

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

**INPUT TO REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE AND SEXUAL EXPLOITATION OF CHILDREN, INCLUDING CHILD PROSTITUTION, CHILD PORNOGRAPHY AND OTHER CHILD SEXUAL ABUSE MATERIAL**

**30TH SEPTEMBER 2019**

**Introduction**

The South African Human Rights Commission (SAHRC) is a constitutionally created independent state institution. It is mandated by section 184 of the Constitution, which states[[1]](#footnote-1),

The South African Human Rights Commission must-

* promote, respect for human rights and a culture of human rights;
* promote the protection, development and attainment of human rights; and
* monitor and assess the observance of human rights in the Republic.

Sec 13(1)(vi) of the SAHRC Act states that SAHRC must monitor the implementation of, and compliance with, international and regional conventions, charters and treaties relating to the objects of the Commission. The Special Rapporteur’s report speaks to SAHRC’s focus area- Children, Migrant and Trafficking in Person.

As a national human rights institution (NHRI) the SAHRC is additionally guided by the Principles Relating to the Status of National Institutions (the Paris Principles) adopted by United Nations General Assembly Resolution 48/134 in 1993. These principles direct NHRIs to:

* Cooperate with United Nations and any other organisation in the United Nations System, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights and;
* To assist in the formulation of programmes for the teaching of, and research into, human rights.

It is in terms of these powers that the SAHRC hereby presents its inputs.

**Response to Questions**

1. **Context, awareness and attitudes underpinning the sale and sexual exploitation of children:**

Sexual exploitation and sale of children occurs within and outside South African borders. Girls from 4 – 17 years of age are the primary targets, however boys are also victims. It has been found that parents, teachers, club owners, taxi drivers and local gangs are the primary traffickers of children, sometimes in collusion with each other. One of the underlying causes of exposing children to this inhumane experience if poverty. Poverty is a key structural factor that results in child abuse. Families, particularly single parent families, are desperate to find alternative means of obtaining an income which sometimes result in child abuse.

Certain cultural practices such as ukuthwala exposes children to sexual exploitation. The traditional custom of ukuthwala (literally, 'to be carried') ,which still exists today, is where Xhosa girls as young as fourteen are being abducted and forced into marriages with elderly men in exchange for payment or lobola (bride price)[[2]](#footnote-2).

Children’s exposure to the internet has created a breeding ground for sexual grooming, sale and sexual exploitation. Many children and parents don’t know the importance of internet safety. This exposes children to grave dangers.

1. *Children’s vulnerability to sale and sexual exploitation, including in the context of cross-border challenges, technology and innovation:*

Children, especially those who migrate (unaccompanied by parents), run away from home or are abandoned, are in the greatest danger of being exploited. Some of these children end up living on the street. These children are especially vulnerable to sexual exploitation, drug abuse and other dangers[[3]](#footnote-3).

The importance of family stability as a primary factor in a child‘s social resilience and protection cannot be over-emphasised. Some studies have shown a connection between unstable family situations like - alcoholism, physical or sexual abuse, family‘s alienation from the local community, the death of one or more parents or the presence of stepparents or second wives and children’s wellbeing. It is believed that troubled families are the breeding ground for child abuse including sexual exploitation[[4]](#footnote-4).

1. *The overarching legal-normative framework, commitment and institutional capacity*:

Section 281 to 291 of the Children’s Act gives effect to the UN Protocol to Prevent Trafficking in Persons in combating trafficking in children. The Act places a responsibility on immigration official, police official, social worker, social service professional, medical practitioner and registered nurse who comes into contact with a child who is a victim of trafficking to refer the child to a designated social worker for investigation.

The Prevention and Combating of Trafficking in Persons Act aims to combat the trafficking in persons within and/or outside South Africa’s borders. It criminalises trafficking in persons and associated offences, and contains measures to protect and assist victims of trafficking.

The government has partnered with Global Action against Trafficking in Persons and Smuggling of Migrants (GLO.ACT), to assist it to strengthen its response in addressing trafficking in persons in the area of policy development and coordination.

In an effort to ensure integrated co-ordination, government established a National Inter-sectoral Committee on Trafficking in Persons, which comprises of national departmental representatives from, amongst others, Justice and Constitutional Development, Health, Home Affairs, International Relations and Cooperation, Labour, Social Development, Women, the SAPS, the NPA as well as civil society organizations.

Provincial Task Teams on Trafficking in Persons were also established as well as Provincial Rapid Response Teams to attend to operational matters relating to suspected complaints and pending cases of trafficking in persons and providing support to victims.

1. *New and innovative strategies to effectively prevent and protect children from sale and sexual exploitation*:

There are quite a number of challenges negatively impacting in preventing sale and sexual exploitation. Understanding these challenges will enable us develop effective strategy in eradicating child trafficking. Some of these challenges are:

* Lack of awareness on child trafficking – which includes the fact that it exist, steps parents/caregivers should take in protecting children, signs that citizen should look out for in identifying and reporting any such incidences[[5]](#footnote-5).
* Lack of funding/government support for NGOs, law enforcement and government departments which has resulted in poorly resourced prevention efforts.
* Lack of specialized training for practitioner in the NGO, government and NHRI. The SAHRC recently added trafficking in person as a focal area however there is no in-house expert on this complex area.
* Fragmentation of services- despite the establishment of the Inter-Sectoral Committee, complete co-ordination has not been achieved.
* The lack of designated safe houses for trafficked victims — many victims find themselves housed in multi-purpose shelters with other victims of domestic and alcohol abuse.  Trafficked victims need specialized support services.
* Gaps in the legal services offered to trafficked victims- trials is far too long, and often exposes survivors to added trauma during the prosecution period.

1. *The way forward*

In developing an effective strategy, more effort must be placed on prevention which should include awareness in schools, churches, communities and among parents. This scourge can only be tackled when every stakeholder – government, NGO, business and NHRI work together. Hence a greater collaboration needs to be developed among all relevant stakeholders.

Finally, we know that the prevention of trafficking can only be successful if we eradicate the conditions that make children vulnerable.

1. The Constitution of the Republic of South Africa (Constitution) [↑](#footnote-ref-1)
2. MOLLEMA, N. (2013). Combating Human Trafficking in South Africa: A Comparative Legal Study. [↑](#footnote-ref-2)
3. MOLLEMA, N. (2013). *Combating Human Trafficking in South Africa: A Comparative Legal Study.* [↑](#footnote-ref-3)
4. MOLLEMA, N. (2013). *Combating Human Trafficking in South Africa: A Comparative Legal Study.* [↑](#footnote-ref-4)
5. <https://www.scross.co.za/2017/08/reality-human-trafficking-south-africa/> [↑](#footnote-ref-5)