Effective Response to Human Trafficking in South Africa: Law as a Toothless Bulldog

Paul Oluwatosin Bello and Adewale A. Olutola

Abstract

Humanitarian concerns owing to the dreadfulness and impact of human trafficking prompted several stakeholders under the umbrella of the United Nations (UN) to approve legal measures to criminalize this menace. Several states that are parties to the UN anti-trafficking protocols and conventions have domesticated some of the provisions of these regulations by enacting comprehensive laws that criminalize the various components of human trafficking. Unfortunately, this approach has not brought about any significant reduction in the crime. This article adopted a qualitative approach and drew from the findings of a broader doctoral study. It evaluates the efficacy of current South African anti-trafficking legislation in the fight against human trafficking in the country. Findings indicate, among others, that anti-trafficking legislation is at best a stop-gap strategy in combating the crime, and not all-encompassing. It concludes that an effective response to human trafficking transcends the enactment of laws. Moreover, laws do not thrive in a vacuum, but rely on a range of factors, particularly the political will to address the underlying causes of a crime, and effective law enforcement capacity.

Keywords

human trafficking, legislation, combating, South Africa

Introduction

As a signatory to the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, hereafter referred to as the Palermo Protocol, South Africa is obliged to domesticate part of the provisions of this treaty (Mollema, 2013). Eventually, in 2013, the first inclusive law that criminalizes human trafficking in South Africa, namely the Prevention and Combating of Trafficking in Persons (PACOTIP) Act, No. 7 of 2013, was enacted. Conceivably, there is an assumption that this law will help criminalize trafficking, strengthen law enforcement capacity to combat the crime, as well as to deter existing and potential criminals from engaging in the illicit trade. Unfortunately, the enactment and enforcement of this law have not significantly stemmed the tide (United States [U.S.] Department of State, 2017). In relative terms, since the passage of the anti-trafficking legislation, only a few arrests have been successfully made (U.S. Department of State, 2016), and even where arrests were made, prosecution and conviction rates are marginal in comparison to the volume of reported cases (U.S. Department of State, 2016).

Studies have shown that human trafficking is prevalent in South Africa (Bello, 2015; Buthelezi, 2015; Emser & Francis, 2017; Van der Watt, 2018a; Van der Westhuizen, 2015).

Unfortunately, the accuracy of several contentions on the prevalence of trafficking in the country is difficult to validate due to the sketchiness of available data (Allais, 2013; International Labour Organization, 2012). Statistics provided by international organizations are occasionally criticized for issues of overestimation and faulty research instrumentation (Africa Check, 2013; Gould et al., 2010; Human Sciences Research Council [HSRC], 2010). There are also discrepancies in institutional statistics on the crime (Allais, 2013; Gozdziak & Collett, 2005). Human trafficking figures are sporadically integrated into the data of other analogous crimes, such as prostitution, sexual assaults or rape, and illegal migration, among other associated offenses, in certified police archives (Allais, 2013).

Human trafficking is a national security problem and poses a threat to human lives and states’ internal security (Farrell & Kane, 2019). Regardless of whether there is
movement or not, trafficked victims, particularly female children and women, are often molested, raped, and tortured (Aronowitz, 2009; Mollema, 2013). While some of the victims pass away in the process from brutalization, starvation, and exhaustion, several others who struggle to endure the hardship are usually not relieved of the trauma for a seemingly endless time (Bello & Olutola, 2018; Farrell & Fahy, 2009; Mollema, 2013). Also, rescued victims are sometimes not adequately supported due to insufficient understanding of their needs by service providers (HSRC, 2010; Mollema, 2013). It suffices to say that these experiences are bothersome and disconcerting and therefore require urgent intervention.

Against this background, the challenge before the South African government (although debatable) is not really about the potency of the legislation that was introduced to criminalize trafficking; rather, it is about finding an effective strategy to combat the crime. Unfortunately, contemporary counter-trafficking approaches adopted in the country oscillate between the comprehensive anti-trafficking law and restrictive migration policies. Regrettably, these measures have not been effective. Rather, they have provided incentives to traffickers to re-strategize and explore other exploitative opportunities offered by existing crises within the country’s political, socioeconomic and cultural context to expand their business operations (Van der Watt, 2018b). Such dilemma prompted this pertinent question: Why has it been challenging for South Africa to combat trafficking in persons in recent times despite the anti-trafficking legislation put in place to address it?

From a sample of 30 participants drawn from criminal justice institutions and non-governmental organizations (NGOs), this article assesses the effectiveness of current anti-trafficking legislation in South Africa. It is drawn from the findings of a broader doctoral study that examined human trafficking and the response of the South African criminal justice system (see Bello, 2015). It also critiques the Palermo Protocol and the comprehensive South African anti-trafficking law, and proposes pragmatic procedures for a durable result. Specifically, it assesses the appropriateness of combating human trafficking in the country using the current anti-trafficking legislation. It is envisaged that this article will contribute to counter-trafficking reforms in South Africa, and to the existing body of knowledge on criminal justice response to human trafficking.

**Human Trafficking and Legal Frameworks: A Conceptual Framework**

Human trafficking is not a new phenomenon in South Africa (Allais, 2013; Mollema, 2013). Although it has a long history, but it cannot be explicated outside the broader context of human slavery practices that flourished in ancient Southern Africa between the 17th and 18th centuries. In retrospect, human trafficking in Southern Africa took the form of human slavery in which people were commodified, auctioned and sold in exchange for money and other material benefits (Martens et al., 2003).

While practices akin to slavery thrived in Southern Africa between the 16th and 17th centuries, but there was no distinctive documentation of human trafficking in South Africa at that time. The first widely documented incidence of human trafficking in South Africa took place in 1810, shortly before human slavery was abolished. It was a case of a South African lady—Saartjie Baartman—a 21-year-old domestic servant—who consented to travel to London with Dr William Dunlop, and later France, in search for greener pastures. After arriving in London, she was viciously violated and exploited, to the extent of being exhibited in the nude before crowds in London who paid one shilling per person to “gawk at the Hottentot Venus from Africa” (Bello, 2015, p. 67; Martens et al., 2003, p. 5; Mollema, 2013, p. 382).

In order to make ends meet and survive in the face of cultural and linguistic barrier, she recourse to prostitution. She later died in the process—6 years after leaving the shores of Cape Town. Martens et al. (2003, p. 5) indicate that “her body was dissected, her skeleton was removed, and her brain and genitals were pickled and displayed as curiosities in the Musée de l’Homme in Paris for the next 160 years.” This chronicle is a microcosm of the ordeal that most trafficked victims experienced in the hands of ruthless traffickers. Although human trafficking differs from human slavery, it encloses some “structural practices” that are comparable to slavery (Bello, 2015, p. 68).

The effects of human trafficking on human lives and society have attracted unprecedented attention, and spurred efforts at combating the crime. These efforts are evident in the development of a variety of regulatory frameworks at the international, regional, and national levels. International legal frameworks on human trafficking began in the 20th century with the introduction of two instruments: (1) International Agreement for the Suppression of the White Slave Traffic 1904 and (2) International Convention for the Suppression of the White Slave Traffic 1910. These instruments were adopted in response to the growing sale of women for prostitution in Europe (Demleitner, 2000; Obokata, 2019, p. 167). However, despite their significance, they were limited on racial, gender, and geographical grounds. Their scope was also limited to sexual exploitation of white girls and women in Europe; it excluded women of other racial or ethnic coloration, as well as men.

Two treaties were adopted following the League of nations at the 1919 Paris Peace Conference: (1) the International Convention for the Suppression of the Traffic in Women and Children 1921 and (2) the International Convention for the Suppression of the Traffic in Women of Full Age 1933. Unlike the previous treaties, the scope of the 1921 and 1933 Conventions was extended to women of all
race and ethnicities, as well as both male and female children, but the latter only applied to adult women (Obokata, 2019). The treaties also made provisions for the criminalization of human trafficking. However, they failed to address the exploitative end of sexual exploitation, which is prostitution (Obokata, 2019). Although these treaties made significant human rights and criminal justice contribution to the fight against human trafficking at the international level, but they fail to provide explicit definition of what traffic in human beings really is. Moreover, their applications were also limited to European countries.

Twenty first (21st) century ushered in the adoption of UN Convention Against Transnational Organized Crime (UNTOC), and the Trafficking Protocol (i.e., the Palermo Protocol). The adoption was shaped by an understanding of the transnational nature of trafficking and its broader impacts on the international community. Notably, unlike the previous treaties, the Palermo Protocol provides the first comprehensive and internationally acceptable definition of human trafficking (see Article 3(a) of the Palermo Protocol).

In addition, the protocol is the first international treaty to recognize poverty as a significant contributing factor to trafficking, and emphasized the need for member states to adopt measures at discouraging the demand side of trafficking. It also attempted to address human trafficking from both criminal law approach and human-rights approach. It has no restriction on the basis of race, gender and age, but pays specific focus on trafficking of women and children. The scope of its applicability is also restricted to transnational crimes, and covers all aspect of exploitations associated with trafficking.

There are other notable instruments introduced to combat human trafficking indirectly at the international level. They include: International Labour Organisation Convention on Forced Labour No. 29 of 1930, The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, the Convention on the Rights of the Child (CRC) 1989, to mention a few. At the African Continental level, notable instruments introduced include: The African Charter on Human and Peoples Rights of 1981 and its Protocol relating to the Rights of Women 2002; and the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children of 2006, among others.

At the African regional level, the regulatory frameworks introduced include: ECOWAS Plan of Action against Trafficking in Persons in West Africa, the EAC Anti-Trafficking in Persons Act in East African Community (EAC), the 10 Year Development Plan of Action on Combating Trafficking in Person, especially women and children in Southern Africa, the ECCAS Human Trafficking Protocol in Central African States (ECCAS), and the Horn of Africa Initiative on Human Trafficking and Migrant Smuggling in the Horn of Africa.

In South Africa, common and statutory laws were used in the past to prosecute human trafficking offenses. Notable ones include: the Sexual Offenses and Related Matters Act 32 of 2007, and the Children’s Act 38 of 2005. The key provisions of these Acts amongst others, are the protection of children, prevention of maltreatment, or abandonment of children (as contained in Section 50 of the Children’s Act 38 of 2005 for instance), and the protection of children. However, the prosecution of some of the offenses under the Act(s) was problematic because no provision was made for the definition of some of the offenses. Although sexual exploitation was described, but these Acts fail to prescribe specific penalties for the crime (Hoctor et al., 1997; Mollema, 2013). This makes the prosecution of some of the offenses under these Act(s) somewhat problematic.

Although human trafficking violates the fundamental human rights of victims of the crime as enshrined in the International Bill of Rights, and the 1996 Constitution of the Republic of South Africa, but the affected rights violations are limited in terms of Section 36 of the Constitution of South Africa. It provides that such violations should “reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors…” (South Africa, 1996, p. 1261). Regrettably, there is no absolute standard that can be used to determine the factor of “reasonability and necessity” (see Makwanyare, 1995 cited in Mollema, 2013, p. 503). Although not directly provided, but human trafficking dehumanizes and degrades victims through exploitation.

A comprehensive anti-trafficking legislation—that is The Prevention and Combating of Trafficking in Persons (PACOTIP) Act was introduced in South Africa in 2013. Section 4(1), chapter 2 of the PACOTIP Act, provides for a robust definition of human trafficking, by incorporating some factors in the Palermo Protocol and those applicable to the local context. The PACOTIP Act also serves as a framework for criminal justice response to human trafficking in South Africa. A critique of the PACOTIP and the Palermo is considered later in this article.

Although the main focus of the above-mentioned instruments is the interception of trafficking, hardly have they resulted in the reduction of the crime. Rather, there are overwhelming evidences to validate that trafficking is still increasing in different regions of the world. This may be credited to the weakness or ineffectiveness of existing counter-trafficking approaches in many countries, and South Africa is no exception (Chuang, 2006; Mollema, 2013). Whilst such discrepancy may impede state efforts at combating human trafficking, a groundswell of concern hinges on poor or weak law enforcement capacity to combat the scourge (Bello & Olutola, 2018; Chuang, 2006; Mollema, 2013).

In addition, legal approaches to combating human trafficking suggest a deep reluctance to address the socio-economic and cultural factors that accentuate this crime (Chuang, 2006). In this article, human trafficking is considered as a complex socio-economic phenomenon. We contend that
Human trafficking is not just a cross-border crime or an issue of migration, but a complex phenomenon that sprout from a country’s milieu. Notably, across the globe, and in South Africa, most trafficked victims are women and children—usually of low socio-economic status (HSRC, 2010; Mollema, 2013; Bello, 2019). Although this fact has been highlighted in socio-criminological research on trafficking, a heavy cloak of silence masks its pertinency.

**A Synopsis of Human Trafficking in South Africa**

Human trafficking is not new in South Africa. It is essentially a socio-economic phenomenon that may be connected with the country’s age-old racial and structural disparities (Mollema, 2013). However, it has taken on shocking dimensions in recent decades (HSRC, 2010; Mollema, 2013). For years, South Africa has remained a source, transit, and destination country for men, women, and children, trafficked for various forms of exploitation (U.S. Department of State, 2017).

The extent of exploitation in human trafficking in South Africa is far-reaching (Emser & Francis, 2017; Walker & Oliveira, 2015). It encompasses and sometimes transcends sexual- and labor-related exploitations (U.S. Department of State, 2017). Surprisingly, the overwhelming documentation and research on the menace in the country have excessively focused on trafficking for sexual exploitation (Ellrod, 2015; Emser & Francis, 2017; Frankel, 2016; Gould, 2014; Van der Watt, 2018a). Moreover, botheration over the problem of immigration and sexual exploitations has made the state overlook less sensational facets of labor exploitation that also fall under the anti-trafficking canopy (Africa Check, 2013; Farrell & Kane, 2019; Walker & Oliveira, 2015, p. 130). This lacuna is amplified by increasing sensationalized media reports on the sexual dimension of the crime (Chiumia & Wilkinson, 2013). Such over-sensationalized media reporting, coupled with entrenched frustrations over unemployment and poverty, has sporadically fueled public resentments and xenophobic violence against foreign nationals in some parts of the country (Van der Watt, 2018b; Walker & Oliveira, 2015).

Trafficking in South Africa has both external and internal dimensions (HSRC, 2010). Concisely, the internal dimensions involve the recruitment and transportation of persons, especially children and women in the country—from the remote rural communities to cities—for the purpose of exploitation (Mollema, 2013). While most girls and women work as domestic servants in wealthy homes, prostitutes, or strippers, the majority of boys and men serve as street urchins, to mention a few (U.S. Department of State, 2016). External dimensions involve the recruitment and transportation of persons from other countries into South Africa for the purpose of exploitation. Many foreign nationals—both documented and undocumented, particularly from the Southern African Development Community (SADC)—are trafficked into South Africa for various forms of exploitation (U.S. Department of State, 2017). While women and girls are trafficked for sexual exploitations, young boys and men are trafficked for labor-related services in mining, agricultural, construction, and other labor-related industries (U.S. Department of State, 2017).

Beyond media portrayals and over-sensationalized reports on the crime, trafficking business in the country is operated by both South African and foreign crime syndicates (U.S. Department of State, 2017; Van der Watt, 2018b). While syndicates of West African, European, and Asian extraction dominate the commercial sex and other sexual-related exploitation in some parts of the country, local South African crime syndicates are involved in both labor- and sexual-related exploitation (U.S. Department of State, 2016). Through these crime networks, South African women have been trafficked to Europe and the Middle East, where they are forced into prostitution and domestic servitude (U.S. Department of State, 2016; Van der Watt, 2018b).

Human trafficking is complex, and it is intertwined with other illicit crimes such as drug trafficking and cybercrime. The growth of trafficking is exacerbated by the increasing use of the Dark Web and cryptomarkets (Bartsch, 2019). The proliferation of the Internet and social media has not only engendered widespread abuse, but also solidifies gender-based crimes, including human trafficking (Bartsch, 2019; Miller, 2013). The Dark Web is a network of concealed websites where illegal merchandise, such as child pornography, weapons, and drugs, are sold (Bartsch, 2019, p. 2). Additionally, identity theft, murder for hire, and other illegal services are rendered or perpetrated through these sites (Bartsch, 2019; PC Magazine, 2015). Traffickers have successfully made profit from this illicit crime by exploiting the Dark Web and cryptomarkets. Payments for illicit transactions can now be electronically transmitted (cryptocurrency) between parties without any intermediary with the aid of cryptographic security (Barnett, 2016). Transactions are also easy since there is no sole or central authority that manages the system (Barratt & Aldridge, 2016). As an unregulated market, users are anonymous, which makes it very difficult, if not impossible, to track the identity of the criminals behind the crime (Berghel, 2017).

**Factors Promoting Human Trafficking in South Africa**

Since trafficking is preponderantly sexual cum labor-related exploitation, state’s response has profoundly been to prosecute traffickers, and to protect trafficked victims—albeit to a lesser degree (Emser, 2013). Trafficking is a multifaceted phenomenon that is fueled by widespread socio-economic problems in the society (Bermudez, 2008; Mollema, 2013).
Arguably, these problems form the root causes of the crime, and unless these factors and their nuances are understood and addressed, countertrafficking responses will continually fail. Liebermann and Landman (2000, p. 4) shared similar sentiments that for crime to be combated, the root causes must be known and addressed.

The assumption that most victims are usually trafficked from poor to wealthier societies often misleads researchers and policymakers into focusing almost exclusively on poverty in anti-trafficking efforts (Mollema, 2013, p. 75). Whereas, in actual fact, poverty only provides the bait for people to be trafficked, while the socio-economic environment that promotes trafficking is broader. Scholars have explained it under push and pull factors (Delport et al., 2007; Mollema, 2013; United Nations Office on Drugs and Crime [UNODC], 2006). While the push factors compel or induce movement or migration, the pull factors attract migration. The push factors encapsulate the conditions or situations that compel people to leave their homes, region, or country for another, in search of a better life or greener pastures. These factors include unemployment, poverty, lack of education, the breakdown of social and family structures, natural disasters, humanitarian crises, armed conflicts, and public or private corruption, among others (Mollema, 2013; UNODC, 2006).

The pull factors comprise the demand for cheap labor, improved communication and transportation systems, and high demand for paid sex in destination countries, to mention a few. Notably, these factors can be categorized into socio-cultural and economic factors. They are also contextually associated with the dynamism of trafficking in South Africa.

### The Political Economy of Human Trafficking in Post-Apartheid South Africa

Theoretically, political economy rests on the understanding of power relations, commonly compose of the production, distribution, and consumption of resources. It is “the science of wealth, and deals with efforts made by man to supply wants and satisfy desires” (Eatwell et al., 1987, p. 907).

The end of apartheid system of racial segregation and oppression in the early 1990s, and the emergence of democracy in 1994, thrust South Africa into a thrilling new political era. This period was accompanied by the introduction of some radical redistributive fiscal policies, and intervention programs, geared toward redressing the socio-economic injustices of the past. These changes brought into fruition policies, such as the Growth, Employment and Redistribution (GEAR), and Reconstruction and Development Programme (RDP). The Black Economic Empowerment (BEE) was also introduced to redistribute wealth by creating viable opportunities for the employment and socio-economic empowerment of the disadvantaged black South Africans (see Schneider, 2018). The new dispensation also engendered steady economic growth in the country’s Gross Domestic Products (GDP). In fact, until recently, South Africa had the largest economy in Africa (BBC Business News, 2014). The conspicuous economic growth and advanced infrastructural development made the country a major economic hub in Africa. The informal sector also experienced rapid growth in trade and investments, resulting in increasing demand for labor.

South Africa has also been a major economic hub within an established system of mobility in the SADC region (Misago, 2017). Although conflicts in most part of the SADC region have technically ended, and relative peace restored due to democracy, yet tensions, political instability, gender and economic inequalities have continued to flourish (Britton & Dean, 2014). These conditions have intensified and somewhat shape the migration patterns from SADC to South Africa in post-apartheid era. While most of the migrants are from SADC and other African countries in search for greener pastures, there are also growing records of immigrants from Asia and Eastern Europe who are seeking better socio-economic prospects in South Africa.

Despite the above enthralling politico-economic profile, South Africa still face precipitous horizontal and vertical developmental challenges, particularly poverty and inequality, and how to mitigate the economic dominance of the few conglomerates (Riback, 2018). Recent statistics have shown that since 2011, poverty level has begun to rise in post-apartheid South Africa (Francis & Webster, 2019; Statistics South Africa, 2017). While momentous economic disparity continues to thrive, gender inequality, and violence at the national, regional, community, and household levels have also worsened in recent times (Britton & Dean, 2014, p. 306). These problems have sporadically created tensions, and propelled public resentments and protests across the country. These circumstances have often been alluded to create enabling environment for human trafficking to thrive (Chuang, 2006; Mollema, 2013). Therefore, beyond the disorder created by urbanization, migration and global capitalism, the post-apartheid policy of South Africa (among other things) seeks to address inequalities, poverty and unemployment. Passably, when these conditions are addressed, the artificial structures created by traffickers to deceive and recruit people into trafficking will be dismantled. Policy frameworks that renege on these factors will likely be counterproductive.

Although laws that indirectly deal with human trafficking exist and are scattered in the country’s statutory and common laws, but they are somewhat selective and do not cover several aspects of the crime. These laws also do not consider the conditions that allow trafficking to thrive. However, the emergence of democracy in South Africa not only give impetus to the fight against human trafficking by bringing into fruition a comprehensive law that criminalizes several aspects of the crime, it also sets in motion measures to prevent the menace, and protect trafficked victims.
Institutional frameworks were also established by criminal justice institutions to combat the crime. Specifically, an Intersectoral Task Team was established under the Sexual Offenses and Community Affairs Units (SOCOA) of the National Prosecution Authority (NPA) in 2003 (HSRC, 2010). SOCOA also established eight Thuthuzela centers to assist victims of sexual violence (UNESCO, 2007).

In March 2009, the NPA also introduced the Tsireledzani program—a victim-focused approach to combating human trafficking in South Africa (HSRC, 2010). The SAPS also set up a Human Trafficking Desk (HTD) under the Organized Crime Unit (OCU), to combat human trafficking. Additionally, the country also launched the Prevention and Combating of Trafficking in Persons National Policy Framework (NPF), which seeks to ensure state departments and other relevant stakeholders from civil society are collectively guided in the implementation of anti-trafficking responses.

Regrettably, the implementation of some of these policies and tactics have been very weak and somewhat problematic, thereby rendering existing countertrafficking governance system in South Africa ineffective (Emser & Francis, 2017). The entrenched traditional bureaucratic system of hierarchical centralized authority and decision-making have often bottlenecked the efforts of state agencies in countertrafficking campaigns (Emser & Francis, 2017). Such encumbrances have not only given rise to poor coordination and cooperation among countertrafficking governance structures, but also made the dissemination and flow of information at the provincial and national levels problematic (Emser & Francis, 2017). Additionally, the proximate and structural factors that concomitantly entrench human trafficking within a gamut of exploitation persist, and have remained unresolved (Cameron & Newman, 2008; Emser & Francis, 2017).

Furthermore, given the cross-border nature of human trafficking and its domino effect on other states within the SADC region, countertrafficking governance in South Africa may not thrive in isolation from these countries. Although SADC was formed primarily for economic cooperation and regional integration, the precariousness of trafficking, and its concomitant impact on regional integration and security in the region, engendered the convergence of states within the region to address the menace. This cooperation led to the development of policy frameworks and initiatives at combating human trafficking at the SADC region. One notable policy framework developed at the SADC region to combat human trafficking is 10 Year Development Plan of Action on Combating Trafficking in Person, especially women and children (2009–2019).

It follows from the above that if any countertrafficking approach is to be effective, the impact of the country’s political economy needs to be considered. Although anti-trafficking legislation will have significant impact in the fight against the crime, we contend that such measure alone will not suffice. In other words, effective response to crime is contingent on the capacity of the state to consider and address the factors with the country’s political and economic milieu that promote trafficking in South Africa.

The Palermo Protocol and the PACOTIP

Subsequent to the framing of human trafficking as a serious crime that threatens national sovereignty, it became an issue of concern for states’ policymakers (Charnysh et al., 2015; Farrell & Fahy, 2009). Such concerns engendered the embracement of the Palermo Protocol by politically distinct countries, including South Africa. The Palermo Protocol came into force on 25 December 2003 and was ratified by South Africa on 20 February 2004 (Mollema, 2013). Incessant reports on the spate of the crime by local and international media, political, and academic, and pressure from the South African Law Reform Commission engendered the enactment of the PACOTIP Act and its implementation in 2015.

These standards (i.e., the Palermo Protocol and the PACOTIP Act) signaled a significant transition into modern drive against present-day slavery. Remarkably, the Palermo Protocol offered much illumination—but also some confusion—about human trafficking, particularly its transnational scope (U.S. Department of State, 2019). Although broad consensus holds that human trafficking is committed by transnational organized groups, recent studies have shown contrasting evidence of ordinary people complicit in the crime, such as victims’ parents, relatives, and acquaintances, among others (see Farrell & Kane, 2019). This, in part, provides an explanation for the recent increase in internal trafficking.

Arguably, these two legal standards offer a robust definition of human trafficking, and also provide insights into its complexities, dynamisms, and the means adopted by traffickers to commit the crime (U.S. Department of State, 2019), at the international and national level, respectively. However, while the Palermo Protocol adopts a three-pronged approach to trafficking, known as the “3 Ps,” the PACOTIP Act adopts a four-pronged countertrafficking strategy, that is, the “4 Ps.” While the Palermo Protocol proposes (1) the criminalization and (P) prosecution of trafficking, (2) the introduction of trafficking (P) prevention programs, and (3) securing (P) protection for victims of trafficking, the PACOTIP Act includes (P) partnership as the fourth paradigm (see Emser, 2013; Emser & Francis, 2017).

Furthermore, the Palermo Protocol offered the platform upon which state governments could develop policies to criminalize trafficking and promote cooperation among countries (U.S. Department of State, 2019). Although South Africa has adopted and enacted parts of its provisions, the focus has mostly been on the criminalization of trafficking (Ross, 2014). Less support or assistance and protection are given to trafficked victims (Ross, 2014). Over the years, service providers like shelters (NGOs), have shouled the
findings have shown that exploitation under trafficking is
ual, labor, and organ trafficking, whereas previous and recent
protocol also limits the exploitation under trafficking to sex-
the protocol fails to define what constitutes exploitation. The
recognized as the main purpose of trafficking. Unfortunately,
ing legislation is explicit, yet not adequate enough to address
nited unsuccessful prosecutions. With the establishment of
may also result in work-overload, or an overburdening of
these institutions. Moreover, despite its criminalization, traf-
ins and probes, and prosecution of trafficking (see Van der Watt, 2018b). Unlike the
dominant resonance preceding the enactment of this law, where trafficking offenses are subsumed or considered as
by other criminal offenses, the robustness of the
definition of trafficking in persons as contained in the
PACOTIP will foster effective investigation and prosecution of human trafficking offenses.

Despite the enactment of a comprehensive anti-trafficking
legislation, studies have shown that most frontline law
forcement officials do not have adequate knowledge of trafficking and its complications (Farrell & Kane, 2019;
HSRC, 2010; Van der Watt, 2018b). For instance, there are
also occasions where victims of trafficking for sexual exploi-
tation have been arrested for prostitution and were not recog-
nized as victims of trafficking (Farrell & Kane, 2019; Van
der Watt, 2018a). Arguably, the South African anti-trafficking
legislation is explicit, yet not adequate enough to address
the various facets of the crime. This discrepancy is shaped by
the complexity of trafficking and its interactions with a vari-
ety of contextual (i.e., socio-economic and cultural) and
dynamic (demand and supply) factors (Van der Watt & Van
der Westhuizen, 2017).

The scope of the protocol is also restricted to transnational
trafficking, whereas trafficking has both national and trans-
national dimensions (see U.S. Department of State, 2017).
On its part, the PACOTIP Act focuses on both national and
international trafficking (South Africa, 2013). Exploitation is
recognized as the main purpose of trafficking. Unfortunately,
the protocol fails to define what constitutes exploitation. The
protocol also limits the exploitation under trafficking to sex-
ual, labor, and organ trafficking, whereas previous and recent
findings have shown that exploitation under trafficking is
beyond these three constructs. In fact, studies have indicated
that people are also trafficked for ritual purposes (Bello,
2015; Mollema, 2013).

Additionally, although the Palermo Protocol and the
PACOTIP Act share similar sentiments in terms of definition,
another key difference is that the PACOTIP Act extends
the trafficking definition to include illegal child adoption and
forced marriage (Palmary & De Gruchy, 2016, p. 16). Also,
while the Palermo Protocol and the PACOTIP Act both
addresses trafficking for labor, organ removal, and sexual
exploitation, the focus of both instruments has preponder-
antly been on trafficking for sexual exploitation (Palmary &
De Gruchy, 2016, p. 16). This is palpable in the perennial use
of images of naked and chained young women in anti-
trafficking awareness campaigns (Palmary & De Gruchy,
2016, pp. 16–17).

In terms of regulating the PACOTIP Act, Chapter 44(2)
itemizes bureaucratic tasks assigned to different state depart-
ments to fight trafficking. While such efforts may engender
synergy among state departments in combating trafficking, it
may also result in work-overload, or an overburdening of
these institutions. Moreover, despite its criminalization, traf-
cking in persons seems to be underreported (albeit glob-
ally). This is reflected in the wide disparity between cases
reported, investigated, and prosecuted (U.S. Department of
State, 2017). The UNODC (2016) reported that only a quar-
ter of persons investigated for trafficking are convicted
(Farrell & Kane, 2019). Although the police play a vital role
in the fight against trafficking, they still face significant chal-
lenges in the enforcement of anti-trafficking laws (Bello &
Olutola, 2018). These challenges include, but are not limited
to, confusion about trafficking legislation and definition,
training gaps, and corruption, to mention a few (Farrell &
Kane, 2019, p. 5).

Indisputably, an effective law enforcement approach to
combating a crime of this magnitude requires the creation of
a specialized law enforcement agency for countertrafficking
operations (Bello & Olutola, 2018; Farrell & Kane, 2019;
Bello, 2019). Such an agency will help facilitate effective
investigation of human trafficking cases and provide ade-
quate evidence to the prosecution for the successful prosecu-
tion of trafficking offenses. This will help to bridge the
current gap in countertrafficking operations where shoddy
investigations by law enforcement institutions have oc-
casioned unsuccessful prosecutions. With the establishment of
such an agency, situations or instances where current law
forcement officials sometimes find it very difficult to dis-
tinguish between trafficking and other comparable crimes
such as smuggling or illegal migration, or between traffick-
ers and smugglers, or trafficked-victims, illegal migrants,
and prostitutes (or sex workers) will be eliminated.

Although South Africa has enacted the PACOTIP Act to
address human trafficking in its entirety, trafficking still
flourishes (U.S. Department of State, 2019). This suggests
that overreliance on the law in the fight against human
trafficking will not suffice, and may be counterproductive. Lending credence to this, the Trafficking in Persons Report (U.S. Department of State, 2019, p. 6) argues that the “law alone can do little to end human trafficking. Translating legislation into meaningful action demands dedication, focus, and resources and requires that those implementing it truly understand both the underlying letter and the spirit of the law.” Contextually, Mollema (2014, p. 262) stated that although the South African legal response to human trafficking is robust from the criminal justice standpoint, the menace “cannot be solved by legislation alone.” To this end, De Toni and Comello (2010, p. 26) rightly contended that “nothing happens in isolation and nothing can be understood in isolation,” since social phenomena are complex and intertwined (also see Van der Watt & Van der Westhuizen, 2017, p. 220; Van der Westhuizen, 2015).

Regardless of their similarities and contradictions, particularly in terms of international cooperation and assistance, the implementation of these laws has been particularly problematic (Bello & Olutola, 2018; Farrell & Kane, 2019). Arguably, most anti-trafficking legislation often fail to consider in detail the root causes and consequences of human trafficking. As a complex phenomenon with interlocking factors and forces, states’ overreliance on the law to fight trafficking may not produce an enduring outcome. Additionally, there are gaps in regional and continental cooperation. Most of the perennial crises that engulf continents and threaten several regions of the world, such as occasional ethno-religious conflicts, insurgency, terrorism, and a range of other socio-political crises, are among the major factors that undermine effective regional and continental efforts (cooperation and coordination) to combat the scourge of human trafficking in several regions of the world (Charnysh et al., 2015; Farrell & Fahy, 2009; Farrell & Kane, 2019).

**Data and Methods**

Data for this study were collected through semi-structured interviews with participants in the Limpopo province of South Africa. This article is drawn from the findings of the first author’s broader doctoral research. The choice of Limpopo province as the research site for this study was sound. Unlike other provinces of South Africa, Limpopo province is bordered by three SADC countries—Zimbabwe, Botswana, and Mozambique. Studies have reported inconstant irregular movement of people into South Africa through this axis, owing to the porous nature of these borders (HSRC, 2010; International Organization for Migration, 2010). Spectrums of other illegal activities and cross-border crimes such as carjacking, smuggling, and drug trafficking thrive around these borders. These indices made Limpopo province an appropriate site for this study. It also implies that the nature of trafficking in Limpopo may be different and more diverse than in other provinces, and that it has more links to international trafficking and other auxiliary cross-border crimes, such as drug trafficking, smuggling, and carjacking, to mention a few.

Purposive sampling was adopted in selecting participants for this study. Specifically, 30 participants were drawn from the South African Police Service (SAPS), the National Prosecution Authority (NPA), the Court, the Department of Home Affairs (DHA), and NGOs with a countertrafficking mission. These stakeholders were considered due to the authors’ awareness of experts within these institutions and NGOs that can provide valuable information in relation to the study’s research question. Moreover, the participants were essentially senior officers/officials of their respective state institutions with a minimum of 7 years’ work experience at the time the study was conducted. The participants are comprised of 15 senior officers drawn from the Organized Crime Unit of the SAPS, eight senior officers of the DHA drawn from the passport and immigration units, three senior prosecutors drawn from the NPA, one magistrate from the Limpopo High Court, and three officials from an NGO.

While the questions posed to the participants during the interview for the broader study were selective in relation to each institutional focus, those used for this article are generic. The goal was to evaluate the effectiveness of current counter-trafficking standards in combating the trafficking of persons in the country. Face-to-face interviews were conducted with participants, with the aid of a voice recorder, and each interview lasted approximately 50 minutes. The kind of questions posed to the participants revolved around the efficacy of anti-trafficking law, the efficiency of counter-trafficking mechanisms, and the effectiveness of law enforcement response to the crime.

In addition to institutional authorization to conduct the interview, authorization was also secured from each participant before the recorded interviews were conducted. Only two of the participants objected to the voice recording (but allowed note taking), citing confidential reasons. Before informed consent forms were signed and the interview commenced, the first author (principal researcher) conveyed the study objectives to the participants and carefully explained the ethical guidelines for the study. Additionally, the study was conducted in accordance with the Tshwane University of Technology’s stipulated ethical guidelines for conducting research, which are informed consent, confidentiality, and avoidance of harm, among other criteria.

**Data Analysis**

Thematic content analysis was adopted in building both conceptual and theoretical frameworks from the semi-structured interview data (see Recknor et al., 2018, p. 217). An iterative process was systematically utilized to scrutinize fieldnotes and interview transcripts. This was done to refine codes and to organize the categories into emerging themes. A thorough
examination of the thematic data was conducted to improve validity. While the interviews were analyzed by the first author, the co-author reviewed and critiqued the analysis to ensure its rigor, as well as to limit the potential for confirmation bias (see Recknor et al., 2018, p. 217).

The evolving themes from the analysis are addressed in this article. Appositely, although the participants acknowledged the usefulness of the South African anti-trafficking legislation (the PACOTIP Act) as a tool to combat human trafficking, the use of legislation was, however, considered an ineffective strategy in the fight against the scourge. The participants attributed this to many factors, such as legal concerns, enforcement and training gaps, certain state commitments, constraints of governance, socio-economic and cultural contexts, and the implementation of the South African anti-trafficking law. These themes are discussed in detail in the next section.

Results

Human Trafficking Knowledge and Understanding

A major determinant for the low and ineffective response to human trafficking as alluded to by many participants was limited knowledge and understanding of human trafficking (Interviews 12, August 10, 2015; 7, August 10, 2015; 11, August 10, 2015). Except for a few, most of the participants could not really define or explain what human trafficking really is, and what it entails. Rather, it was sporadically conflated with prostitution, human smuggling, and illegal migrants, without being able to distinctively differentiate between the concepts. Some of the participants, who were criminal justice officials and active role players in the fight against human trafficking, said the following:

Many role players and frontline officers, although aware of the prevalence of human trafficking in the country, do not have adequate knowledge and understanding of it. Sometimes traffickers disguise as illegal migrants or smugglers and are treated as such. And because they cannot properly differentiate between these crimes, the clever ones among the traffickers have been able to maneuver interrogations and sometimes arrested for wrong offenses (Interview 13, August 10, 2015).

For me, I think the law did not explicitly differentiate between human trafficking, smuggling, and illegal migrants, also between prostitution and sex work. So, it becomes very difficult sometimes for law enforcement officials to assist victims, or arrest offenders for the right offense (Interview 11, August 10, 2015).

While citing legal concerns about the crime, many participants indicated that there is a need for policymakers (in conjunction with all relevant stakeholders) to clarify the nature of exploitation that is associated with human trafficking for a clearer understanding of the crime and the provisions of the law. Additionally, many participants emphasized the need for the government to reproduce the PACOTIP Act in large quantities, and distribute copies to several parts of the country, particularly to police stations, various points of entry, courts, restaurants, hotels, and schools, among others, for adequate awareness and understanding of the crime. Underscoring this, one of the participants, who is an NGO official, said:

One of the many constraints to countertrafficking governance in the country today is the low level of awareness of this crime, even among role payers. In our outreaches as an organization, you will be surprised to discover that many law enforcement officials have not even seen the anti-trafficking Act, talk less of reading it. The same is applicable to other role players. Young ladies and children—who are students and who also belong to the vulnerable group—have not also seen the law or comprehensively understand what human trafficking is truly about (Interview 11, August 10, 2015).

In sum, criminal justice officials and other participants in the study recognized role players’ lack of adequate knowledge and understanding of human trafficking as one of the reasons for the ineffective response to the crime in the country—particularly traffickers and victims’ identification. Although some had an adequate understanding based on passion and personal endeavors, others need to be adequately informed.

Enforcement and Training

Inconsistent training of frontline law enforcement officials and other service providers was reported by many participants as another factor responsible for the ineffective criminal justice response to trafficking (Interviews 1, August 17, 2015; August 25, 2015; 22, September 5, 2015). Two of the participants, who were senior SAPS and DHA officers, declared:

Training is not adequate. Members of the security cluster do not also honor invitations for workshops and training because there is no motivation. There is no incentive from government for frontline officers who are at risk of being attacked by the criminal elements behind this crime (Interview 23, September 10, 2015).

We are trying our best as law enforcement agencies to fight human trafficking, but you know that law enforcement agencies cannot do it alone. The workload of law enforcement institutions is overwhelming. As a senior officer in the SAPS, I can tell you that the daily workload in many stations is very high, coupled constant distress calls on crime and other public order concerns. So, we are already over-stretched. I am of the view that government should create a specialized agency to enforce PACOTIP Act and oversee the fight against human trafficking in the country (Interview 25, September 14, 2015).
While taking cognizance of the importance of organizing periodic training and workshops for role players or service providers in the fight against trafficking, some participants admitted that although training and workshops were often organized for service providers in collaboration with NGOs, these initiatives were underfunded, and the stress from work overload sometimes prevent members from active and regular participation. Underscoring this, one of the participants reported:

> Although NGOs assist with workshops and trainings, but workload and stress sometimes prevent us from attending regularly (Interview 25, September 25, 2015).

In brief, the participants identified weak enforcement capacity and poor training as potential barriers to both trafficker and trafficked victim identification, and the overall fight against human trafficking. Without effective enforcement and proper training of role players or service providers, anti-trafficking campaigns and legislations become a mere charade, regardless of the legality of the existing anti-trafficking legislation. The problem is compounded by the workload of countertrafficking agencies, as well as the absence of a specialized law enforcement agency to enforce anti-trafficking law.

**State Commitment and the Constraints of Governance**

Another fundamental factor for an effective response to human trafficking that many participants found to have been discarded by the state is commitment to address the root causes of the crime. While many participants admitted that governance is strained by many factors and forces, which might have impacted on their low commitment to fighting human trafficking, if the willingness exists, then impossibility becomes secondary. Key root causes of human trafficking stated by the participants included acute poverty, high levels of unemployment, high levels of inequality, high volumes of illegal migration into the country, porous borders, corruption, and poor service delivery (Interviews 20, September 10, 2015; 7, August 10, 2015; 24, September 5, 2015). Notably, many participants highlighted institutional corruption as a major factor that undermines the efforts of the state to combat human trafficking.

For me, it is misplacement of priorities. Although governance is challenging and complex, but if the government can set its priorities right by addressing the root causes of the crime, such as poverty, unemployment, porous borders, corruption, then things will begin to take shape, and the crime will gradually reduce (Interview 26, September 29, 2015).

Human trafficking is very deep and complex. And just like other organized crimes, people are pushed into these things because they want to survive, and criminal elements are capitalizing on their vulnerability. So, if the government can address the issues that [are] making people become vulnerable, and collaborate with other countries to stop migration issues and poverty, then we will experience a reduction in human trafficking (Interview 21, September 12, 2015).

You see, government is not taking this issue as serious as we expect. If the government is serious about it, what you will see is action, and then human trafficking will become a thing of the past. But you see, corruption is the main problem. Many institutions in the country are corrupt, and the interest of government is more on politics as you saw during election campaigns. Service delivery is challenged, foreigners are everywhere taking our jobs and many South African citizens are suffering due to unemployment and poverty. So, the government can introduce laws to fight human trafficking and any other crime, but if these other issues that I mentioned are not addressed, then we are not yet ready to fight human trafficking (Interview 23, September 17, 2015).

In summary, the participants underscored the reluctance of the state to show strong commitment to address the underlying root causes of human trafficking as one fundamental impediment to the fight against human trafficking in the country. Although governance is challenging, according to one of the role players interviewed, “Victory over the fight against trafficking is realizable where there is will” (Interview 26, September 29, 2015). State response to trafficking becomes effective where there is a deliberate and conscious attempt by the government to address the causative factors of the crime.

**Socio-Economic and Cultural Context, and the Implementation of the Anti-Trafficking Law**

Considering the spate of human trafficking in the country, an effective legal framework, among other responses to the crime, becomes apposite. However, many participants alluded that anti-trafficking legislation cannot thrive in isolation from the broader socio-economic and cultural context of the crime (Interviews 17, August 30, 2015; 19, 26, September 28, 2015; 27, September 28, 2015). The socio-economic and cultural problems that promote human trafficking in South Africa (amongst others) include; high level of illiteracy, poverty, unemployment, and the cultural practice of ukuthwala that involves the abduction of young girls and forcing them into marriage. The participants emphasized that human trafficking emerged from these problems; as such, effective response is beyond the law. They emphasized the need for the state to address these problems. Highlighting this, one of the participants reported:

Anti-human trafficking Act alone cannot be effective because when people commit crime, they could be arrested, prosecuted, and convicted. These can only serve as deterrence, but has that
solved the problem? The socio-economic issues that are responsible for increasing rate of human trafficking need to be addressed too (Interview 23, September 17, 2015).

Another issue identified by the participants was weak implementation of the anti-trafficking law (Interviews 17, August 30, 2015; 19, August 29, 2015). “The law is weak and ineffective without effective implementation” (Interview 29, August 30, 2015). One of the participants echoed:

I think the major problem with trafficking issue in South Africa is weak implementation and enforcement. We have many laws in the country, but how many are adequately implemented, including this anti-trafficking Act? (Interview 30, August 30, 2015).

In conclusion, the participants identified the country’s socio-economic and cultural context and weak implementation of anti-trafficking legislation (i.e., the PACOTIP Act) as instrumental to the failure of the state to effectively combat human trafficking. It was emphasized that special consideration should be given to the socio-economic and cultural context that creates an avenue for vulnerability and consequently the trafficking of people. Such a milieu hampers the successful implementation of the country’s anti-trafficking legislation. The difficulty is compounded by the complexity of the crime and the criminals who dominate the trade in a globalized world.

Discussion

The main purpose of this article was to explore the reasons for the ineffectiveness of the state (through its criminal justice institutions) to combat human trafficking despite the anti-trafficking legislation put in place to address it. Put differently, this study sought to explore the feasibility of fighting human trafficking through the current anti-trafficking law in South Africa. The assessment was conducted through an interview technique, and the findings revealed that the response to human trafficking has not been effective, mainly because an effective response to the crime transcends the enactment of anti-trafficking law. Undeniably, the findings of this study call into radical scrutiny current counter trafficking strategies in the country.

This study found that, with the exception of a few, most frontline officials do not have a sound understanding and knowledge of human trafficking. A sound understanding of human trafficking and its ramifications, especially by stakeholders, is a critical starting point for a well-balanced and effective counter trafficking response (Farrell & Kane, 2019). When frontline law enforcement officers and other relevant role players lack adequate knowledge and understanding of human trafficking, including its complexities, anti-trafficking efforts will be jeopardized. This finding corroborates other studies that poor understanding of human trafficking, especially by key role players, hinders counter trafficking operations and that such ignorance could result in the arrest and detention of trafficked victims (Chuang, 2006; HSRC, 2010; Kruger, 2010; U.S. Department of State, 2019).

We also found lapses in the law enforcement capacity and training of frontline officers as a challenge to the fight against human trafficking in the country. Without effective enforcement, laws simply become “toothless bull dogs that can bark but cannot bite” (Bello & Olutola, 2018, p. 270). Moreover, when an anti-trafficking regulatory framework is strictly enforced, traffickers will be dislodged, and their operations disrupted.

Incorporating counter trafficking operations to the already high workload of law enforcement institution in the country may be counterproductive. The participants therefore suggested the establishment of a specialized counter trafficking agency to drive the enforcement of the anti-trafficking law in the country (see Bello & Olutola, 2018; Farrell & Kane, 2019). For instance, such best practice was introduced in Nigeria to enhance counter trafficking operations, notably with the establishment of the National Agency for Prohibition of Trafficking in Persons (NAPTIP), in collaboration with the international community to combat the menace (see Adesina, 2014; Bello & Olutola, 2018).

Furthermore, regular and consistent training of law enforcement or frontline officers cannot be downplayed if response to trafficking will be durable. Corroborating this, the U.S. Department of State (2019) maintained that trafficking still thrives in several countries due to insufficient training on counter trafficking strategies. When frontline law enforcement officials and other relevant role players in the justice system are not adequately trained on the various facets of trafficking, victim identification becomes problematic, and traffickers will likely operate with impunity (see HSRC, 2010; Van der Watt, 2018b).

Corruption, particularly by law enforcement officials, was also found to be an impediment for an effective response to human trafficking. The study conducted by the HSRC in 2010 lends credence to this position. The HSRC (2010, p. 131) indicated that trafficking has flourished in South Africa due to inadequate training of law enforcement officials and other stakeholders in counter trafficking campaigns and due to institutional corruption.

Combating trafficking will be impracticable through a quick-fix approach. Rather, an effective response to a crime of this nature requires a deep understanding that human trafficking itself is not a once-off occurrence but emerges from a country’s broader political economic and cultural milieu. It suffices to say that a legal approach to combating human trafficking will at best offer temporary relief, not an enduring solution to the crime. Thus, over reliance on the law in the fight against human trafficking may be counterproductive. Previous studies and reports lend credence to this finding (see Mollema, 2013; U.S. Department of State, 2019; Van der Watt & Van der Westhuizen, 2017). For instance, the U.S. Department of State (2019, p. 6) contended that “law alone
can do little to end human trafficking. Translating legislation into meaningful action demands dedication, focus, and resources and requires that those implementing it truly understand both the underlying letter and the spirit of the law.” Mollema (2013, p. 262) also stated that although the South African legal response to human trafficking is robust from the criminal justice standpoint, the menace “cannot be solved by legislation alone.”

Arguably, legal approaches to combating human trafficking were found to be stop-gap strategies, and not all inclusive. Trafficking is a complex and multifaceted crime that emerges from countries’ macro socio-economic and cultural environments. Rather than understanding this intricacy in order to deploy a broad range of countertrafficking mechanisms and resources to address it, state policy architecture has often resorted to the use of restrictive regulatory cum migration policies, and an aggressive criminal justice approach, whereas previous studies point to the ineffectiveness of this profligacy (see Farrell & Kane, 2019; Van der Watt & Van der Westhuizen, 2017). For instance, Van der Watt and Van der Westhuizen (2017, p. 225) indicated that an effective criminal justice response to human trafficking requires a comprehensive understanding of the interconnectedness between the components of the menace and the functioning of the milieu that concretizes it. Summarily, an effective response to human trafficking requires a coordinated approach directed at addressing the root causes of the crime (Mollema, 2013). A diagnosis of the etiological causes of human trafficking will inform an effective response (Chuang, 2006; Farrell & Kane, 2019; Mollema, 2013). To this end, it is fundamental to propose a set of ideas that may inform policymaking in reforming the South African criminal justice response to human trafficking. Moreover, the government should address the perennial socio-economic and cultural challenges facing the country, such as poverty, high levels of unemployment, and high levels of illiteracy, among others.

**Conclusion**

This study explored the feasibility of fighting human trafficking through the current anti-trafficking law in South Africa. While the findings of this study have implications for an effective response to trafficking in South Africa, it is not immune to limitations. Since the study was essentially cross-sectional, it was challenging to draw causal conclusions. A longitudinal study will therefore possibly pave the way for accurate inferences. Notably, in the current study, the views of the participants (who were largely experts and experienced professionals in countertrafficking operations) cannot be discarded because criminal justice institutions in South Africa often share information and are interrelated. Moreover, the article only sought their views on current anti-trafficking legislation.

The current findings lend credence to other related studies on effective countertrafficking approaches, as previously explicated. Specifically, they point to the impropriety of the law and other restrictive migration policies adopted to combat trafficking. If trafficking in persons is to be combated in modern South Africa, then the government needs to address the underlying contextual factors, especially the political, economic and cultural factors that account for the expansion of the trade in the country.

Additionally, comprehensive training that will focus more on victim identification should be organized for frontline officers, who are likely to first encounter trafficked victims. The training should focus on helping law enforcement officials understand the complexity of trafficking, its *modus operandi*, and its ramifications. Established and emerging researchers who specialize in criminal justice response to human trafficking will play a key role in such training by providing a linkage between past research findings on human trafficking and recent ones. These are important recommendations for the government to adopt in order to dislodge human traffickers and win the fight against trafficking.

**Declaration of Conflicting Interests**

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

**Funding**

The author(s) received no financial support for the research, authorship, and/or publication of this article.

**Ethics**

Ethical standards were upheld in line with TUT stipulated ethical guidelines.

**ORCID iD**

Paul Oluwatosin Bello [https://orcid.org/0000-0003-0039-8365](https://orcid.org/0000-0003-0039-8365)

**References**

Adesina, O. S. (2014). Modern day slavery: Poverty and child trafficking in Nigeria. *African Identities*, 12(2), 165–179. [https://doi.org/10.1080/14725843.2014.881278](https://doi.org/10.1080/14725843.2014.881278)

Africa Check. (2013). *Are 30,000 children really ‘trafficked’ in South Africa every year? The claim exaggerates the problem*. Retrieved from [https://africacheck.org/reports/are-30000-kids-trafficked-into-south-africas-sex-trade-every-year-the-claim-exaggerates-the-problem](https://africacheck.org/reports/are-30000-kids-trafficked-into-south-africas-sex-trade-every-year-the-claim-exaggerates-the-problem)

Allais, C. (2013). The profile less considered: The trafficking of men in South Africa. *South African Review of Sociology*, 44(1), 40–54. Retrieved from [http://www.tandfonline.com/loi/rssr20](http://www.tandfonline.com/loi/rssr20)

Aronowitz, A. (2009). *Human trafficking, human misery: The global trade in human beings*. Praeger.

Barnett, E. R. (2016). Virtual currencies: Safe for business and consumers or just for criminals? *Freedom from Fear*, 2016(10), 34–41.
Ellrod, J. (2015). Filling the gap: Refining sex trafficking legislation. *International Journal of Drug Policy, 35*, 1–6.

Bartsch, R. (2019). The relationship of drug and human trafficking and their facilitation via Cryptomarkets and the Dark Web: A recommendation for cryptocurrency regulation. https://minds.wisconsin.edu/bitstream/handle/1793/80014/Bartsch,%20Robert.pdf?sequence=1

BBC Business News. (2014). *Nigeria becomes Africa’s biggest economy.* Retrieved May 30, 2014, from http://www.bbc.com/news/business-26913497

Bello, P. O. (2015). Examining human trafficking and the response of the South African criminal justice system [Unpublished doctoral dissertation, Tshwane University of Technology].

Bello, P. O., & Olutola, A. A. (2018). The enforcement of anti-human trafficking law in South Africa: A case of an aircraft without a pilot. *Police Practice and Research, 19*(3), 270–283.

Bello, P. O. (2019). Response to human trafficking in South Africa: Beyond the criminal justice system. *Politieia, 38*(1), 1–18.

Berghel, H. (2017). Which is more dangerous – the dark web or the deep state? *Computer, 50*(7), 86–91.

Bermudez, L. G. (2008). “No experience necessary”: The internal trafficking of persons in South Africa. IOM Regional Office for Southern Africa.

Britton, H. E., & Dean, L. A. (2014). Policy responses to human trafficking in Southern Africa: Domesticating international norms. *Human Rights Review, 15*(3), 305–328.

Buthelezi, S. (2015). Human trafficking and the new legal framework in South Africa: Intervention needed for the law to reach vulnerable girls and women. *Agenda, 29*(3), 155–164.

Cameron, S., & Newman, E. (Eds.) (2008). *Trafficking in humans, social, cultural and political dimensions.* United Nations University Press.

Charneysh, V., Lloyd, P., & Simmons, B. A. (2015). Frames and consensus formation in international relations: The case of trafficking in persons. *European Journal of International Relations, 21*(2), 323–351.

Chiiumia, S., & Wilkinson, K. (2013, October 21). Africa Check: Human trafficking – sensationalist and unsubstantiated reporting. *Daily Maverick.* http://africacheck.org/reports/are-30000-kids-trafficked-into-south-africas-sex-trade-every-year-the-claim-exaggerates-the-problem/

Chuang, J. (2006). Beyond a snapshot: Preventing human trafficking in the global economy. *Indiana Journal of Global Legal Studies, 13*(1), 136–163. http://muse.jhu.edu/journals/glas/summary/v013/13.1chuand.html

Delport, E., Koen, K., & MacKay, A. (2007). *Human trafficking in South Africa: Root causes and recommendations.* UNESCO. http://www.santac.org/port/content/download/467/2968/file/Human_Traffic1RSA.pdf

Demleitner, N. (2000). Forced prostitution: Naming an international offence. *Fordham International Law Journal, 18*, 163–196.

De Toni, A. F., & Comello, L. (2010). Journey into complexity.

Eatwell, J., Milgate, M., & Newman, P. (1987). *The New Palgrave: A dictionary of economics.* Palgrave Macmillan.

Ellrod, J. (2015). Filling the gap: Refining sex trafficking legislation to address the problem of pimping. *Vanderbilt Law Review, 68*(3), 961–996.

Emser, M. (2013). *The politics of human trafficking in South Africa: A case study of the KwaZulu-Natal intersectoral task team and south African counter trafficking governance* [Unpublished doctoral dissertation, University of KwaZulu-Natal].

Emser, M., & Francis, S. (2017). Counter-trafficking governance in South Africa: An analysis of the role of the KwaZulu-Natal human trafficking, prostitution, pornography and brothels task team. *Journal of Contemporary African Studies, 35*(2), 190–211.

Farrell, A., & Fahy, S. (2009). The problem of human trafficking in the US. Public frames and policy responses. *Criminal Justice Journal, 37*(6), 617–626.

Farrell, A., & Kane, K. (2019). Criminal justice system responses to human trafficking. In J. Wintemberg & J. Jones (Eds.), *The Palgrave international handbook of human trafficking* (pp. 1–17). Palgrave Macmillan.

Frankel, P. (2016). Long walk to nowhere: Human trafficking in post-Mandela South Africa. Transaction Press.

Francis, D., & Webster, E. (2019). Poverty and inequality in South Africa: Critical reflections. *Development Southern Africa, 36*(6), 788–802.

Gould, C. (2014). Sex trafficking and prostitution in South Africa. *The Annals of the American Academy of Political and Social Science, 653*, 183–201. https://doi.org/10.1177/0002716214521557

Gould, C., Richter, M., & Palmerly, I. (2010). Of Nigerians, albino- nos, satanists and anecdotes: A critical review of the HSRC report on human trafficking. *South African Crime Quarterly, 32*, 27–45.

Gozdziak, E. M., & Collett, E. A. (2005). Research on human trafficking in North America: A review of literature. *International Migration, 43*(1–2), 99–128.

Hctor, S., Milton, J. R. L., & Cowling, M. G. (1997). *Criminal law and procedure.* Juta & Co.

Human Sciences Research Council. (2010). *Tsireledzani: Understanding the dimensions of human trafficking in South Africa.* http://www.hsric.ac.za/en/research-data/ktree-doc/8277

International Labour Organization. (2012). *Global estimate of forced labour.* https://www.ilo.org/global/topics/forced-labour/publications/WCMS_181953/lang–en/index.htm

International Organization for Migration. (2010). *Wolves in sheep’s skin: A rapid assessment of human trafficking in Musina, Limpopo province of South Africa.* https://www.iom.int/jahia/webdav/shared/shared/main/site/activities/countries/docs/wss_human Trafficking_assessment.pdf

Krug, H. B. (2010). *Combatting human trafficking: A South African legal perspective* [Unpublished doctoral dissertation, University of the Free State].

Liebermann, S., & Landman, K. (2000). *A manual for community-based crime prevention: Making South Africa safe.* CSIR.

Martens, J., Pieczkowski, M., & Van Vuuren-Smyth, B. (2003). *Seduction, sale and slavery: Trafficking in women and children for sexual exploitation in southern Africa.* IOM.

Miller, A. (2013). Who’s writing the script? *CMJF: Canadian Medical Association Journal, 185*(2), 114–115. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3563883/

Misago, J. P. (2017). Politics by other means? The political economy of xenophobic violence in post-apartheid South Africa. *The Black Scholar, 47*(2), 40–53.
Mollema, N. (2013). *Combating human trafficking in South Africa: A comparative legal study* [Unpublished doctoral dissertation, University of South Africa].

Mollema, N. (2014). Combating human trafficking in South Africa: A critical evaluation of the prevention and combating of trafficking in persons act 7 of 2013. *Journal of Contemporary Roman-Dutch Law/Tydskrif vir Hedendaagse Romeins Hollandsk Reg*, 77, 246–262.

Obokata, T. (2019). Human trafficking in Africa: Opportunities and challenges for the African Court of Justice and Human Rights. In C. Jalloh (Ed.), *The African Court of Justice and Human and Peoples’ rights in context: Development and challenges* (pp. 24–38). Cambridge University Press.

Palmary, I., & De Gruchy, T. (2016). Changing policy: Lessons from the trafficking in persons act (2013) in South Africa. Migrating out of Poverty Research Programme Consortium, University of Sussex.

PC Magazine. (2015). *Definition of surface web*. https://www.pcmag.com/encyclopedia/term/52273/surface-web

Recknor, F. H., Gemeinhardt, G., & Selwyn, B. J. (2018). Healthcare provider challenges to the identification of human trafficking in healthcare settings: A qualitative study. *Journal of Human Trafficking*, 4(3), 213–230. https://doi.org/10.1080/2332705.2017.1348740

Riback, M. (2018). Uncertain outcomes: Evaluating the effects of the trafficking in persons reports in South Africa and Thailand. *Global Societies Journal*, 6(1), 41–68.

Ross, M. (2014). A diamond in the rough: The transnational duty to prevent human trafficking in the protocol. *Duke Journal of Gender Law & Policy*, 21, 325–368.

Schneider, G. E. (2018). The post-apartheid development debacle in South Africa: How mainstream economics and the vested interests preserved apartheid economic structures. *Journal of Economic Issues*, 52(2), 306–322.

South Africa. (1996). *The constitution of the Republic of South Africa* (No. 108 of 1996). The South African Government.