

CHILD TRAFFICKING IN SOUTH AFRICA

Exploring the myths and realities

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CENTRE FOR
CHILD LAW

Policy Brief

2020



This policy brief therefore draws on our key findings to highlight the often-silenced consequences of the discourse of child trafficking on children's rights broadly and on children on the move specifically and the key issues that should direct policy and practice.

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EXECUTIVE SUMMARY

In South Africa child trafficking has become a central concern for both the State and non-State agencies. However, currently very little is known about the nature and scope of the problem and what is claimed is largely based on questionable and outdated statistics, anecdotal information and common myths. Based on concerns that unsubstantiated claims about child trafficking are being used to discourage migration and increase the securitisation of borders, which can impinge on the rights of children especially migrant children and those who lack documentation the Centre for Child Law in collaboration with the African Centre for Migration & Society (ACMS) concluded a qualitative study into the discourse of child trafficking in South Africa. Examining the experiences of unaccompanied child migrants, service providers working with migrant populations, and government departments in two border areas of Vhembe District in Limpopo Province and Ehlanzeni District in Mpumalanga Province as well as in Johannesburg and Cape Town the study revealed that the lack of reliable information and data on child trafficking means that policy and practice is assumption led, rather than evidence based. It also found that unsubstantiated claims about child trafficking are being used to justify repressive policies and practices, which co-opt the language of 'protection' while violating the rights of children, especially migrants and those without documentation. This ultimately renders children more vulnerable and does little to actually fight child trafficking. This policy brief therefore draws on our key findings to highlight the often-silenced consequences of the discourse of child trafficking on children's rights broadly and on children on the move specifically and the key issues that should direct policy and practice.



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Key Findings

-  Human trafficking is not well understood and rarely encountered
-  Human smuggling, often enabled by state actors is widespread
-  The myths of child trafficking simplify the complex realities of child migration
-  Child migrants fear trafficking but largely face other vulnerabilities
-  Little evidence of "sex trafficking"
-  State and non-state actors lack resources to deal with migrant communities including child migrants
-  Recent changes in law intended to manage migration, detect trafficking and protect child migrants leave children more vulnerable
-  Child migrants face challenges accessing education due to a lack of documentation and unlawful exclusion by the state

INTRODUCTION

There is broad consensus, in South Africa, regionally and internationally, that child trafficking violates children's rights and that States have a responsibility to protect all children within their borders. In South Africa various treaties including the UN Palermo Protocol (2000) have been ratified, policies introduced (e.g., the Prevention and Combatting of Trafficking in Persons, PACOTIP Act, 2013) and laws enacted by the South African government, SADC and the UN to prevent and assist victims of child trafficking. However, despite much discussion among State and non-State actors, reports in the media about high levels of child trafficking in South Africa and across the SADC region¹, there is actually very little recent, reliable data available about the scale of the issue and the experiences and responses by service providers. Many of the reports that have shaped the discourse of child trafficking in the country have drawn broad conclusions that lack an empirical basis (for example Molo Songololo, 2000a and 2000b; HSRC, 2010) and failed to distinguish trafficking from sex work and other forms of irregular movement including smuggling. While there are claims of extremely high numbers of children being trafficked, particularly into the sex industry (Somduth, 2018; Frankel, 2016) there is also research which suggests that the trafficking of children has been over-estimated and that the actual numbers of victims are much lower (Clacherty & Walker, 2019; Sloth-Nielsen & Ackermann, 2015). At the same time, a growing body of work with migrants, especially unaccompanied child migrants (UMC) in Southern Africa documents their diverse experiences as they cross borders. These experiences include many vulnerabilities such as exploitation, abuse, violence as well as challenges accessing documentation, healthcare, education and support services. While trafficking can sometimes occur, evidence from this body of work and from the qualitative study for this report indicates that this is not always the case. Furthermore, while migrant children are often vulnerable and face risks, they also simultaneously negotiate challenges, are active agents, can be resilient and embody experiences which extend far beyond what the label of 'trafficked child' implies.

¹ Southern African Development Community. SADC is a Regional Economic Community comprising 16 Member States.

The consequences of using child trafficking to represent the myriad realities of children on the move and especially in the name of ‘child protection’ are that migrant children are exposed to additional risks and vulnerabilities. The research upon which this brief is based, is the outcome of a collaborative project between the Centre for Child Law at the University of Pretoria and the African Centre for Migration & Society (ACMS) at the University of the Witwatersrand. It is based on concerns about the protection and rights of children in South Africa and in particular, the concern that unsubstantiated claims about child trafficking are being used to discourage migration and increase the securitisation of borders, which in turn can impinge on the rights of children especially migrant children and those who lack documentation. Drawing from research conducted between November 2018 and January 2019 included a review of literature on child trafficking and the primary research the study found that overall, the discourse about child trafficking does not match the realities of what is being experienced and encountered on the ground – by the police, government officials, service providers and child migrants themselves. The study identified eight central findings (see text box 2) that include the lack of clarity on child trafficking leading to a reliance on myths and anecdotal information, the failure to engage with ground realities, the lack of resources to support children and the impact of blocked access to documentation and education as central to the vulnerabilities that children in South Africa – both citizens and non-citizens face.



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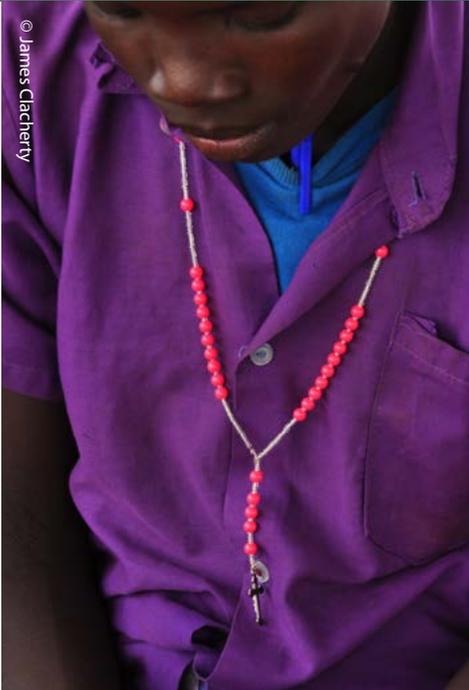
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Based on these key findings we have identified 4 key issues: **Documentation and access to education; Paucity of reliable data and communication regarding the scope and nature of child trafficking in South Africa, the violation of children’s rights and the reframing of issues.**



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KEY ISSUES AND RECOMMENDATIONS

Based on these key findings we have identified 4 key issues: **Documentation and access to education; Paucity of reliable data and communication regarding the scope and nature of child trafficking in South Africa, the violation of children’s rights and the reframing of issues.** These issues must be addressed in order for policy relating to children, migration and trafficking to effectively assist both victims of child trafficking and, children who are facing many other complex vulnerabilities.

1. **Documentation and Access to Education** Our findings points to the fact that lack of documentation is the key issue impacting on the vulnerabilities faced by children. Government needs to enact legislation and policy positions that better protect children from risks such as statelessness and/or exploitation:
 - a. This includes reconsidering current proposals to amend the Immigration Act and the amended Refugee Act, both of which will increase the vulnerabilities of migrants and reduce access to documentation. In addition, the government must reconsider current policy proposals by DHA on the issue of birth registrations.
 - b. When children lack documentation and access to obtaining legitimate documentation the vulnerabilities they face are heightened, including the risks of child trafficking as they struggle to use the safe formal entry and exit border points, access education, healthcare and other support services.
 - c. When children are not documented they are often excluded from schools. This leads to both short and long-term vulnerabilities including being at risk when at home or on the streets rather than in school, of not being able to access employment later in life and of significant impacts of mental health and wellbeing.
 - d. **Paucity of reliable data and communication regarding the scope and nature of child trafficking in South Africa.** Our findings show that the absence of reliable data on child trafficking and trafficking in general means that service providers including SAPS rely on the media, anecdotal information and hearsay as sources of information on child trafficking. Therefore:
 - e. Information which is used by both the State and non-state actors when engaging with the issue of child trafficking should be based on recent, sound empirical evidence. Credible and useful information will allow for a critical and meaningful analysis of the state of child trafficking and the different service providers responses in general as well as to harmonise their practices accordingly.



CONCLUSION

There is a significant gap between policy commitments to preventing and assisting victims of child trafficking, and efforts aimed at protecting the rights of children on the move. Our study shows that where South Africa has laws and policies aimed at tackling child trafficking in general both State and non-state actors lack a clear understanding of child trafficking and human trafficking in general and that there are different and inconsistent approaches to child trafficking. Moreover, some of the laws, policies and practices designed to protect children are impacting negatively on the rights of children on the move.



REFERENCES

- Allais, C. et al. (2010). *Tsireledzani: Understanding the Dimensions of Human Trafficking in Southern Africa*. Pretoria: National Prosecuting Authority (NPA) of South Africa.
- Clacherty, G. & Walker, R. (2019). 'How can the Save the Children's Regional Children on the Move Programme better meet the needs of Girls on the Move?' *Save the Children, Sweden* (forthcoming).
- Frankel, P. (2016). *Long Walk to Nowhere. Human Trafficking in Post-Mandela South Africa*. New Jersey: Transaction Publishers.
- Gould, C, & Fick, N. (2008). *Selling Sex in Cape Town*. Retrieved from <https://issafrica.s3.amazonaws.com/site/uploads/Book2008SellingSexInCT.pdf>. Last accessed: 13th June 2019.
- Molo Songololo, (2000a). *The trafficking of children for purposes of sexual exploitation – South Africa*. Cape Town: Molo Songololo. 2000b. *The trafficking of women into the South African sex industry*. Cape Town: Molo Songololo
- Sloth-Nielsen, J., & Ackermann, M. (2015). *Foreign Children in Care in the Western Cape Province*. Cape Town: Scalabrini Centre of Cape Town. Retrieved from <http://scalabrini.org.za/wp-content/uploads/2016/01/Foreign-children-in-care-in-the-Western-Cape-Province.pdf>. Accessed 18 July 2018
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