



Forced Labor Exploitation: Illegal Trading in Protected Goods in the Southern African Countries

Godfrey Thenga

University of South Africa, College of Law, Pretoria, SOUTH AFRICA

Received: 5 August 2021 ▪ Accepted: 10 November 2021 ▪ Published Online: 28 December 2021

Abstract

Human exploitation refers to the curtailment of fundamental human rights. The crime plays out notwithstanding the laws that criminalizes human abuses. This study explored the policing of human trafficking and forced labor in the Southern African countries of the Southern African Development Community (SADC) and assesses the capabilities and abilities of law enforcement agencies in the region to curb the scourge. In this study a qualitative perspective was adopted with use of literature study and interviews. The prevalence of organized criminal groupings exacerbates the problem of human trafficking and forced labor in the region. Law enforcement corruption is rife as the police are often accused of acts of receiving bribes. There are capacity constraints in the policing agencies across the region which impacts negatively on proactive enforcement of protected goods. The study reveals that respective law enforcement agencies work in seclusion and do not systematize their databases to share information with other agencies owing to a prevailing cynicism amongst countries. It is proposed that there should be harmonization of law enforcement agencies' databases to share information for intelligence purposes and to develop defensive and responsive response mechanisms to thwart the crime.

Keywords: human trafficking, smuggling, forced labor, corruption, human rights, organized crime, protected goods.

1. Introduction

South Africa became a democracy in 1994 and promulgated a Constitution that criminalizes forced labor in terms of section 13. The country further became a signatory to many international agreements and conventions. The country increase trading with countries of the world at a high peak. The legitimate traders are mingled with illegitimate traders who exploit the opportunity to generate money legally and illegally respectively. Some of the criminals make use of forced labor to further their criminal acts. The exploitation takes many forms such as, among others, forced adult labor and servitude. These are criminal acts which the law enforcement agencies are responsible to police and restore law and order in countries. However, Southern African countries lag behind in their efforts to prevent and combat the practice of forced labor practices as many countries do not have enforcement capacity to police forced labor amid other heinous crimes that are committed in countries. South Africa had not promulgated human trafficking legislation until in 2015. In terms of Section 4(1) of the Prevention and Combatting of Trafficking in Persons Act 7 of 2013, the following categories of human trafficking, among others, are eligible for protection: child labor, forced child labor, forced adult labor and sexual abuse.

There is published work and literature on the dangers posed by human traffickers, and not much on the assessment of policing of forced labor and or the advertising, marketing and selling of prohibited goods and substances in the Southern African context. It is against this background that the article will highlight the extent of the abuses in the Southern African context. This study will suggest measures that law enforcements can put in place to deter the practice.

2. Human trafficking related to forced labor

Forced labor human trafficking makes huge profit for traffickers (ILO, 1930). The practice is characterized by slavery more especially in illicit trade such as dealing in counterfeited and pirated goods. Human traffickers make use of under age children as they are vulnerable and turn to under pay them for rendering a service for the traffickers (Wheaton, Schauer & Galli, 2010: 122). The practice by the perpetrators is tantamount to the practice of systematic grooming.

The total global estimates of the human trafficking is at \$150 US billion (ILO, 2014: 13). This practice is made possible by countries' lax legislation and poor enforcement of the law and corruption within the criminal justice system. South African has a lucrative market as compared to countries in the SADC region and it is not spared from this problem (Emser, 2013: 27). SADC is an inter-governmental organization comprising of 16 countries with the main goal of regional socio-economic cooperation and integration as well as political and security cooperation among the 16 countries. The countries include: Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, Tanzania, Zambia, Zimbabwe and South Africa.

In the Southern African countries, the incidents of forced labor are on the increase and South Africa is more affected, notwithstanding the country having promulgated a legislation that criminalizes the practice. The country is a signatory to several international agreements such agreement is the landmark instructional treaty on human trafficking, which is the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (Hyland, 2011). The above Protocol is supplementary to the United Nations Convention Against Transnational Organized Crime of 2000, and promulgates against the smuggling of migrants by land, sea and air. The international legal instruments grant signatory countries an obligation to the UN protocol to prevent suppress and punish trafficking in persons. Often, smugglers are involved in cross-border illegal deals. The traffickers could even force the victims to work in the informal sector or as sex slaves, where the pimps sell their victims for sex, illegal miners, precious metal and copper cable thieves or signal tower modules and solar panel thieves to beneficiate traffickers (United Nations, 2014). Illegal immigrants are the target as pimps prey on their vulnerability such as lack of skills, being uneducated, and undocumented, in violation of the laws of host countries. Countries with disparities in income distribution and a high level of young people, who are unemployed and economically inactive, seem to be fertile ground for traffickers and smugglers. South Africa fit the description and it is a trafficking hotspot in the SADC.

3. Ports of entry/boarder fence as a game-changer

These ranges from high volume of traded goods and increase in transnational crimes as a higher number of people frequently cross the borders with illicit goods from neighboring countries into South Africa. This corruption is motivated by greed and happen when officials receive bribes from smugglers and traffickers alike so that they can be allowed to transgress the immigration laws of countries (Lo & Kwok, 2016: 5). This practice increased after the country attained democracy as immediately after that the country experienced a surge in trade. However, since South Africa is a signatory to the African Continental Free Trade Area (AfCFTA), whereby residents from various countries will have fewer restrictions to travel between countries for

recreation or to do business in a market of more than 1.2 billion people at an estimated value of 3 trillion US dollars annually. This arrangement started on 1 January 2021, and is likely to encourage trade, but also increase the likelihood of human exploitation in the absence of proactive policing and effective law enforcement in the Southern African countries.

4. Organized crime as a sustainable business

Organized crime can be a localized crime or a transnational organized crime that is not limited by the country's borders. It becomes a challenge for authorities, as the perpetrators are located all over the world. Localized organized crime can take a form of organized group with a concerted purpose to commit a crime. A localized organized crime encompasses an array of criminal activities and evokes signs of secret society and mafia-like operations involving acts like dealing in contrabands, smuggling and assisting to facilitate forced labor within borders (Goga, 2016: 3). Criminals are the biggest beneficiaries in the value chain, as it is difficult regulating their activities, since countries do not have harmonized and standardized laws.

Organized crime is sustained by an injection of large financial resources and a network of skilled manpower (Levi, Shentov & Todorov, 2015: 342). This enables organized crime to be a sustainable and self-financing criminal system (Levi et al., 2015: 345). Forced labor thrives, as there is an economic market that is beneficial to a particular person or persons (Wheaton et al., 2010: 116). The traffickers have a network of capabilities and connections to distribute and grow the enterprise to a large extent by bribing law enforcement to turn a blind eye. The trade enables money laundering and racketeering to surge around the world (Lo & Kwok, 2016:1-2). Closing down such organizations need a high level of sophistication and a coordinated intelligence network by various countries that could help in arresting the kingpins, rather than operators, who are easily substituted and replaced with new people (OECD, 1998: 17).

An exponential growth in forced labor violations were recorded in 1994, when South Africa opened its borders to the world of trade. Park (2010: 39) argues that disease does not respect borders and neither do human traffickers, who form unholy alliances with illegal organizations all over the world. This was confirmed by the SAPS crime threat analysis audits, for the period 1995 and 1997, which revealed that South African mafias were conspiring with international organized criminal groups to commit crimes all over the world. The country had 278 organized crime groups in 1994 to 500 organizations in 1997. Human beings and contraband goods are trafficked and smuggled across borders for trade in the neighboring countries that accommodate business (Steinberg, 2015: 4). The crime of forced labor is described as the exploitation of the restrictive immigration laws and the desire of people to seek better lives in foreign countries. The smugglers facilitate human entry at the borders into preferred destinations, where the victims are exchanged with traffickers in host destinations (Campana, 2015: 69).

4.1 Roles and functions of smugglers and intermediaries in human trafficking

Forced labor is growing and it weakens political institutions, undermines civil society, and violates human rights and the integrity of states. The use of smugglers or agents is rife in forced labor. These are people who are agents for a trafficker. In terms of Section 1 of the Prevention and Combatting of Corrupt Activities Act (PRECCA) 12 of 2004, an agent is an authorized representative, who acts on behalf of his/her principal, and includes a person authorized to act on behalf of the principal. These groups of people recruit victims from poor countries and transfer them to the traffickers. In regard to forced labor, touts often use lies and deception; these are strategies to corner the victims into submitting to the agent's demands (Chapsos & Hamilton, 2019: 263). The majority of victims are given the false impression that work is easy find, with better pay and requires no skills or training. Since accommodation in safe houses

and food are provided by the employer, it will be easier for the victim to save money. In the case where victims are undocumented, victims are told that the owner will legalize the victims, as would be stipulated in a contract (debt contract).

The duties of the smugglers or intermediaries could be equated with that of a transfer agent, who facilitates transfer deals in a game of sport. Intermediaries often partake in drafting debt contracts, together with traffickers, to be signed by victims in contravention of Section 5 of the Prevention and Combating of Trafficking in Persons Act 7 of 2013. Depending on the duties that victims will carry out, some of the intermediaries in contraband deals and/or prostitution trade collect monies after every transaction their victims carried out, for the benefit of the trafficker. The debt contract is worked systematically to ensure that debts are not paid up within a short span of time. The debt could be for accommodation, food, transportation, travel documents and loan money, if any. The irony of this situation is that the debt is very huge and can span several years before it is extinguished, as the victims' income is too low to be able to service the debt within a short period of time.

5. Constitutional and statutory policing mandate

The police are granted the powers by the state to perform this activity of enforcing the law. In South Africa, Section 205(3) of the Constitution of South Africa mandates the SAPS to protect people and property, to uphold and enforce the law, and prevent and combating crime, as well as investigate all crimes in South Africa. The SAPS was also granted a legislative mandate to conduct policing in the country, through Section 13 of the South African Police Service Act 68 of 1995.

Often, in the commission of forced labor, the perpetrators use deception to corner their victims. Communities have a presence in many places where criminals are located and they have a social mandate to assist in policing. To make strides in the fight against forced labor, the police need to improve public confidence, so that the communities would report crimes. Owing to the seriousness of the crime of forced labor, prevention efforts are needed, rather than crime control. Efficient and successful policing relies heavily on an effective crime intelligence that is timely (Burger, 2006: 113).

6. Corruption

In 2011, there were 12 million people who were victims of human trafficking around the world. The figure in 2019 has spiked tremendously to 40.3 million people (ILO, 2017). Corruption facilitates the flow of people and feeds the impunity that prevents the prosecution of those involved. The implication is that police members and politicians that are involved in criminal activities and enterprises contribute to creating a negative image of the countries (Park, 2008: 54). This is demonstrated when the police demand bribes from the criminals, as a condition for them to ignore crime is being committed; thus, the implication is that the unlawful conduct by criminals is condoned. Such conduct by law enforcement is a criminal act and a contravention of Sections 3 and 4 of the Prevention and Combatting of Corrupt Activities Act 12 of 2004, in the South African jurisprudence.

The statistics on the perception of corruption in the police service in corruption-by-Corruption Watch, for the period 2015 to 2019, shows that the country is agitating to becoming a corruption-prone country. Corruption destroys communities and communities lose trust in the police. This, in turn, leads to a lack of police legitimacy and it will experience challenges in regard to the execution of its authority. The information provided by the community can boost the police's apprehension rate and contributes to improved police performance (Sun, Han, Wu &

Farmer, 2019: 253). In addition, crime will be prevented, which, in turn, will promote safer communities. Trust and satisfaction are complementary (Sun et al., 2019: 243). A lack of trust in the police, by the community, will jeopardize effective policing, because the police rely heavily on the information provided by the community to prevent and solve crime. However, the law enforcement in the SADC countries has been known to be reactive rather than proactive in their policing approach. Many serious cases take long to investigate and solve, if it is ever solved, which is a sign of incompetence and a negative reflection of policing in these countries.

7. Context of study

The study was conducted in SADC region in the African continent, where countries are characterized as developing and under-developed, with high levels of crime. Developing and underdeveloped countries have generally become an attractive resource for perpetrators of forced labor, which poses a threat for the relevant communities and a problem for the authorities. In South Africa, forced labor occurs in rural areas and cities, and is characterized by an active prevalence of organized criminals, who traffic and enslave vulnerable people in poor communities, within the country and also in neighboring states.

8. Methods And Material

Study population and procedure

The qualitative research approach was adopted for this study. In definition, Marshall and Rossman (2016: 141), states that this approach emphasizes a detailed comprehension of the problem being studied and carries with it the following advantages:

- Getting the meaning behind the facts by providing reasons for the problem as it exists rather than by making generalizations;
- Proper understanding of the problem that this study focused on from the research participants' view points; and
- Developing a relationship with the research participants so that a detailed understanding of the participants' expressions and perceptions of the problem were captured.

The sample was purposively selected, as the researcher knew people who possess information and knowledge to assist in the research. The sampling of this study consisted of people with relevant knowledge how forced labor is policed, who assists in the policing of forced labor and the extent of forced labor in South Africa. The questions were directed to SAPS members and prosecutors from the National Prosecuting Authority (NPA), who police and or prosecute perpetrators of forced labor. One-on-one interviews were conducted with the SAPS and NPA participants and telephonic interviews was conducted with 10 participants who elicited rich information to use in this study. This approach was best suited for this study as direct contact with selected participants was done to reach appropriate findings, conclusions and recommendations.

Sampling methods

The members of the SAPS comprised 20 Directorate of Special Operations (the Hawks) investigators, who conduct investigations into organized crime and perform anti-human trafficking duties, and the other groups are 14 prosecutors and 10 law enforcement experts from other SADC countries. A sample of 44 participants were selected in order to explore the merits of policing of forced labor and human trafficking in South Africa by the various stakeholders responsible for combatting forced labor. The researcher conducted fieldwork over an eight-month period, extending from March 2018 to October 2018.

The study was commenced after the SAPS and NPA had granted permission to the conduct research. It is a national study that covers the whole of South Africa and Southern African countries of SADC.

Data collection methods

Directorate of Special Operations investigators and prosecutors meetings for interviews

In this study direct one-on-one interviews were conducted with the participants and each interview lasted for approximately one hour. The purpose was to gather perceptions on the policing of forced labor human trafficking in SADC.

Observation schedule

Direct observation was conducted in this study. According to De Vos, Strydom, Fouche and Delpont (2005: 281), this method demands that the researcher becomes alert and involved in context of an object that is being observed. In this context, the researcher's role as a participant was to investigate and spot people and sites where the victims and culprits are operating. Common areas that victims of this crime are located were visited to observe the practice and conduct of those involved. Field notes were used in this regard for data collection.

The observation schedule was accepted as part of the culture of the Hawks for this study. This daily observation was regarded as a hand-on approach of observing daily criminal activities of criminals and victims alike. The researcher conducted fieldwork over an eight-month period, extending from March 2018 to October 2018.

Key informants' interviews and telephonic interview

The researcher conducted key Informant Interviews (KIIs) with 10 people from SADC. This type of interviews are characterized as qualitative in-depth interviews with participants with relevant information about the problem under study. It is intended to collect information from wide range of community experts to enrich the study by providing insights into the nature of the problems and give recommendations for solutions. Telephonic interview was conducted and allowed interpersonal communication in a virtually.

The selected participants in this study are active members of the law enforcement in their respective countries and possess the requisite skill and knowledge on policing forced labor trafficking with more than 10 years working experience. Semi-structured interviewing technique was initiated for this study. With that said, three sets of questions were posed to the target groups as follows:

- What is the extent of forced labor?
- What mechanisms should be put in place to prevent forced labor, and
- What are the challenges in policing forced labor?

8.1 Data analysis

Cryptic written notes were captured on the viewpoints from the participants. The actual words used by the participants were written down word for word. The written notes which were supported by audio recordings were then transcribed. Thereafter it was analyzed methodically, according to the thematic method, by reducing data into themes, sub-themes and categorizing these. To this effect, Tesch's eight-step of data analysis method, as discussed in Creswell (2014: 198), was implemented, which involves the following: getting a sense of the whole by picking up one document at a time, from the transcribed interviews, and reading through it

carefully; making a list of the topics; clustering them together; coding the information; classifying information by grouping them together and making a final decision in this regard; alphabetizing the codes; assembling the same categories; doing preliminary analysis and then recording the existing data.

All the steps were followed in a sequence and enabled the researcher to capture accurate information.

8.2 Ethical considerations

Ethical clearance was obtained from the College of Law, at the University of South Africa, before the commencement of this study. The researcher obtained informed consent from all 44 participants in this study. The participants consented to be interviewed and were not coerced to partake in the study; hence participation was voluntary. All the participants were informed, before the interviews could be conducted, that they were permitted to withdraw from the interviews at any time, should they feel uncomfortable with the proceedings. In this study, the researcher ensured confidentiality by not disclosing the personal details of the participants. The information they provided was kept in a safe place and protected against any possible leak. Participants were not promised any reward for giving interviews and were not remunerated for participating in the interviews. Voice recordings of the interviews with the participants were made with the consent of all categories of the participants. The participants' independent views and opinions were captured as provided.

9. Discussion and results

This section of the study laid emphasis on the analysis, presentation and interpretation of data that were collated in the course of this study. The interviews results produced the themes and sub-themes. The statements by participants were confirmed by literature. Three main questions and several sub-questions were posed in semi-structured interviews with 44 participants. The participants included SAPS members, prosecutors of the NPA and 10 SADC countries' investigators. The members of the SAPS included 20 Hawks investigators. The other groups were 14 prosecutors and 10 SADC countries' law enforcement investigators. The responses were obtained by asking participants about their own understanding of how forced labor is policed in South Africa. This resulted in the following themes and sub-themes.

9.1 Forced labor human trafficking in the Southern African Development Communities

Forced labor is increasing in the Southern African countries. In South Africa the practice is rife despite the existence of legislation that prohibits the practice. Human beings are traded for profit as commodities, which is against the country's laws. The culprits exercise risk assessment by weighing up costs and benefits, observing that only a few cases are processed, compared to the scale of forced labor activities. In instances where the accused are arrested, sentences that are meted out to the accused turns to be lenient. The risk to the culprits is marginal and this propels recidivism. All members mentioned the following: "The judiciary does not fully mete out harsh sentences against the convicted persons. Mandatory sentencing, as prescribed in the South Africa's Anti-human trafficking Act, is not always adhered to."

In South Africa, the Anti-human trafficking legislation was operationalized in 2015, long after the attainment of democracy, to curb forced labor. The enactment of the legislation was brought about after society and police were confronted with many complaints of abuses. As the

law had not been enacted before 9 August 2015, many culprits had been in operation for quite some time and, because of the lack of legislation, were able to evade justice. The legislation is not retrospective. Many Hawks respondents corroborated this comment: “The Human trafficking Act was promulgated in late 2015, many years after the country had attained democracy. Many victims had been captured [trafficked] already and the Act is not retrospective.”

Similar sentiments were voiced by SADC investigators who stated that SADC countries have introduced Anti-trafficking legislations, however enforcement of policies seem to be lacking amid corruption in government administrations.

The literature, which was supported by the statements by all Hawks and NPA respondents, indicate that forced labor creates large income for the traffickers. The benefactors of this heinous crime are the traffickers. The practice happens worldwide and generates huge profit that runs into billions of US dollars. South Africa, as a developing market, is a lucrative economy for forced labor migrants, as the country is industrializing and offers various job and economic opportunities, as compared to many SADC countries that are not as industrialized as South Africa. Traffickers and smugglers take advantage of the demand for cheap labor in industrializing countries. Traffickers exploit the workers further by extorting more money from them, despite knowing that the victims are underpaid as cheap laborers. Almost all members of the Hawks confirmed this by agreeing with the statement that:

“Opportunities such as weak laws, economic advantages, [and] less risk if human traffickers are caught, are the main determining factors on whether to engage in forced labor or not. Forced labor in South Africa is rife, many low-skill jobs, both in towns and townships, are done by foreign nationals from neighboring countries and some of them are victims of trafficking.”

Literature reveals that, what exacerbates the problem for South Africa is its porous land and maritime borders (ports of entry), which make the flow of people movement across countries easy. Some of the immigrants do not have valid travel documents for them to be able to pass through the official ports of entry. The victims enter the country by scaling through the border fence (a perimeter fence surrounding a country) or by bribing the officials at the ports of entry. Once the victims have gained access to the country, the authorities cannot account for them as the institutions in the country do not have their records. A member of the Hawks substantiated this by stating that:

“Illegal immigrants and asylum seekers are a target for traffickers as they are illegal in host countries. They happen to be at the mercy of the traffickers and depend on them for food and accommodation and other needs.”

South Africa does not practice efficient and effective ports of entry management. People from surrounding countries enter via many entrance points around the country, while some scale the fences adjacent to these ports of entry, to easily access the country. A large part of the South Africa is surrounded by neighboring countries. More stringent border management and control will assist in curbing forced labor. During an interview, one respondent declared:

“For a long time, South Africa was run or operated as a borderless country in the continent, with free-flow movement of people, who are not accounted for. Many, who came into the country as visitors, are not going back to their homes.”

A moratorium was placed by the South African government on the deportation of illegal immigrants, owing to budgetary constraints, but countries with detained persons are allowed to transport their citizens at own cost. This arrangement has aggravated the problem, as many countries do not come forward to take their nationals, owing to financial challenges. Consequently, the South African government has to release the illegal migrants back into the country after a period of three months, as South Africa does not have the resources to maintain

them whilst they are kept in a detention center (Lindela Repatriation Center). In this regard, one member of the Hawks reports:

“The South African government does not take detained illegal immigrants back to their countries due to austerity measures. Population control, especially the number of people coming into the country, is not enforced as a result.”

Traffickers recruit victims in vulnerable and poor countries under false pretenses, only for the victims to later discover that they had been trafficked. The economic conditions of many SADC countries on the African continent render South Africa a prime destination for poor and vulnerable migrants. Smugglers capitalize on this situation and are able to entrap their victims with ease. Some of the victims initially do not know that they are being trafficked. Many of the victims are promised high paying jobs, only to experience hard labor and underpayment in South Africa. These victims happen to be vulnerable people, who, in their own country, do not have access to social security, such as government grants, to provide economic relief and, in South Africa, do not have legitimate travel documents to escape their situation. The traffickers prefer to recruit victims from poor communities, locally and in neighboring countries. The majority of the victims lack opportunities in their countries and many of them happen to be undocumented foreign nationals. A member of the Hawks corroborated this by stating that: “Many undocumented foreign nationals fear to report abuses to the police in fear that they will be arrested as they are in the country in violation of the immigration laws.”

If the victims are documented and once they are recruited by smugglers, they are then handed over to the traffickers. The traffickers would then confiscate their travel documents, so that they do not escape. This practice serves as security of tenure for the traffickers, as they had expended money to secure the victims from smugglers. Almost all members of the HAWKS confirmed this by stating that: “Travel papers are taken away from the victims under the false pretense that they are being kept in safe. In actual fact, this is intended to prevent escaping.”

These victims may be forced, among others, to do heavy-duty work and to work for long hours, without fair remuneration, in contravention of the labor laws. Some of them are forced to sign long-term debt contracts and non-disclosure agreements, so they can be held in bondage and captivity for a lengthy period. Debt bondage is created once a debt contract is signed. The debt contract, among others, could be for the victims’ food and accommodation; expenditure incurred by the smugglers during scouting and recruitment in the country of provenance; transportation from the country of origin to the trafficker’s destination; and bribes paid to law enforcement (facilitation and protection fee). The victims are threatened with death or abduction or kidnapping of families, if they fail to service the debt. Almost all Hawks respondents were of the view that: “When victims are interviewed, the police know of abuses to the victims such as abnormal working hours, meagre salaries and wages, threats to lives, extortions and stealthy debt bondage.”

9.2 Organized crime in the Southern African Development Communities

The catastrophic effect of the involvement of organized crime is that the forced labor trade creates impediments for law enforcement agencies, who struggle to end the scourge. Organized crime is a self-financing cross-border business, with a large outlay of resources. It involves money laundering, as a lot of money is transferred between various countries. This promotes capital flight as money leaves the financial system illegally, without due process. Organized crime operates parallel to recognized law enforcement agencies. They capture critical decision makers within and recruiting their informers from legitimate law enforcement agencies. Organized crime is also described as having the capabilities of kidnapping opponents and or eliminating antagonists within communities. Almost all HAWKS members vindicated such action by stating that:

“The involvement of organized crime is equated with law enforcement waging war against another law enforcement. Organized crime is known to be able to crowdfund targeted groups of people, who are known and turns [in order] to be financially stable, [and works] to destruct (sic!) police activities.”

Government does not enforce labor laws to penalize the defaulters and labor inspectors do not close down non-compliant businesses. The government should consider actioning labor laws in an efficient and effective manner to discourage the practice. During an interview, one Hawks official responded:

“There is a shortage of trained labor inspectors to enforce labor laws in the country. Unscrupulous employers capitalize on this weakness to benefit from making use of cheap labor.”

There are many organized crime networks that have facilitated forced labor in South Africa. Some of the organizations have established links nationally, whereas others have networks with international syndicates or groups. These range from agents and or smugglers, who recruit and facilitate transportation of victims locally and from foreign countries, to traffickers make use of these smugglers to facilitate transfers of victims. Some of these intermediaries connect forced labor victims with traffickers at a certain fee. Almost all Hawks members substantiated this observation: “South Africa is a lucrative free market economy that entices both legitimate and illegitimate businesses. It is not easy to track down smugglers, especially [those involved in] intra-country forced labor.”

Drug mules or drug couriers are sent on errands around the world, willingly or unaware, to convey consignment of drugs and other prohibited goods around the world. The victims, who are captured to be drug mules are monitored at various airports and transit routes to avoid abscondment. Those who work as sex slaves are monitored by pimps, to the benefit of the trafficker. Others, who work in dangerous trades, such as illegal miners and copper cable thieves, often die and their corpse are not claimed by their relatives in South African mortuaries. In their home countries, they remain unaccounted for. One Hawks member confirmed:

“[M]any people die in South Africa and their fingerprints are not found in the population register. Many happen to be foreign nationals, who are unaccounted for.”

The crime is enabled by the differentiated regulatory frameworks applicable in the various countries across the world. There is no standardization of laws and policing of this crime is also different in each country. Continental and intra-regional agreements, such as the free trade agreement, have increased human movement in and between countries and this have sparked an upsurge in the practice. All respondents confirmed this by revealing that:

“Every country has its statutes of policing forced labor, using its unique laws. Some countries enforce laws on forced labor [and] forced labor, whereas others do not. Countries are not monitored or held accountable for ignoring to enforce (sic) anti-human trafficking laws.”

9.3 Policing of forced labor in the Southern African Development Communities

The policing of forced labor is the function and responsibility of the law enforcement in each country. However, in South Africa, the law enforcement agencies have found it challenging to tackle the scourge because of a general lack of experience and critical skills, and the capacity and competency to police specialized crimes such as forced labor trafficking.

Corruption is also a deep-seated problem within the law enforcement agencies in the SADC countries. Many of the police officials, and officials working at Customs and Exercise and birth registering departments of government are involved in acts of corruption, as they accept

bribes from smugglers/agents/intermediaries and traffickers alike. Such actions imply that public officials are willing to condone the criminal activities surrounding forced labor. In some instances, officials from Customs and Excise allow illegal goods to pass through the borders (ports of entry) at a fee and members of the government of Home Affairs generate false travel documents for the undocumented immigrants, while some officials even issue to fake travel documents to immigrants so that they can cross the borders into South Africa. There is a need for counter-corruption strategy, targeted at law enforcement at ports of entry. One Hawks member corroborated this recommendation as follows:

“In the law enforcement departments, corruption is at a high, as those who pay bribes to officers, get favors they want to (sic) satisfy their desires and wishes. Corruption is systematic and oils even the top brass of various law enforcement agencies.”

Literature reveals that corruption in the police weaken police morale, especially among honest and dedicated members, and create distrust between communities and the police. The distrust of the community towards the police leads to the communities withholding crucial information that could solve crime. Communities withhold information in fear that the police would, in turn, tip-off the criminals about the identity of their informants. The police accept bribes from criminals, following which, it is expected that they would turn a blind eye to crime and criminals' activities that are carried in their presence. The police's reactive measures need to be supplemented by compulsory vetting and lifestyle audits of the officials of government and the law enforcement to ensure that they are not complicit. Almost all members of the Hawks and NPA commented on “the difficulty of identifying and arresting traffickers, because they live all over the world and tend to make use of agents in various countries. It is difficult to know exactly which country the suspects live in, without proper and reliable technology to assist in locating them.”

A counter-corruption strategy is needed to stabilize law enforcement. During an interview, one respondent from the Hawks commented as follows about the important role of the community in policing: “The backbone of a successful policing is community support through information provided to police about crime and criminals. The police should serve the people and must get community buy-in to make policing effective.”

Forced labor and human trafficking has increased as the policing approach used by law enforcement in SADC region is reactive rather than proactive. There is insufficient use of intelligence in the policing of forced labor, as the law enforcement in various countries and various government departments do not share real-time information. Technology use in fighting forced labor is non-existent and this impairment contributes to the crime spiraling out of control. All the Hawks respondents commented on this and the general view is encapsulated in the following statement:

“The SAPS has not adopted to use of technology in policing. They do not use body cameras and their work vehicles are not fitted with [the] internet. There is no live sharing of information between various members of law enforcement. No proactive interviewing of suspicious victims of forced labor at [the] airports and workplaces in the country.”

9.4 Law enforcement training exposure to forced labor trafficking

In the SADC region, many law enforcement members were not trained on what forced labor is or on whether it is a crime. The difficulty of identifying victims of forced labor poses a challenge to law enforcement officials as the victims are mainly detectable through conducting interviews with and probing potential and suspicious victims. Often, it is a challenge to determine if some workers in low-skill jobs are victims as they participate in jobs such as car guards, shop

assistants, prostitutes, hotel workers, waiters, domestic workers, car washers, security guards, gardeners, plumbers, welders. All the HAWKS respondents had this to say: “To spot forced labor forced labor on adults is huge mission, as it not easy.”

In the case of the South African law enforcement, the study manuals that form part of the police’s basic training program, has no mention of forced labor in the curriculum/syllabus. This means police members, who have passed the police training course, do not know the different kinds of forced labor that manifest in society, let alone how to police this crime. This poses a challenge to the SAPS, as these members make up a huge chunk of the workforce and they are the first call point of contact for victims. It will be rational that every police official be trained on forced labor. The bigger the pool of policing, the more likely it is that the SAPS are able to make serious footprint in combatting this crime and in winning the battle. However, members of the Hawks’ organized crime unit, which is a specialized crime unit in the SAPS, are trained on forced labor. Nonetheless, these members find that the scope of the crime is huge. Often the police know about forced labor through reports from community members, who would have observed abuse happening for some period. There is very little proactive policing to detect the problem at an early stage. Almost all Hawks members confirmed the view that is summed up in this remark: “Forced labor is regarded as a crime that is policed by [the] organized crime [unit] and not an ordinary police officer, without training on forced labor (sic!). The members, who police it, are limited and few, as the crime is huge in South Africa.”

9.5 *Observation schedule results*

In accordance with the posed questions to the participants, it can be stated on record that forced labor in the form of forced labor exist in the Southern African countries. This increase of the practice is noticed more in South Africa, as many of the victims come from the countries surrounding South Africa. The victims are deployed by their traffickers to work in informal sector to do manual work such as selling illegal goods, washing cars and work long hours in factories under unpleasant conditions. The dealing in illegal goods is still on the rise and government and non-government officials such as law enforcement in the criminal justice system and business people are implicated in the issue. The views rest on the reality that it will take longer for the government to curb this practice by initiating new methods and procedures within law enforcement. This delay allows the current situation to swell. The government is urged to lead the initiative of curbing the problem as it happens through the boarders that are managed by the government. This can be effectively done by listening to the society to introduce with best control measures. The seriousness of this crime must be considered by the government officials at large.

10. Conclusion

The article explored the policing of forced labor. It also offered empirical and literature findings that could be considered towards enhancing the competence of policing of forced labor and improving cooperation between the law enforcement agencies and the community in the fight against this crime. Forced labor is a complex multi-million US dollar crime that cannot be effectively and efficiently policed solely by law enforcement agencies working in silos. There is a need to involve stakeholders and partners in policing this crime, owing to its illusory and oblique nature. Forced labor trade has undesirable consequences for people, business and government. It is ostensible in the study that, in reality, the policing of forced labor is a mammoth task and to be effective in this regard would not be successfully achieved or accomplished without the critical involvement of other law enforcement stakeholders such as SADC countries’ law enforcement agencies, Customs and Excise, National Intelligence Agency (NIA), Hawks and foreign governments. The failure or lack of proactive policing is evident from the extensive number of

incidents of forced labor in Southern Africa. Therefore, reactive policing is also required, to ensure that perpetrators are arrested, so that potential criminals could be deterred from committing this crime. The successful prosecution of perpetrators will also serve as a proactive and reactive crime prevention measure that will lead to deterrence.

The involvement of organized crime groupings in the forced labor trade is responsible for the upsurge in the crime. There is a need to determine how organized criminals are able to capture law enforcement officials and infiltrate law enforcement agencies. In this study, the emphasis is on proactive activities, because they guarantee the protection of the people, in line with the prescripts of the SADC countries' Constitutions, which guarantees human rights. Corruption by the law enforcement officials discourages the general uptake in the fight against forced labor. Threats that are directed at the law enforcement members can be eradicated by adopting proactive approaches to policing, which would have to involve use of intelligence and the implementation of surveillance in policing as well as an active society that works in conjunction with the police. Proper policing of this crime could discourage perpetrators from carrying on with this crime.

As a document to assist the law enforcement in policing forced labor, other law enforcement stakeholders in SADC region and the rest of the continents could benefit in customizing the guidelines provided here for use in policing forced labor trafficking as well as organized crime in their governments. By working together, law enforcement can withstand the scourge, but divided organized crime will triumph, which will have catastrophic consequences for nations across the world.

Acknowledgements

This research did not receive any specific grant from funding agencies in the public commercial, or not-for-profit sectors.

The author declares no competing interests.

References

- Burger, J. (2006). Deterring crime: Sector policing and visible policing in South Africa. Available from <https://www.questia.com/library/journal/1G1-58524572/deterring-or-preventing-crime-sector-policing-and>. Accessed on 9 September 2017.
- Campana, P. (2015). The structure of human trafficking: Lifting the bonnet on a Nigerian transnational network. *British Journal of Criminology*, 56, 68-86.
- Chapsos, I., & Hamilton, S. (2019). Illegal fishing and fisheries crime as a transnational organised crime in Indonesia. *Trend Organ Crim.* 22, 255-273.
- Creswell, J. W. (2014). *Research design: Qualitative, quantitative, and mixed methods approaches*. 4th edition. Los Angeles: Sage.
- De Vos, A. S., Strydom, H., Fouche, C. B., & Delpont, C. S. L. (2005). *Research at the grass roots: For the sciences and human science professionals*. 2nd edition. Pretoria: Van Schaik.
- Emser, M. (2013). The politics of human trafficking in South Africa: A case study of the KwaZulu-Natal Intersectoral Task Team and Southern Africa counter trafficking governance. Unpublished doctoral dissertation. University of KwaZulu-Natal: Durban.

- Hyland, K. E. (2001). The impact of the protocol to prevent, suppress and punish trafficking in persons, especially women and children. College of Law, American University Washington, Article 12, Volume 8(2), 30-33.
- ILO (2017). *Global estimates of modern slavery: Forced labour and forced marriage*. Geneva: International Labour Organization and Welfare foundations.
- ILO (2014) *Profits and poverty: The economics of forced labour*. International Labour Office: Geneva.
- ILO (1957). *The abolition of forced labour convention, 1957* (No. 105). Geneva: International Labour Organisation.
- ILO (1930). *Forced labour convention, 1930* (No. 29). Geneva. International Labour Organisation.
- Levi, M., Shentov, O., & Todorov, B. (2015). Financing of organised crime. *Financial Theory and Practice*, 39(3), 341-347.
- Lo, T. W., & Kwok, S.I. (2016). Triad organized crime in Macau casinos: Extra-legal governance and entrepreneurship. *British Journal of Criminology*, 57(3), 589-607.
- Marshall, C., & Rossman, G. B. (2011). *Primary data collection methods designing qualitative research*. Los Angeles: Sage.
- OECD (1998). *The economic impact of counterfeit*. Paris: OECD.
- Park, P. (2010). *Lethal counterfeit*. London: MIT Press.
- Park, B. (2008). Turkey's deep state: Ergenekon and the threat to democratisation in the Republic. *Institute for Defense Studies*, 153(5), 54-59.
- South Africa (2013). *The Prevention and Combatting of Trafficking in Persons Act 7 of 2013*. Pretoria: Government Printer.
- South Africa (2004). *Prevention and Combatting of Corrupt Activities Act 12 of 2004*. Pretoria: Government Printer.
- South Africa (1996). *Constitution of the Republic of South Africa, Act No. 108 of 1996*. Pretoria: Government Printer.
- South Africa (1995). *South African Police Service Act (SAPS Act) 68 of 1995*. Pretoria: Government Printer.
- Steinberg, J. (2015). *The illicit abalone trade in South Africa*. ISS paper 105: 1-13.
- Sun, I. Y., Han, Z., Wu, Y., & Farmer, A. K. (2019). Trust in the police in rural china: a comparison between villagers and local officials. *Asian Journal of Criminology*, 14, 241-258.
- United Nations (UN). (2014). *United Nations' Convention against Transnational Organised Crime*. New York: UN. Retrieved from http://www.UNODC.org/unodc/org/organised_crime/intro/UNTOC.html.
- United Nations (UN) (2011). *General Assembly sixty-fifth session Agenda item 105: Resolution adopted by the General Assembly_ A/RES/65/232*. New York: UN. Retrieved from http://www.UNODC.org/documents/commissionsCrime_Resolutions/2010-2019/2010/General_Assembly/A-RES-65-232.pdf.
- Wheaton, E. M, Schauer, E. J., & Galli, T. V. (2010). Economics of human trafficking. *International Migration*, 48(4), 114-141.

