



SOUTH AFRICA Trafficking in Persons Law

Trafficking in Persons Statistics

There are an estimated
24.9
MILLION
slaves in the world today

75% of human trafficking occurs within a country's borders



81% of victims are forced to work outside the commercial sex industry



In the past five years,
89
MILLION
people have experienced some form of modern slavery.

ILO Global Estimate of Modern Slavery 2017

Common Types of Coercion

Physical

- Withholds food & medical care
- Isolates & speaks for victims
- Forces victims to have abortions
- Controls identification documents
- Brands victims
- Forces victims to commit crimes
- Beats & abuses victims
- Commits rape
- Manipulates addiction

Psychological

- Promises of love & a future
- Threatens family members
- Threatens to shame family members
- Warns of police misconduct
- Threatens deportation
- Uses extortion

Debunking TIP Myths

Trafficking is NOT about movement. Its essence is **COERCION**.



Individuals are not only victims of sex trafficking; a vast majority of them are **FORCED LABOUR** victims.



Traffickers are motivated by **MONEY**. It's an economic crime.



ANYONE can be a trafficking victim: children and adults, women and men.



Trafficking at its Core

Compelling someone to work or to engage in a commercial sex act

Key Dates:

15 Nov 2000:
UN TIP Protocol Adopted

20 Feb 2004:
South Africa ratifies UN TIP Protocol

29 Jul 2013:
The Prevention and Combating of Trafficking in Persons Act passed





SOUTH AFRICA *Trafficking in Persons Law*

Primary TIP Offence: Section 4(1):

“Any person who delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives another person within or across the borders of the Republic by means of (a) a threat of harm, (b) the threat or use of force or other forms of coercion, (c) the abuse of vulnerability, (d) fraud, (e) deception, (f) abduction, (g) kidnapping, (h) the abuse of power, (i) the direct or indirect giving or receiving of payments or benefits to obtain the consent of a person having control or authority over another person, (j) the direct or indirect giving or receiving of payments, compensation, rewards, benefits or any other advantage, aimed at either the person or an immediate family member of that person or any other person in close relationship to that person, for the purpose of any form or manner of exploitation, is guilty of the offense of trafficking in persons.”

South Africa TIP Definition (Sec. 4(1))

1. Act

Trafficking Verbs: delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives

2. Means

Threat of harm, threat or use of force, coercion, abuse of vulnerability, fraud, deception, abduction, kidnapping, abuse of power, giving or receiving payments or benefits

3. Purpose

Any form or manner of exploitation*

*Exploitation:

Includes, but is not limited to, all forms of slavery or practices similar to slavery, sexual exploitation, servitude, forced labour, child labour, the removal of body parts, or forced impregnation for the purpose of selling her child

Core South Africa TIP Offences

No.	Section	Offence	Max Penalty
1	4(1)	Trafficking in Persons	Life imprisonment and/or R100 million fine
2	4(2)	Adoption or Forced Marriage for Exploitation	Life imprisonment and/or R100 million fine
3	5	Debt Bondage	15 years and/or fine
4	6	Tampering with Identification/Travel Documents	10 years and/or fine
5	7	Benefitting Financially from TIP	15 years and/or fine
6	8(1)	Facilitation of TIP	10 years and/or fine
7	8(3)	Electronic Communications Service Provider failure to report TIP	5 years and/or fine
8	9	Carrier Liability	5 years and/or fine
9	10	Attempt to commit any of the above offenses	Same penalty as the offense in question
10	18(9)	Failure to report child victim of TIP	5 years and/or fine
11	19(13)	Failure to report adult victim of TIP	5 years and/or fine
12	23	Unauthorized disclosure of victim information	15 years and/or fine

Victim Protections

Immigration benefits to remain in country (Sec. 15)
Confidential identity (Sec. 23)
Access to health care and safe shelter (Sec. 18, 19, 21)

Evidentiary Issues

Consent to exploitation is not a defence (Sec. 11(1))
Employers liable for actions of employees (Sec. 11(2))

Compensation

Court may order victim compensation (Sec. 29(1))
Victim can seek civil damages for compensation (Sec 29(2))
Court may order compensation to the State for victim care (Sec. 30(1))