIP cases. In one example, books containing lists of names, which spanned a period of five to eight years, were found in a residential brothel where child sex trafficking victims were exploited.

As a source, transit, and destination country for TIP, South Africa is potentially rich in TIP data, much of which remains unexplored or undocumented due to overlapping methodological, ideological and socio-political factors. Leveraging the rich institutional knowledge of prosecutors and the transdisciplinary expertise of the counter-trafficking community is critical for South Africa’s next chapter of TIP combatting efforts, policy, and research.

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Effectively implementing the TIP policy, putting resources and capacity behind the response, dealing with corruption, and placing victims at the centre of the response will contribute to achieving the desired outcomes to counter-trafficking in South Africa.



Several websites, some advertised on public roadways, are repeatedly implicated in ongoing and successful sex trafficking prosecutions, yet none have been prosecuted. Photo by Marcel van der Watt

Critical actions for government to implement policy to combat TIP holistically:

- **Establish** the integrated information system to provide evidence on TIP prevalence, facilitate the effective monitoring and implementation of the PACOTIP Act, and commence TIP interventions by collating and analysing the specific information as detailed in Section 41(1)(b).
- **Employ** Section 7 of the PACOTIP Act and Sections 11 and 17 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 as legislative interventions to discourage the demand that fosters trafficking for sexual exploitation.
- **Fully implement** and comply with South African Police Service National Instruction 4 of 2015 related to detectives at police stations, data integrity, and the capturing of TIP and related matters on the SAPS crime administration system.
- **Create** dedicated capacity for proactive, intelligence-led, and court-driven investigations alongside financial investigations, asset forfeiture, and a counter-corruption strategy.
- **Prioritise** the legally binding TIP definition and ‘abuse of vulnerability’ as defined in the PACOTIP Act in research and policy discussions related to prostitution and pornography, gender-based violence, child abuse, labour violations, and irregular migration, as a means to correctly identify and prevent the undercounting of TIP cases among these phenomena.