

**LEGAL AND INSTITUTIONAL ARRANGEMENTS FOR COMBATING CHILD
TRAFFICKING IN HARARE, ZIMBABWE**

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Abstract

In recent years there has been a public uproar in Zimbabwe about the trafficking of children and resignation that not enough is being done to address the problem. External assessments also claim that there is little action on the prevention of trafficking, protection of victims and prosecution of offenders. The purpose of this study was to examine the severity of the problem and to assess the actions being taken currently by the key stakeholders. The study focused on trafficking for child prostitution in Harare province. The study found that child trafficking for prostitution is indeed taking place but that the response is weak, largely due to the fact that there is no legal framework on which to base such a response. Further the absence of a legal framework limits the ability of government to collaborate with and coordinate all the key stakeholders involved in the area of trafficking.

Declaration

I declare that this report is my own unaided work. It is submitted in partial fulfilment of requirements for the degree of Master of Management (in the field of Public and Development Management) in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university.

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Executive Summary

This is a report on a research study undertaken to examine the legal and institutional measures in place against trafficking associated with child prostitution in Harare, Zimbabwe and to determine if and why these measures are weak. The study was undertaken between April 2012 and March 2013. It was motivated by assertions made by the United States Department of State in its Trafficking in Persons Reports of 2011 and 2012 respectively, that Zimbabwe's response to trafficking in persons is weak with little prospect of improvement.

Therefore the research sought to determine first of all the current international standards for effective responses against child trafficking. This was done through a review of international conventions and laws on trafficking and the standards set in those conventions. This included whether these standards are appropriate and sufficient to meet the challenges. Secondly the study measured Zimbabwe's response against the international standards in order to judge whether it is true that the response does not meet international standards. It was found that the Trafficking in Persons reports have painted a rather dire portrait of the situation on the ground. The research established that attempts have been made to address the problem but these are however crippled by internal weaknesses which are described in this report.

The study also established that the biggest challenge to effectively addressing child trafficking identified was a lack of legislation and the absence of a centralised coordinating and oversight mechanism that would bring together the current efforts by different actors in a coherent manner. Thus there remains much room for improvement and this report ends with recommendations to that effect.

1. CHAPTER ONE- INTRODUCTION

1.1 Background

Human trafficking is the world's second largest and fastest growing illegal activity. According to the Human Trafficking Project (2009), this activity, where people are recruited or coerced then held captive for exploitative purposes has 12 million victims worldwide and generates an income of nine billion US dollars per year. Human trafficking at its core is a form of exploitation where ultimately an individual or entity derives benefits from a person's body, labour or economic activity through coercive means.

According to the United Nations, it is

"...recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat, or the use of force or other forms of coercion, abduction, of fraud, of deception of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation..." (UN, 2000 pg.42)

There are three components to trafficking; the act, the means and the purpose. An act includes actions such as *"recruitment, transportation, transfer, harbouring or receipt of persons"*. The means include using *"threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits"*. The purpose is predominantly one of exploitation including *"prostitution of others, sexual exploitation, forced labour, slavery or similar practices, removal of organs or other types of exploitation"* (Palermo Protocol, 2013)

According to the United States Department of State (DOS), major forms of human trafficking are: forced labour; sex trafficking; bonded labour; debt bondage; involuntary domestic servitude; forced child labour; forcing children to beg or to engage in illicit and criminal activities, child soldiers; and child sex trafficking (DOS, 2011). Allais (2006) identifies two major factors which cause human trafficking to take place. She notes that people will automatically be pulled to areas where life seems better, or where certain

activities need people. This could include conflicts 'needing' child soldiers and where there is a demand for domestic or sexual services, adoption, or for ritual sacrifices. Push factors include: poor conditions, deprivation, unemployment, discrimination, lack of information and education as well as lack of legislation and a policy framework.

Trafficking happens to all - men, women and children, both boys and girls. However, children are especially vulnerable to trafficking and figures show that between 30% and 50% of trafficking victims are children (Khan, 2005). Movement of trafficked persons takes place within, as well as beyond, national borders. Although the notion of trafficking was first defined and understood in the context of movement of people across national borders for the purposes of exploitation, this has changed. The term trafficking has increasingly been applied to exploitation of persons within national borders and even in a local environment with the emphasis being on the exploitative nature of the activity.

According to the 2012 Trafficking in Persons report (DOS, 2011), this growth has escalated in the wake of the global recession and extended economic stagnation, which have increased people's vulnerability to being trafficked. The same report states that Zimbabwe is a source, transit and destination country for human trafficking. Within Zimbabwe people are trafficked for a variety of reasons. These include sexual exploitation, domestic servitude, and forced labour for commercial farming or mining (Ibid).

There are a few instances where trafficking of children takes place for ritual murder or for adoption (NPA, 2010). People are also trafficked from Zimbabwe to Angola, the United Arab Emirates, Malaysia, Nigeria, South Africa, China, Egypt, the United Kingdom, and Canada mainly for commercial sex work or forced labour. The country is also a transit for people from Bangladesh and the Democratic Republic of Congo who are trafficked mostly to South Africa but also to a lesser extent to Angola, Botswana and Mozambique (DOS, 2011). Thus the challenge of addressing human trafficking is multifaceted and incorporates domestic and international considerations. The victims themselves may have different profiles and act differently depending on whether they are being recruited, in transit or have arrived at the final destination.

In recent years children in Zimbabwe have become particularly susceptible to trafficking. In 2008, Gumbo asserted that there was sufficient evidence to suggest a serious problem with child trafficking in Zimbabwe. Three years later, the United Nations Children's Fund (UNICEF) and the International Organisation for Migration (IOM) reported separately that children were being approached and recruited by traffickers on a regular basis (IOM, 2011, UNICEF 2011). According to UNICEF (Ibid), 1.6 million children (one quarter of all children in Zimbabwe), have lost one or more parents to AIDS and some are living in child-headed households. The situation has been compounded by the more than decade-long economic crisis which has left more than 3.5 million children living below the poverty datum line (UNICEF, 2011).

These difficulties leave children in situations of increased vulnerability to traffickers. Cases of child trafficking for various reasons such as removal of body parts as well as for domestic labour and prostitution are regularly reported in the media (Gumbo, 2008). A few have been successfully brought before the courts albeit after being charged using other pieces of legislation (Mzaca, 2011). Girl children are also being trafficked domestically for the purpose of forced marriage, again to benefit the family through the *lobola* or bride price that is paid for them. It is estimated that each year, 8000 girls, some as young as 12, become brides, often marrying men who are much older than they are (Sibanda, 2011). These are all clear violations of children's rights.

Zimbabwe has signed, acceded to or ratified key international instruments on the rights of children such as the United Nations Convention on Children's Rights (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) which contain in them provisions against child trafficking and activities associated with it. In December 2007, Zimbabwe ratified the UN Convention against Transnational Organised Crime (UNTOC) and in July 2012 acceded to its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also known as the Palermo Protocol). It is also a signatory to the International Labour Organisation (ILO) Convention 182 on the Worst Forms of Child Labour.

All of these international conventions require governments to take the appropriate measures to protect children from harmful practices including child trafficking and

activities associated with it such as prostitution, pornography, forced labour as well as use in armed conflicts. These measures include putting in place the appropriate national legal framework, as well as programmes and activities to address child trafficking. Zimbabwe has a strong child welfare system which protects children from exploitation through legislation, including the Children's Act (2005) as well as other non-legal measures such as the Victim Friendly System (VFS) which is designed to assist vulnerable victims of crime in particular women and children. It also has strong measures in other legislation to prevent smuggling of children, kidnapping of children and child labour.

However, in 2012, Zimbabwe was rated as a country which does not comply with minimum standards for eliminating human trafficking and which is not making significant efforts to do so (DOS, 2012). This is a downgrading from 2008, when it was ranked as a country that was making significant efforts to prevent, protect from, and prosecute human trafficking (DOS, 2008). In 2011 the International Organisation for Migration (IOM) launched a programme to assist governmental counter-trafficking efforts by raising public and government awareness of the problem (IOM, 2011). The criticism of governmental efforts by the US State Department and others (DOS, 2012, Gumbo 2008) and the IOM programme suggest that the measures that are required by the international conventions are either not in place or that they are not being applied effectively. Interventions that do exist appear to be led mostly by non-governmental organisations such as the International Organisation for Migration (IOM), United Nations Children's Fund (UNICEF), Childline and Girl Child Network. Coordination of these interventions is weak.

Furthermore, there is evidence that the leaders of ZANU-PF, one of the parties in the Government of National Unity (GNU), receive much support from religious sects which have been implicated in cases of child marriage, a form of child trafficking (Sibanda, 2011, pg. 5). In recent years, youth militia groups aligned to ZANU-PF, have also been implicated in the kidnapping and keeping young girls in sexual and domestic bondage at national youth camps set up during the 2002 and 2008 election campaigns (NPA, 2010).

Child prostitution is taking place in Zimbabwe and has been observed and documented at commercial hubs such as mining towns and tourist areas (Sithole, 2008). Harare, the commercial capital of Zimbabwe is itself is home to many children who have turned to prostitution due to orphan hood and economic hardships, which work together to make their lives extremely difficult. The majority of the child prostitutes are girls although there are boys who are also involved.

1.2 Problem Statement

Zimbabwe's legislative, regulatory and implementation frameworks to address human trafficking, and by extension child trafficking, are inadequate. The nature of human and child trafficking is that it requires specialised legislation and specific ways in which reporting and prosecution should be handled. It cannot simply be combined with other child protection laws as is current practice. Doing so reduces focus and attention on trafficking and also affects allocation of resources. Government efforts to draft an Act show clearly that steps are being taken to address the problem. However, the pace of reform is very slow in relation to the reported severity of the problem. Why is this?

It has been suggested that the lack of action on this issue is caused by government lacking a clear understanding of the extent and depth of the problem. As there is no legal framework and clear reporting mechanisms, it is difficult to standardise monitoring and to collect information, as many victims do not know how, and where, to report. This in itself presents a knowledge gap which will be a challenge for the research.

Current efforts have focused primarily on dealing with victims of trafficking by identifying, counselling and supporting them to be reintegrated into society, as well as arresting and prosecuting perpetrators. Responding to the victims has been done mostly by NGOs and community organisations and as it takes place after the act of trafficking has taken place. Thus, it is much more focused on treating the symptoms rather than addressing the root of the problem and putting in place robust prevention measures. Even these non-state efforts are not coordinated effectively (Gumbo, 2008).

The knowledge gap that this research addresses is to explore the challenges the state faces in addressing child trafficking adequately. This will help to identify ways in which the state can be supported to enact legislation and to increase response capacity.

Trafficking of children for the purposes of prostitution creates not only a social and protection problem, but due to the high levels of HIV/AIDS in the country, it also creates a national health problem. It is therefore urgent to understand and critically analyse the actions of government.

1.3 Rationale and Objectives

Child prostitution in any shape or form is reprehensible, even where the child is engaged in it of his or her 'own volition'. Where another person, in most cases an adult, purposely recruits children for the purposes of prostitution and profits from it, it represents a grave violation of that child's rights. This research examines the efforts made through current legislation and other institutional arrangements to: prevent trafficking; to protect children from trafficking; to protect and support child victims of trafficking and to prosecute perpetrators. The research focuses on children because they form the most vulnerable group amongst trafficking victims due to the fact that they are less able to protect themselves. While children have more personal agency than is often attributed to them, they also have a reduced capacity to assess risk, articulate themselves or protect themselves, and the forms of coercion used to control them are different from those used on adults (Dottridge, 2004).

The research specifically focuses on child trafficking for the purposes of sexual exploitation and prostitution. Other forms of exploitation such as child marriage and harmful child labour are generally perceived as 'acceptable' within Zimbabwean society, caught in a complicated interplay between culture, tradition and customary law and often supported by family members. Trafficking for these purposes is beyond the scope of this study, as they are rarely reported and data is scarce. It would require a much more comprehensive study. Prostitution, on the other hand, is seen as a social evil and

a punishable criminal offence: more data is available, and one can identify clear interactions between different actors such as police, the justice system and social welfare.

According to the Trafficking in Persons Report (DOS, 2012), at a time when child trafficking in Zimbabwe is increasing, efforts to address this problem have stalled and have arguably decreased. This research will begin first by establishing the link between sexual exploitation of children through prostitution, and child trafficking. It will then examine the extent to which measures to address trafficking can be applied usefully to address sexual exploitation. This study will therefore seek to discover why official measures to address child trafficking are inadequate and why they are not improving, especially at a time when children are at greater risk. The research will focus on Harare Province in Zimbabwe. This province is mostly urban and is the commercial hub of the country.

As the commercial hub of a country that is undergoing immense political upheaval as well as socio-economic challenges, the environment is favourable for human trafficking in general and child trafficking in particular, to take place. Children can be trafficked and exploited within the city. They can also be moved from rural and peri-urban areas into the city. The city can also act as a transit point for transnational trafficking as many major transport operators depart from there by road and by air into neighbouring countries. The study will examine the current legislation, the coordinating and response mechanisms as well as the level of government leadership on the matter.

By evaluating all the above we can test the assertion that government is not doing enough to address the issue at hand. Understanding the challenges faced by government will give policy direction to legislators. It will also help non-state actors who work in the field to identify the best ways in which they can assist or lobby government to lead the fight against child trafficking.

1.4 Research Question

This study asks “What is the response of the Zimbabwean government to trafficking for child prostitution and is it sufficient?” In answering these questions, it will be important to understand what constitutes an adequate response and whether the notions of adequacy can be applied equally to every country in the world.

The study seeks to establish and evaluate the elements that constitute the government response to trafficking. These include the legal, institutional and regulatory framework; coordination amongst the relevant governmental and non-governmental organisations, availability of resources to support effective implementation as well as tolerance of the cultural and social practices that promote child trafficking.

1.5 Definition of Terms

1.5.1 Child

The term ‘child’ used in international conventions, in particular, the UN Convention on the Rights of the Child (CRC) refers to every human being who is below the age of 18. It carries with it certain perceptions and expectations about children and their personal agency, vulnerability, liability and culpability. Children are given particular legal attention because they deserve special protection as their capacities are not yet fully developed and they are more vulnerable than adults. As highlighted above, whilst all forms of exploitation are illegal, exploitation of children is in some ways more heinous than any other crime.

Henschel (2003) however makes an important observation that in some cultures, a child becomes an adult when s/he has a child or enters into marriage. Also, in many countries the age of sexual consent and legal age of marriage are different or may differ for boys and girls. The place of the child in the family also differs across cultures. These differing perceptions have an impact on how ‘victims’ are perceived by those who are supposed to be assisting them, and by extension, on the measures put in place to assist

these very same victims. In Zimbabwe, there a number of different definitions of maturity within the law as outlined in Table 1 below:

Table 1- Legal definitions of maturity in Zimbabwean law.

Category	Age
Definition of a child	16 years and under
Age of majority	18
Minimum age of sexual consent	16
Minimum age of employment	15
Minimum age of marriage without parental consent.	16 for girls and 18 for boys
Minimum age of recruitment into the army	18
Minimum age of criminal responsibility	7

Source: African Committee of Experts on the Rights and Welfare of the Child (ACERWC)-2012

1.5.2 Child Trafficking

Trafficking of children has the usual elements of the human trafficking definition highlighted above, such as the use of force, abduction, sale, threats, deception, drugs and control of those trafficked through isolation, violence, fear, debt bondage and emotional manipulation. However, in the case of children, vulnerability to trafficking and the trafficker's control are more acute. This is because most children regard adult traffickers with fear and will tend to yield to them more easily Adult traffickers therefore take advantage of this and use their power or authority on children (Connect 2002). This is not to say that children are not involved in trafficking of other children, but it is rare.

Article3(c) of the Palermo Protocol notes that recruiting, transporting, transferring, harbouring or receiving a child for the purpose of exploitation is also considered as trafficking in persons even if no payments or benefits have been received, or even if there has been no deception or coercion (UN, 2000, pg. 2)

1.5.3 Trafficking and Sexual Exploitation

According to Ingham-Thorpe (2011), it is estimated that the most common form of human trafficking is for sexual exploitation and that this affects predominantly women

and girls. The form that this takes is usually using deception, where victims are lured by promises of employment or migration or shelter only to find themselves entrapped in a life of sexual servitude. Those exploited for sex make up 43% of all trafficking victims, and 98% of these are women (Ibid). Connect (2002) identifies a number of forms of sexual exploitation:

- Forced prostitution
- Social and religiously sanctioned forms of prostitution
- Sex tourism
- Pornography
- Child pornography

1.5.4 Child Prostitution and Sex Trafficking of Children

Child prostitution is a form of commercial sexual exploitation where the victims are children. The Optional Protocol to the Convention on the Rights of Children on the Sale of Children, Child Prostitution and Child Pornography (OPSC), which was adopted by the United Nations General Assembly in 2000, defines child prostitution as *'the use of children in sexual activities for remuneration or any other form of consideration'*. This remuneration may be received by the child himself or by an adult who benefits from the activity of the child. The ILO Convention 182 (1999) in Article 3 (b) classifies the *'use, procuring or offering of a child for prostitution'* as one of the worst forms of child labour. In a similar vein, Connect (2002, pg. 5) also describes child prostitution as *'the sexual exploitation of a child for remuneration in cash or kind usually but not always within the family'*.

According to Henschel (2003), child prostitution is caused by the following:

- Inequality and social exclusion
- Poverty
- Illiteracy
- Negative traditional practices

- Lack of protection from family members and from the institutional environment
- Violence in the family leading to low self-esteem and drug abuse
- Lack of public policies, i.e. no preventive, punitive, recovery and re-insertion measures into society

It is estimated that 30% of all child trafficking cases are children coerced into the sex industry, mostly girls aged around 13 (Ingham-Thorpe, 2011). This kind of exploitation usually takes place in a large city where the girl is new and is not familiar with the city and is therefore more susceptible to the trafficker. Barnitz (1998) also notes that many street children are prostituted by adults in return for food and shelter.

2. CHAPTER TWO - LITERATURE REVIEW

2.1 Introduction

A large amount of literature exists on human and child trafficking as well as child prostitution. Whilst Gallinetti (2008) argues that the large amount of literature and different treaties and conventions may lead to over-reporting of the phenomenon, the stories told by victims, particularly in the context of other criminal activities and human rights violations, show the existence of a serious problem that requires attention. Gumbo (2008) notes that in the case of Zimbabwe, though documentation is scarce, the problem is persistent enough to warrant attention. Most of the literature shows that in general, those working in the field of child trafficking do not believe that enough is being done to address these problems.

The literature details incidents and reports of trafficking, and identifies some of the hindrances to putting in place a robust legal regulatory framework with programmes that support the implementation of the legislation in a manner that will address the problem sufficiently. The literature highlights that combating trafficking requires a multi-disciplinary approach (Gumbo, 2008). However, even with multiple stakeholders, government has the primary responsibility for establishing or at least coordinating, the different mechanisms and different actors.

The literature on child trafficking and responses to it makes clear that no country is unaffected by child trafficking and its attendant vices, especially sexual exploitation of children. That is why the international community has spoken and acted so strongly against it. This chapter reviews the current literature on the occurrence of child trafficking and child prostitution, including the relevant international conventions as well as national laws that address trafficking directly or indirectly. The literature does highlight the fact that it is difficult to formulate legislation against child trafficking, and even where legislation exists, it is not easy to implement this legislation.

Researchers have sought to understand the conditions, within countries and internationally, which often work against the application of an effective response, and

have made recommendations as to how these limitations can be addressed or overcome (Todres, 2010).

Given that the most well-known instrument on trafficking, the Palermo Protocol (UN, 2000), supplements a convention on transnational crime, there is a need for more research on internal trafficking as well as the socio-cultural norms which may facilitate its proliferation. The Trafficking in Persons Report (DOS, 2012) which is produced by the United States Department of State, and which is often cited as authoritative on the issue, is mostly a report on transnational trafficking and does not cover internal trafficking with the same focus and attention. Research also shows that a number of countries which do not have specific anti-trafficking legislation use other statutes to prosecute traffickers (Pithey 2004, Leggett 2004). Part of this research will be to explore whether practitioners believe that these other statutes are sufficient in Zimbabwe and if there is therefore no need for anti-trafficking legislation.

Research on child trafficking has had challenges in terms of definition and interpretation and there is need to explore the extent to which different cultures may lead to specific manifestations of child trafficking (Chung, 2009). This by definition requires a culturally relevant response. This in turn speaks to the issue of 'international' standards and who determines what these standards should be.

The literature review begins with an overview of literature on child prostitution and child trafficking in Zimbabwe generally and in Harare specifically. This is followed by a discussion of the relevant international conventions and protocols. A discussion on regional examples of anti-trafficking measures in Africa follows and the review ends with a discussion of the current legal provisions on trafficking in Zimbabwe.

2.1 Child Prostitution and Trafficking in Zimbabwe

According to the literature at hand, trafficking related to child prostitution is taking place in the form of internal trafficking where children, mostly girls, work as sex workers in brothels, as well as transnational trafficking of girls into neighbouring countries (Gumbo, 2008). In Zimbabwe, boys and girls engage in prostitution (Dube, 2003). The

participation of boys in prostitution tends to be hidden because they are more likely to engage in sex with men as well as women. And in a country where homosexuality is illegal and frowned upon culturally, this is a source of great shame (Connect, 2002).

Child prostitution is taking place all over the country and is particularly reported in urban areas, mines and other commercial centres. Media reports describe prostitution by underage girls in the Avenues area just outside of the central business district in Harare. It also takes place in the Mukuvisi Woodlands area as well as popular nightspots around the city (Chibaya, 2012). According to such reports, those children who are prostituting themselves do so due mainly to two factors. One is that many have lost parents and guardians to the HIV/AIDS pandemic. The second is that the economic crisis in the country has removed the social net that the extended family used to provide and even government can no longer provide social welfare services as it used to before.

Trafficking and exploitation of children is more directly tied to life on the streets. Street children are more likely to be exploited as they have no shelter and don't have an adult looking after them to protect them from traffickers. It begins with the children soliciting clients for prostitutes. This exposes them to the practice of prostitution and makes them more vulnerable to becoming involved in prostitution (Dube, 2003).

Furthermore, homeless girls are also taken in by older women who are no longer able to attract or satisfy their regular clients. These women will offer food and shelter in order to lure the girls (Ibid). Boys may provide sexual services but are more likely to be living on their own on the streets. Street life exposes children to early sex when they are cut off from customary services of information and protection such as school and family.

2.2 International Conventions and International Law

There are a large number of international conventions which directly or indirectly focus on trafficking and associated activities. Key among these are the United Nations Convention on the Rights of the Child (CRC) and the United Nations Convention on Transnational Organised Crime (UNTOC). Zimbabwe has ratified both these conventions. In 2012, Zimbabwe acceded to the Optional Protocol on the Sale of

Children, Child Prostitution and Child Pornography (OPSC) which supplements the CRC, and the Palermo Protocol, which supplements the UNTOC.

The International Labour Organisation (ILO)'s Convention No 182 calls for action for the elimination of worst forms of child labour including child prostitution and child pornography and Zimbabwe has ratified this convention. All international conventions come with the proviso and requirement that they will be reflected in domestic laws and practices. In the case of child trafficking, Article 35 (pg. 10) of the CRC requires state parties to

“.....take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”

This sentiment is echoed in Articles 19, 24 and 29 of the ACRWC. The Palermo Protocol, in Article 10 (pg.4), also urges state parties to adopt measures to establish the aforementioned crimes of trafficking as criminal offences. The OPSC in Article 2 (pg.3) requires state parties to incorporate the following trafficking-related offences into criminal and penal law:

- a) Sexual exploitation of the child
- b) Offering, obtaining, procuring or providing a child for child prostitution,

As with all international conventions, however, there is no timetable or deadline set for domestication into national law and no sanctions on those who do not domesticate the provisions of the conventions into law. This weakens the force of the convention.

In a report on the OPSC, UNICEF (2009) notes that there are gaps in the law on child prostitution and child pornography in many of the States which are parties to the protocol. In some countries, the focus may be more on the immorality of prostitution and/or pornography rather than on its exploitative nature. Victims of trafficking may actually be held liable for other crimes and face re-victimisation in the course of prosecution.

International conventions approach trafficking from two perspectives; either the human rights approach or the criminal approach (Gumbo, 2008). The CRC and Convention 182 from the International Labour Organisation approach the issue from a human rights perspective, whilst the Palermo Protocol, by supplementing a convention on transnational crime, by definition takes a criminal approach. For example, the CRC in Article 32 calls on states to ensure the protection of children from harm and from performing work that may be harmful to children's health or can harm mental, health, social, physical, and spiritual development. Article 34 compels the state to prevent the inducement or coercion of a child to engage in unlawful sexual activity

Todres (2010) has argued that the first approach tends to see children as victims and the second as criminals. And that, for these reasons, both approaches are problematic. In addition, these two approaches speak to the post-trafficking scenario and therefore take the focus away from what can be done before the crime has taken place. He favours what he calls a child-centred approach which focuses on the children and includes victims *and* potential victims. This would also bring attention to what can be done before the crime has been committed and would promote a prevention-centred approach to combatting trafficking.

In spite of the veritable plethora of international conventions, there remains indifference and a lack of domestic commitment to protect at-risk groups through training and information of key stakeholders (UNESCO, 2007). Gallinetti (2008) also observes that the many conventions have differing definitions and concepts and multiple monitoring and reporting procedures which may create challenges for those countries who want to put in place anti-trafficking measures. Trafficking manifests differently in different contexts and what looks like human trafficking in one context may not be interpreted as such in another. This creates problems of 'buy-in' for those pushing international standards against trafficking because what other people see as trafficking might be condemned as trafficking when it is a normal aspect of human life for that society.

2.3 Measures that can be taken against trafficking

Section 5 of Article 9 of the Palermo Protocol states:

“States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking”.

In response to this, governments have identified the three main aims of counter-trafficking measures:

- a) *Prevention* of the incidence of trafficking,
- b) *Protection* of child from being sold and protection of the child victim if trafficking has already taken place
- c) *Prosecution* of alleged perpetrators

The OPSC and Palermo Protocol when read together, call for multilevel government-led programmes to prevent trafficking and to provide assistance to victims. Both speak about the need for prosecution, particularly in Article 5 of the Palermo Protocol, (pg. 3) although the OPSC also states that each state party should make the offenses punishable by *“appropriate penalties that take into account their grave nature”* (Article 3 (3)).

For **Prevention** states are encouraged to: *“...adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes”* to prevent trafficking. These include public awareness, education, training and encouraging the participation of children and child victims. It requires that measures are taken to ensure the full social reintegration and their full physical and psychological recovery of victims of trafficking (Article 9, Palermo Protocol).

Protection measures are outlined in Article 8 of the OPSC and require governments to act by:

- Informing child victims of their rights;

- Allowing the views, needs and concerns of child victims to be presented and considered with the procedural rules of national law;
- Providing appropriate support services to child victims;
- Protecting, as appropriate, the privacy and identity of child victims;
- Providing, in appropriate cases, for the safety of child victims;
- Avoiding unnecessary delay in the disposition of cases.

Prosecution requires that states criminalise the offences and respond with sentences whose harshness meets the severity of the crime.

Taken together, these measures would require, *inter alia* the following:

- Legislation by Government
- Awareness-raising
- Shelters and centres of support
- Engagement of communities and parents and (where applicable) guardians
- Training of law enforcement personnel, immigration, customs officials
- Budgeting allocations
- Research

It is difficult to prevent trafficking or even protect potential victims directly and counter-trafficking measures are usually more visible when it comes to victim support and rehabilitation, restoration and reintegration than prosecution of perpetrators for instance.

Todres (2010) argues that current measures are achieving 'lower than expected returns' and minimal success at best, mainly because most are applied after the act of trafficking has already taken place. Even harsh sentences lack effectiveness because the profits are such that they are worth the risk to those who are engaged in the activity (Ibid). And without addressing systemic issues (in homes or in the economy), children are left vulnerable to being trafficked again as post-trafficking assistance programmes often end early.

Todres (2010) identifies the following as key to succeeding in combating trafficking:

- Using good research
- Using a child centred approach
- Improving coordination of stakeholders

2.4 Current Measures Taken in Zimbabwe to address trafficking

2.4.1 Zimbabwe's Laws against Trafficking

On paper, Zimbabwe has a strong child welfare and child protection system and its current legislation meets most of the standards set in the CRC to protect children from harm and to promote their growth and development. Prosecutions of crimes associated with trafficking can be made using statutes such as the Criminal Code (2005), The Marriages Act (2001), Customary Marriages Act (2001), the Child Abduction Act (1995), the Guardianship of Minors Act (2002), the Children's Act (2005), the Immigration Act (1996) and the Labour Act (2005). So within the purview of child protection, the legislation exists for addressing crimes against children.

However, whilst there is a plethora of child-specific legislation in Zimbabwe, there is still no legislation that specifically addresses trafficking. And the lack of specific legislation often prevents police from prosecuting, investigating and charging perpetrators (Gumbo, 2008). This is because there is little incentive to pursue traffickers as proof and sentencing becomes difficult for prosecutors and judges without a clear legal framework. Reflecting international trends, Zimbabwean legal provisions are a combination of human rights and criminal perspectives. For example, the Children's Act and the Labour Act are more rights-based, while the Immigration Act and the Criminal Code take a criminal approach.

As Kamidi (2007) notes however, an abundance of legislation does not guarantee full protection of children and the strength or effectiveness of the legislation depends on the cooperation of the different actors working on the issue. Kamidi notes further that legal measures are necessarily top down and may not deal adequately with the dynamics at the social and community levels, which are the major causes of child trafficking and

which impede efforts to address it effectively (ibid). This suggests that non-legal measures are just as important to combating child trafficking as legal measures.

2.4.2 Non-Legal Institutional Measures against Child Trafficking in Zimbabwe

UNICEF (2009) advocates that protection is most effective where there is a holistic approach of mixing top-down and bottom-up measures, and where there is co-operation between agencies and institutions which deal with the different aspects of the problem. These include the police, social services, hospitals, counsellors, children's organisations, the courts, immigration services, NGOs, civil society, media and community and religious leaders (UNODC, 2012). Unfortunately, in Zimbabwe, the welfare system has deteriorated due to lack of funding as well as economic migration of trained and skilled professionals such as social workers (ZBC, 2011).

In Zimbabwe the media has been useful in reporting incidents of suspected child trafficking. However, these stories do not give information or insight as to what the authorities are doing about the issues. They sometimes take a moralistic tone and often end with exhortations to the police and others to 'do something', which is where it often ends.

2.4.3. Comparing Zimbabwe's Response to Human Trafficking with International and Regional Responses.

Every year, the United States Department of State publishes a *Trafficking in Persons* (TIP) report, which evaluates all countries' responses to human trafficking in the previous year. The evaluation is, based on whether they are doing enough to 'Prevent, Protect and Prosecute' (DOS, 2012). The standard of evaluation is the Trafficking Victims Protection Act's (TVPA) of the United States of America, which is one of the most comprehensive anti-trafficking statutes in the world. The TIP report places countries on Tiers based on how they are perceived to be addressing human trafficking.

Table 2: Trafficking in Persons Report Tier Placements Criteria

Tier 1	Tier 2	Tier 2 – Watch List	Tier 3
Countries whose governments fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards.	Countries whose governments do not fully comply with the TVPA's minimum standards; but are making significant efforts to bring themselves into compliance with those standards.	Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND: a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or c) The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year	Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so

Source: Trafficking in Persons Report (2012)

The 191 countries evaluated in 2011 were ranked as follows:

- Tier 1–31 countries
- Tier 2 –86 countries
- Tier 2 Watch List – 41 countries
- Tier 3 – 23 countries

Zimbabwe was categorised as Tier 3, indicating that it is not meeting international standards.

The table below presents a comparison of the ranking of the countries in the SADC region in 2010 and 2011.

Table 3- Trafficking in Persons Report Ranking of SADC Countries in 2010 and 2011

Country	Rank in 2010	Rank in 2011
Angola	2 Watch List	2 Watch List
Botswana	2	2
Democratic Republic of Congo	2WL	3
Lesotho	2	2
Madagascar	3	3
Malawi	2	2WL
Mozambique	2	2
Namibia	2	2WL
South Africa	2	2
Tanzania	2WL	2
Zambia	2	2
Zimbabwe	3	3

Source- Trafficking in Persons Report 2011 and Trafficking in Persons Report 2012

These statistics show that countries across in Southern Africa are not doing enough to address the challenge of human trafficking. In two separate studies of Southern Africa, NPA (2010) and Swart (2011) note that within the region, there is little urgency to enact trafficking legislation and that human trafficking is not a priority for lawmakers. Only Zambia and Mozambique have such legislation. Even South Africa, which is a destination country for most of the trafficking victims from the region, still does not have an Anti-Trafficking Act despite years of advocacy for such an Act. Zimbabwe is no exception. One of the reasons suggested for Zimbabwe's lack of urgency is that some high-level government officials deny that the country has a human trafficking problem (DOS, 2011).

2.5. Hindrances to acting against child trafficking

Despite trafficking being a heinous offence that many people strongly oppose, it is notoriously difficult to act against it. Prevention is integral to reducing the number of victims of trafficking and as Todres (2010) has argued, prevention should be the cornerstone of every anti-trafficking programme. He has identified the following as hindrances to successfully preventing trafficking:

Lack of Sufficient Data - There are few governments or institutions who are working with comprehensive multi-year research programmes researching trafficking and this hinders identification of the real causes of the problem and the implementation of targeted and effective programmes.

Program Design – Victims and or potential victims, and those who may facilitate or provide a facilitative environment for trafficking to take place, are not involved in programme design and the programmes therefore miss some of the real focus areas.

Stakeholder Coordination –Stakeholder coordination can often be poor and this hinders cooperation and leads to duplication and ineffective allocation of resources.

The Interrelationship Between Rights - The fact that the loss of one right can predispose a child to the loss of another has not been given sufficient consideration. So for example, in instances where children are already marginalised and they do not have access to the basic rights of food, education and shelter, this increases their vulnerability to traffickers.

Because of the coercive nature of trafficking which often involves confiscation of identify documents and travel documents, victims may fear reporting their traffickers. This has a twofold impact. It affects protection because it is difficult to protect victims who are invisible. Secondly, it means that few traffickers are prosecuted and even fewer are convicted. In 2006 it is estimated that for every 800 people trafficked, only one person was convicted (Ingham-Thorpe, 2011). This is because of the lack of reporting by victims as well as the lack of sufficient legislation. As Clawson et al (2008) note, prosecutors are often reluctant to make arrests knowing that the legal framework is weak or does not exist, because they may not be able to get any successful convictions. Protection of victims is also hindered by lack of resources because it is a long process of counselling, rehabilitation and reintegration, all of which require funding, human resources and a long-term approach (Todres, 2010 pg. 4).

2.5.1 Challenges with enacting trafficking legislation

There are a number of impediments to governments legislating and implementing legislation against child trafficking. These include paucity of data, corruption of police and immigration officers, porous borders, lack of a legal framework against child trafficking, and lack of government urgency or acknowledgement of the problem (Swart, 2011; Gallinetti, 2008; Dottridge 2004).

Policy makers rely on data and research in order to understand the nature of a problem and draft the appropriate legislation and regulations to address the identified problems. Yet, many authors note insufficient data as one of the significant factors which impedes effective legislation against child trafficking. Omelaniuk (2006) and Swart (2011) point to the fact that trafficking in persons is “*under reported, under documented and under legislated*” (Omelaniuk 2005, pg. 6), and that in particular the trafficked experiences of children are “severely” under documented. Data is inadequate, scattered and not systematic (Gumbo, 2008). There is not enough research on the effectiveness of government anti-trafficking policies and the efficacy of rescue and restore programmes that are currently in place in different countries. Whilst reports such as the TIP are useful, they are in a sense externally driven and themselves do not rely on raw data but on reports produced by other organisations. There should be more in-depth research done by governments themselves: due to their institutional and administrative reach, they are likely to cover more areas geographically and understand and interpret local conditions better. However one of the challenges of expecting governments to do this research is that the issue could be played down for political reasons particularly where it incriminates government.

2.5.2 The Zimbabwean Response

Despite the fact that organisations such as the International Organisation for Migration (IOM) periodically train police officers, the immigration department, law offices and other officials on child trafficking, there is inadequate awareness of the problem by these law enforcement authorities, (Gumbo, 2008 pg.42). Swart (2011) highlights cases of official collusion in the trafficking of women and children into South Africa from its neighbours

including Zimbabwe. Further, Ingham-Thorpe (2011) notes that one of the key areas to be addressed in combating human trafficking in Zimbabwe is corruption at Zimbabwe's borders, which facilitates illegal crossing.

Other challenges include the definition and interpretation of the term child trafficking, particularly in relation to accepted social norms as cited by Smith and Mattar (2004). In Zimbabwe there is a practice known as *kuripangozi*, where young girls are given in marriage to the family of someone who was killed by a member of the girl's family to appease the murder victim's avenging spirit. This serves a social and economic function but victimises someone who is forced to provide sexual and domestic services to serve the interests of the family and potentially to the detriment of their own interests.

Zimbabwean custom and labour laws allow children to work for more hours per week than the standards found in international law and practice of the International Labour Organisation (UNICEF, 2011). The practice of families sending their underage girl children to work as domestic servants and benefitting from their salaries is very prevalent in Zimbabwe. Many Zimbabweans including police officers, law officers and social workers employ these girls thus colluding in the trafficking of these girls and making it an accepted social norm. This could explain why the Government of Zimbabwe is slow to enact legislation which would 'negatively' affect many citizens. Thus, there is the possibility of public resistance to anti-trafficking measures.

Child trafficking is often accompanied by many serious crimes such as kidnapping, illegal migration and prostitution and other forms of sexual exploitation (Swart 2004). There are a number of studies on such phenomena in Zimbabwe, for example Sibanda (2011) on child marriage. They suggest that any attempt to address trafficking would need a multidisciplinary and multi-stakeholder approach.

Khan (2005) also notes that the reason why interventions in Zimbabwe have been weak is because the approach taken is more charity-based than rights-based, echoing Todres' argument against the victim-based approach, which doesn't consider the ability of those involved to act (Todres, 2010). Furthermore, a rights-based approach could

compel the government to enact legislation in line with the Bill of Rights in the Zimbabwean Constitution.

The Government and other institutions such as Parliament could take more of a lead in prevention and prosecuting trafficking offences, as most responses are carried out by NGOs and international organisations

There is an Inter-Ministerial taskforce on Human Trafficking. However, besides working with the IOM to produce campaign materials for the campaign on human trafficking, (Gumbo, 2008) it is not clear what else it is doing (Ingham Thorpe, 2011). There is reportedly a comprehensive anti-trafficking bill which has been in existence for the past seven years, but this bill has not been enacted (Ibid). An NGO Anti-Trafficking Network exists and there is a Zimbabwean police detective assigned to trafficking at the Harare Interpol offices, but this person reportedly needs more resources (Ibid).

2.6 A Model Anti-Trafficking Law

The United Nations Office on Drugs and Crime (UNODC) has developed a model law on human trafficking (UN, 2009). This model law sets forth the key characteristics of a good trafficking law. Such a law should have the following attributes or support the following activities:

- Ascribes liability not only to those who are actually perpetrating but also to those who benefit or profit from trafficking or its proceeds and those who facilitate trafficking.
- Training of law enforcement and border control officials.
- Providing for stiff punishment that recognises the gravity of the offences.
- Giving courts the power to apply civil penalties for victim compensation.
- Public awareness and education campaigns
- Compliance and domestication of international instruments.
- Collection of statistics on the crimes.
- Liaison with regional and international entities (governments and inter-governmental and non-governmental agencies).

2.7 Conclusion

Thus it has been established that trafficking for prostitution is a world-wide problem and Zimbabwe is no exception. And whilst there is a multiplicity of international conventions, many governments are facing challenges in combating trafficking. There are few notable successes and the problem seems to grow faster than it can be contained. A number of reasons are advanced in the literature for the low success rate. These include that many countries don't have anti-trafficking statutes, and where these exist, they have the wrong focus, over-emphasising prosecution of perpetrators and protection of victims over prevention efforts. Some argue that public awareness is low whilst others argue that it is awareness and lack of coordination amongst the key actors that retards the fight against trafficking. Others point to internal institutional issues such as lack of material and human resources and corruption.

3. CHAPTER THREE - METHODOLOGY

3.1 Introduction

Child prostitution and child trafficking both evoke strong sentiment and value judgements in society. This sometimes lends itself to extreme positions and reactions. In addition, perpetrators naturally try to avoid detection, most victims display ambivalence about reporting and even about securing the prosecution of their exploiters and abusers. Data is scarce and difficult to prove. All these present challenges for researching the topic. And these challenges are compounded when one seeks to investigate these two phenomena together.

Therefore, it is important to use the most appropriate theoretical and methodological approaches to describe, analyse and understand the issues, as well as the conduct of the different stakeholders. Importantly, the parameters for the research are very clear. Whilst the underlying issue is human trafficking, the focus of this particular study is trafficking associated with child prostitution in the province of Harare, Zimbabwe. This area includes the city of Harare, the town of Chitungwiza and the local area of Epworth as well as rural Harare. Harare's population of just over 2 million inhabitants makes up 16.2% of the country's population (ZimStat, 2012).

In this study the term 'child' relates to any child under the age of 18, even those who have 'given consent' to being trafficked and/or exploited. Trafficking refers to:

- Recruitment of children in Harare for the purposes of prostitution in Harare itself or in other areas in Zimbabwe and in countries outside of Zimbabwe.
- The recruitment of children from outside of Harare (within Zimbabwe or from outside of Zimbabwe) in order for these children to engage in child prostitution where the payment being for these sexual services is received by someone else.
- Children who are trafficked transiting through Harare to a place where they will engage in prostitution for someone else's profit.

The term 'trafficker' refers to anyone profiting or facilitating the activities above, including drivers of vehicles transporting trafficked children, those who recruit the children directly, and those who eventually profit from the activities of these children, even in cases where a child also receives some of the profits. Since Zimbabwe is a unitary state, all laws discussed are national laws as there are no provincial or regional legislatures in the country.

This chapter describes the theoretical approaches and methods used and the reasons for using them. It also describes the challenges faced in undertaking the research and how they were overcome where possible. The research will examine how the institutional relationships between key actors in this area impact on the effectiveness of government responses to the trafficking for the purposes of child prostitution

3.2 The Research Approaches

There are two main approaches to research; the deductive and inductive approaches. The deductive approach begins with a hypothesis or theory about what is causing the phenomenon that is being observed. The purpose of the research is therefore to test whether the hypothesis is true or not. When using the inductive approach, the researcher derives the conclusion from the data and from the patterns established by the data. It is the data that points to some kind of conclusion or thesis (Neuman, 2010).

Whilst discussions and debates around the issues of trafficking for child prostitution in Zimbabwe point to the lack of an effective legal and institutional response, no strong suggestion or theory has been offered to explain the reasons for this. Thus, the research will use the inductive approach by analysing the data in order to establish if there are any patterns that could be identified when interviewing the different stakeholders.

This approach is also described as the grounded theory approach. This approach seeks to generate a theory based on the evidence. According to Neuman (2010), the purpose of grounded theory is to generate a theory that is faithful to the evidence. New theoretical understandings of child trafficking will be developed where there is strong

and corresponding data from amongst the different stakeholders. Any similarities in their views on the paucity of the response will assist in the generation of a hypothesis.

3.3 Research Design

Research can be designed to describe a phenomenon, to explain it or to explore it (Neuman, 2010). It is possible to explore the field of anti-trafficking measures in order to describe the current situation. The entire premise of this research however is on the question of 'why' the current situation prevails. This goes beyond exploring, and is an attempt to explain the reasons behind the prevailing situation. Thus, the research is both exploratory and explanatory.

3.4 Research Methods.

There are two main types of research methods, namely quantitative and qualitative methods. In quantitative research, data is collected in numeric form and the statistical patterns from the data help to generate theory (Galt, 2009). Quantitative research will most commonly use questionnaires which do not take long to administer. It is easier to control because the parameter of the question and the response is clearly defined. Quantitative research may be mostly used for testing theory and is thus more suitable for exploratory research.

Qualitative research relies more on words and their meanings to gain understanding. It is not rigid or bounded (Galt, Ibid). This method is more likely to use key informant interviews. It also uses observation, in-depth interviews, focus group interviews, document analysis, photographs and videos. However, the two methods of research are not mutually exclusive (Ibid).

This study sought understanding by explaining hidden ideas that people who are involved may not be willing to divulge, so asking a rigid question or bounded question would limit the descriptiveness of the data, and may have led to 'dead end' answers or raw facts with no meaning. Furthermore, the nature and depth of relationships whether they are social or institutional can be best captured through description and words.

Therefore, the approach used was qualitative, to allow the researcher to examine perceptions about performance of certain institutions, which is not usefully analysed using numbers. Using a qualitative approach also allowed specificity in terms of identifying certain nuances or attitudinal effects on the effectiveness of the anti-child trafficking system in Zimbabwe.

3.5 Data Collection

This research examines the issue of trafficking from three angles; prevention, protection and prosecution. It also looks at the measures not only from the legal perspective but also the institutional perspective. This requires a multiplicity of methods of data collection.

Key informant interviews - there are a variety of institutions that work in the field of child trafficking and representatives of these organisations were interviewed for this study. . As there is no organisation in Zimbabwe which works solely on trafficking, respondents were people who were specifically charged with the trafficking portfolios in their organisation. Thus, respondents included programme officers from selected NGOs and also from departments of government ministries. The interviews focused on what the organisations were doing themselves but also sought to ascertain the level, if any, of cooperation between the organisation and other stakeholders. The research used semi-structured interviews with a number of common questions, as well as questions directly related to the work of the organisation.

Document studies - There is much that has been written about human trafficking in general as well as child trafficking in particular. In order to ascertain whether they are sufficient, legal measures, regional and international conventions and protocols as well as relevant laws and regulations that are currently in place in Zimbabwe were examined. Country reports on Zimbabwe by international organisations were also studied. Reports on responses by other countries in Africa and the Southern African region to address child trafficking were also studied in order to understand whether the challenges in Zimbabwe are unique to the country or reflective of a general regional trend. A request was made to the Zimbabwe Republic Police for statistics on arrests

and prosecution for child prostitution and child trafficking in 2012 but this request was denied.

Observations - During the research period, there were a number of cases of child trafficking reported in the media. By following what was said or done by key stakeholders such as the police and the courts in response to allegations and reports of child trafficking, it has been possible to discern to a degree, the disposition and attitudes of key stakeholders towards the issue of child trafficking.

3.6 Respondent Profile and Ethical Considerations

For ethical reasons, the study could not talk to victims or those personally associated with the victims of child trafficking. Therefore, it was restricted to persons who spoke on behalf of organisations and government institutions in the context of their work within those organisations. All interviews were conducted in Harare. Table 4 below gives a breakdown of the organisations which were interviewed.

Table 4: Organisations Interviewed through Key Informant Interviews

Organisation	Organisational Profile	Persons Interviewed
International Organisation for Migration (IOM)	Deals with Migration	Counter–Trafficking Officer
Childline	Is a children’s organisation which operates an anti-trafficking hotline with IOM	Anti-Trafficking Officer
Victim Friendly Unit of the Zimbabwe Republic Police	Supports the more vulnerable victims of crime esp. women and children as they report their	Director
Victim Friendly Court of the Public Prosecutors Office	Prosecutes cases involving women and children and offers them support whilst protecting them from intimidation and re-victimisation.	Prosecutor
Oasis Zimbabwe	Works with girls living on the streets of Harare)	Programme Officer
Girl Child Network	Works with girl children who are victims of abuse including rape survivors and survivors of sexual assaults.	Director
University of Zimbabwe-Department of Public Law	Teacher of law	Lecturer in Private Law
Interpol-National Central Bureau Criminal Investigation Department of the Zimbabwe Republic Police (ZRP).	Coordinates collaboration between Zimbabwean police and police in other countries’.	Desk Officer-Human Trafficking
Department of Immigration	Controls movement of people in and out of Zimbabwe	Officer in Compliance Division
Just Children Foundation	Works with children on the streets of Harare and has a drop in centre and an orphanage	Executive Director

3.6 Limitations of the Study

Lack of Statistics

The paucity of statistics on human trafficking in general and child trafficking in particular negatively impacted the study. The police cannot make arrests for crimes of trafficking because the offence is not in the Criminal Code, which sets out all offences for which one can be arrested or prosecuted. The Code is based on existing statutes and there is currently no anti-trafficking law in Zimbabwe, trafficking is not in the criminal code.

Bureaucratic Hurdles and referrals

In a number of organisations, particularly government departments, it was difficult to secure an interview. This was due largely to the fact that there was need to seek approval from a superior before going ahead with the interview. For all government departments it was necessary to make pre-interview enquiries in person, which was time-consuming. Additionally, when a request was made to the police for statistics the researcher herself was the subject to a background check involving being interviewed by police intelligence as a prelude to the release of information. Ironically the request for information was denied and no reason was given. .

When requesting an interview with the Victim Friendly Court, the request was sent to the Chief Magistrate who is listed as the coordinating body, and the researcher was referred to the IOM. When approaching the Department of Social Welfare, the researcher was referred to the Victim Friendly Unit of the police. On another occasion when the researcher was following up on a letter in a certain government department, one of the officials said it would be better that they didn't share information with the researcher because if it became public, it could jeopardise their operations.

Failure to Interview Victims

The topic is sensitive, particularly as it applies to sexual exploitation or child labour. Thus, it was not possible to find out from victims their own experiences of the system.

Apart from the disquiet created by the background check, and despite the initial delays in securing some of the interviews, the interviews eventually proceeded well. All the respondents appeared to be open and truthful in giving information and in many cases offered useful insights into the way that the 'system' operates as well as some of the difficulties faced. This was especially so in cases where different respondents offered similar responses.

3.7 Data Analysis

The data was analysed mainly using coding into themes that appeared in the document review and interviews. Some of these were pre-identified during the period of background research for the study. During the first interviews, a number of other themes had already begun to appear, which were followed up in the subsequent interviews.

The evidence or data was sorted into broad themes, and then later into sub-categories within themes. In the first instance, the data guided the identification of themes. The coding process then ended by matching data to the themes so that all data could be allocated to a specific category.

The data analysis used a combination of successive approximation and illustrative data analysis. Using the themes that emerged during the first phases of the interviews, it was possible to make certain assumptions. Then the data was used to test the assumptions and vice versa. Also in the latter interviews the researcher followed up on some of the assertions and claims made in the initial interviews. This is an application of the illustrative method of data analysis, where the concepts and themes are like empty boxes which should be filled with data that relates to them (Neuman 2010).

This analysis depended on the development of a standard descriptive framework for the data, which allowed easy description and comparison of the data. The framework also

allowed for relating all aspects of the study to each other in a logical manner. The analysis used the classification anti-trafficking measures into three broad themes; prevention, protection and prosecution, which is found in the literature. Each of these themes were analysed through a lens that examined the legal and institutional measures to tackle trafficking.

For example, in discussing prevention we examine what is provided for legally and what is provide for institutionally. With protection the question is how does the law provide for protection of victims and how do the institutions in place protect the victims. In some instances, there may be linkages, for example the Victim Friendly Court (an institutional measure) is specifically provided for in the legislation. The same approach is given for prosecution. And whilst the researcher took note of Todres' argument that the cornerstone of effective anti-trafficking measures is prevention, the analysis began from a view point that all three strategies were interrelated and of equal value, and that they have a synergistic relationship where the effectiveness of one contributes to effectiveness of another and of all of them combined.

4. CHAPTER FOUR - KEY FINDINGS AND ANALYSIS

4.1 Introduction

This chapter sets forth the main findings of the study and also discusses and analyses these findings. The findings relate to child prostitution and child trafficking, which are at the centre of this research. The findings and discussion relate to the legal provisions and the institutional arrangements which are in place to combat trafficking for the purposes of child prostitution. Anti-trafficking measures should have three key objectives covering prevention, protection and prosecution.

Thus, the study analyses whether current provisions and arrangements are sufficient to prevent trafficking associated with child prostitution, protect victims and prosecute perpetrators. It may be that a particular measure is sufficient for prevention but not for protection; or for prosecution and protection but not for prevention. The analysis was made by examining the law, the institutions and the relationships and coordination mechanisms amongst and between these different institutions.

4.2 Summary of Main Findings

The study firstly confirmed previous research that prostitution by children under the age of 18 is taking place in Harare. Although boys are engaged in this activity, the majority of children engaged in prostitution are girls. This activity takes place in homes and on the streets of Harare. Secondly, in some but not all cases, children are prostituted by adults who benefit from the proceeds of this activity. Those living on the streets are more likely to be trafficked for prostitution than those living in the homes of parents and or guardians. The third finding was that Zimbabwe does indeed have legislation and measures that are in place to deal with crimes and offences associated with the sexual exploitation of minors as well as other crimes such as kidnapping and immigration offences that are all part of the trafficking chain.

However, these are all found in different Acts of Parliament and difficult to enforce corporately due to their different definitions of children's maturity and liability. Fourthly, the study found that there is need for a composite Anti-Trafficking Act to address human trafficking as a whole and by extension child trafficking. However, it was also found that a woeful lack of statistics on the subject makes it difficult to motivate and advocate for the Act. Paradoxically, in the absence of clear legislation, it is difficult to collect this important data.

The sixth finding was that institutions exist to support the current level of legislation for child protection and that in the event of anti-trafficking legislation being promulgated; those same institutions would still be available to support the implementation of this new legislation. Seventhly however, some of the key institutions, particularly the police and social welfare, currently lack capacity such as financial and human resources, to play their ascribed roles.

It was also found also that at times, the institutions under which child prostitution falls, do not coordinate well. In some instances, there is duplication of activities. And the state has an overreliance on the non-governmental sector without taking on the strong leadership role required of it by law. In addition, the findings suggest collusion of some public officials (police, magistrates and border officials) who often facilitate trafficking of children and or impede detection and prosecution of perpetrators. Finally, it was found that the social cultural context within which child prostitution and trafficking is taking place and the resulting societal attitudes about women and sex as well as children living on the streets may impede action against girl child sex trafficking.

4.3 Harare as a hub for trafficking related to child prostitution.

It should be noted that in many instances, children enter into the act as a way of augmenting a living for themselves or for their families and because of this, whilst they may not like what they are doing, they may view it as a necessary evil. However, sex with children under 16 is illegal unless in the context of (customary) marriage.

According to the respondents interviewed for this study, Harare is a source, transit and destination area for both internal and cross-border trafficking of girls and boys for the purposes of prostitution. The respondents interviewed for this study did not know of any cases of foreign children specifically brought into the city for the purposes of child prostitution or who were transiting through Harare to another country for the purposes of prostitution. The only instance mentioned was when large groups of foreigners including children moved through the city but their destination and intended activities were not clear. The reports from the respondents are also corroborated by media reports on the activity. However, it was difficult for respondents to cite many statistics due to the hidden nature of the activity and the unwillingness of those involved to come forward for fear of prosecution or apprehension, as cited above.

There were also cases whereby young girls who had come into Harare seeking a better life had begun by living on the streets but later formed relationships with older street boys where the boys support them financially. Whilst there was no evidence that these relationships involved trafficking in the sense of this study, there was certainly a sense that the boys were in control in these relationships and that the fact that they held the purse strings did give them a sense of coercive power over the girls. This issue requires further study in order to ascertain the exact nature of these relationships and impact on the girls.

One respondent from Just Kids Foundation spoke of several former prostitutes who, due to their advancing age were no longer able to attract clients, and were prostituting out young children and then taking the proceeds of the sex work performed by the children. One case involved a former prostitute who brought men into her own home to be serviced by the women's daughter. Members of the community alerted the social welfare department, which intervened.

In the Mukuvisi Woodlands area as well as at Fourth Street commuter omnibus station, trafficking of young girls for sexual exploitation is taking place. This was reported by two respondents as well as in media reports. Regrettably, whilst both respondents reported that the police was aware of this activity and had mounted several raids and arrested the chief ringleaders (who were named) these women were later released with the

proverbial 'slap on the wrist' due to lack of evidence. Respondents suggested collusion between the traffickers and the police, which led to their release.

A dilapidated building in Luck Street in downtown Harare was also identified as a place where sexual exploitation of boys and girls was taking place. In this case, most of the victims were boys who were used by both female and male clients of another retired prostitute staying in the same area, and the proceeds were given to the retired prostitute.

Respondents from Childline and Justice for Children mentioned a case of trafficking of children associate with dance acts in both Harare and Bulawayo. In one case, children were recruited on the pretext of being invited to join a dance group. They were told that they would be working as dancers but ended up being forced to frequent nightclubs and solicit for sex for their keepers. These cases were brought to the attention of the police. Given the complex and coercive nature of trafficking, it is likely that cases of child prostitution and trafficking are more widespread than the statistics show.

The evidence suggests that whilst all children are at risk of being trafficked, it is children living on the streets who are the most vulnerable. They have often run away from home and do not have a stable place to stay. These children also do not have adults (parents or guardians) who are responsible for them. They are more likely to be influenced by an adult who lures them with promises of a place to stay as well as a steady supply of food. The adult may also be a source of security and permanence in the life of the child and may at first appear to be a 'way out' of their situation. This is in line with Todres' (2010) argument about the interrelationship between rights: losing certain rights (in the case of street children the rights to the protection of family unit, to education, shelter, food, and health among others) makes one even more susceptible to losing others such as the right to freedom from sexual exploitation.

4.4 Analysis of the Legal Framework

Zimbabwe has many pieces of legislation that could be applied to deal with the particular crimes that are related to child prostitution and child trafficking, such as

kidnapping, prostitution (by a child even if it is 'consensual'), statutory rape, sex with a child, keeping and operating a brothel, illegal migration and so on. These are found in different acts as well as in the Criminal Law Codification and Reform Act (2005), also known as the Criminal Code. The Criminal Code is the basis of all arrests that the police can make. If an offence is not in the Criminal Code, no arrests can be made. A visit to police statistics division did not yield much information on trafficking, as there is no such classification under the Criminal Code and therefore no arrests for such crimes.

When analysed against the model trafficking law that has been shared above developed by the UN Opinions on the adequacy of the legal framework differed amongst the respondents. Some respondents felt that the legislation is adequate. Others, the larger proportion of respondents, stated that the current law was insufficient because of the manner in which it is crafted, but also because it simply cannot cover all the different aspects and nuances of child trafficking.

One respondent felt that it has failed to meet the needs of the current era. The current legislation was drafted in an era where the problem of child prostitution and sexual exploitation of children was not taking place (or at least was not known) on the scale that it is now. People abusing children for profit were not as organised as they are now, where crime cartels are involved in the commercial sexual exploitation of children. It was also noted that the current laws on exploitation of children are very robust on the issues of child labour and sexual abuse, and less so on child prostitution.

The view of trafficking as a crime that is worthy of specific legislation is also relatively new. The sentences that are being applied for these offences and associated crimes are very lenient and do not reflect the severity of the crime. A respondent from the Ministry of Justice and Legal Affairs noted that if there was one anti-trafficking Act, it would create room for sentences that were harsher.

Secondly, the legislation is so dispersed that at times, it makes it difficult for those who need to apply it to do their jobs. This issue was raised by two respondents, one who works with young women victims of sexual exploitation and abuse. She noted that at times when reporting a case to the police, the police would ask the complainants

themselves to specify the Act under which the complaint was being made. In cases where the reports include rape of children, depending on the case, one could use a number of legal terms including 'statutory rape' or 'sex with a minor'. One respondent felt that it was necessary to develop a completely new legislation on trafficking, where the relationships between the different crimes would be spelt out in a clearer and more logical way, as opposed to amending current legislation.

There is currently a tension between a criminal approach and a human rights approach of child prostitution. Police officers have no choice but to criminalise victims of trafficking or exploitation as perpetrators under the Criminal Code. At the point of arrest, the law does not provide for separation between victims and sex exploiters. This in itself is a contradiction in terms and may also mean that victims are afraid to come forward if they fear arrest and a potential sentence for engaging in an activity over which they do not have a choice. Whilst there are structures in place such as the Victim Friendly System, these need more publicity in order to give victims confidence in the law enforcement agencies.

The need for a composite bill on trafficking was buttressed by a respondent from the University of Zimbabwe's Department of Public Law who noted that in essence trafficking is a "continuing offence". Many different crimes may be committed during the trafficking process of one child. One case can include deception, kidnapping, sexual abuse, rape, violating immigration laws and so on. When prosecuting such an offence there must be proof that an offence took place at each and every point. That means applying different statutes at each point. Once it becomes a transactional offence, international law applies; different and or differing national laws or extradition agreements between governments need to be evoked, and cooperation agreements between different police forces must come into play, only adding to the complexity of the response mechanism and inevitably delaying the process of successful prosecution.

Since increasingly trafficking involves syndicates, some of whom are politically well connected, applying the 'normal' laws tends to deal only with the petty criminals who are the 'errand boys' of the syndicates, without dealing with the heads of the syndicates themselves. With regard to the cross-border movement of children for the purposes of

prostitution according to a respondent from the Victim Friendly Unit the Immigration law is not sufficient to deal with issues of children being moved across the border. However, subsequent to the interview, a new regulation was introduced by Zimbabwe and South African border officials. This requires affidavits from those who are crossing the borders between the two countries with children under the age of 17. In the case of an adult travelling with a child, the adult has to prove that they are one of the two parents of the child and they have the permission of the other parent to travel with the child. If the adult is not a parent of the child, he or she must carry affidavits from both parents proving that permission has been granted to carry the child across the border. This is a welcome move given reports that children are being recruited from Harare to be used in brothels in South Africa.

Zimbabwe's accession and approval of the key international conventions on child protection and against show that government is committed to dealing with the issues of human trafficking and the commercial sexual exploitation of women and children. Given that the Palermo Protocol still has to be acceded to by the Head of State, there is some way to go before it is domesticated into law.

Respondents noted that whilst the above developments are positive, more action was needed from government in order to put the Anti-Trafficking Bill to parliament so that it could be promulgated. One of the reasons given for the non-promulgation of the Anti-Trafficking Act was that the Government of National Unity (GNU) has been occupied with the political reforms and drafting of the new constitution. Whilst this may serve as an adequate explanation, given that an anti-trafficking bill has been in draft form for a number of years, it would have been desirable to immediately accede to the Palermo Protocol and sign the Anti-Trafficking Bill into law.

Four months after the ratification of the Palermo Protocol, at a workshop held for journalists, a representative of IOM Zimbabwe highlighted the fact that there was still no legislation against trafficking. He said that Zimbabwe would continue to be a source, destination and transit country for traffickers due to the absence of a robust legislation on trafficking, unlike Zambia, where sentences of up to 15 years for traffickers could be

expected. Without this legislation, Zimbabwe is fast becoming a hub for trafficking within the region.

At this point, it is useful to note that whilst the international conventions and protocols that Zimbabwe has acceded to mention the responsibility of governments to prevent child trafficking taking place and to protect the victims after the act, legislation is usually effective mostly for the prosecution of perpetrators. And as in many other countries, the legislative framework in Zimbabwe is limited to the prosecution of the perpetrators after the act of trafficking has already taken place. Successful prosecution is in itself a great deterrent and goes a long way to prevent trafficking. However, measures to deal with prevention and protection are difficult to enforce outside of the legal framework and are better implemented by regulations and programmes organised by particular institutions.

4.5 The Institutional Framework for addressing cases of trafficking for the purposes of child prostitution.

In analysing the institutional framework, the researcher focuses on the three arms of anti-trafficking measures namely prevention, protection and prosecution. The analysis also focuses on institutions that are currently in place to address crimes associated with trafficking of children for the purposes of prostitution and examines whether they are sufficient to address the issue. On the assumption that these same institutions could support a comprehensive legal framework on trafficking, the researcher also examines whether there may be need to create new ones specifically for human trafficking-related issues. The analysis will also examine whether these institutions at the individual level have sufficient capacity to deal with the problem of trafficking and prostitution. Next, the researcher examines the working relationships between the different organisations and structures to ascertain how the different organisations understand their different roles, and how well they cooperate.

4.5.1 The Organisations

The institutional framework includes many organisations within and outside government that work on issues to do with child prostitution, exploitation and trafficking. These

include Parliament; the Ministry of Labour and Social Services, under which falls the Department of Social Welfare, and the Ministry of Home Affairs as well as several key international organisations, United Nations agencies and NGOs

The Ministry of Home Affairs chairs the Anti-Trafficking committee. The Immigration Department and the Zimbabwe Republic Police also fall under this ministry. The Ministry of Health and Child Welfare provides medical care at various hospitals and clinics around the country. The Attorney General's Department in the Ministry of Justice and Legal Affairs houses the departments dealing with drafting of legislation, as well as the Department of Public Prosecutions which prosecutes all perpetrators of trafficking and associated offences. Outside government, other stakeholders identified included members of the public, community members and non-governmental organisations, a number of whom were interviewed for this study.

4.5.2 Institutional Measures to Prevent Child Trafficking in Harare

Measures to prevent trafficking should aim to directly address the root causes of trafficking and their related push and pull factors. As detailed above, children's vulnerability to trafficking can come from poverty, lack of or loss of parental care and guidance and lack of awareness of trafficking itself. This is particularly so in the context of rapid urbanisation in search of limited economic opportunities and the AIDS pandemic: The number of orphans and vulnerable children has risen and families, communities and governments are overstretched. For many perpetrators, poverty or loss of income can cause others to engage in such criminal activity.

Prevention of child prostitution and trafficking must take into account the above context. The first area of intervention would be to address the overarching economic problems which create the need in the first place, and to strengthen child protection systems and the protective environment within which children develop. The creation of a social security net is required that can meet children's basic needs for food, shelter, education and health. Most human rights instruments also recognise the importance of family or parental care. Thus government is also required to provide appropriate care when children are removed from the family environment, as this protects children from harm.

Children without family support are particularly vulnerable to trafficking. The above interventions are best made at the national government level.

Where government cannot be present, there is a need to improve the social security net for vulnerable children by increasing economic assistance to their families. This can be done through other interventions such as non –governmental organisations, community based groups and extended family networks where possible. In rural areas, traditional leaders can also be co-opted into working against trafficking. The key to prevention however lies in raising the awareness of potential victims and their immediate families, caregivers or peer group support, about trafficking. There are a number of anti-trafficking awareness programmes that are currently in operation in the country.

There is at the moment no government implementation programme that addresses child trafficking specifically. The programmes which are there such as the Victim Friendly System also cover other aspects of child protection issues.

The longest and best known counter-trafficking programme in Zimbabwe is implemented by the International Organisation of Migration (IOM). Recognising the danger and threat of trafficking, the organisation has a counter trafficking officer who coordinates counter- trafficking activities. IOM regularly undertakes training of police officers, journalists and other persons who may come across trafficking in their work. It trains members of the community as well as teachers and pupils and uses posters, brochures and a counter-trafficking website to build awareness amongst the public. IOM operates a counter-trafficking hotline in collaboration with Childline.

While these are important and valuable a review of the IOM's statistics for May–August 2010 (showing the number of people it reached in that period, suggests that there are large numbers of people who are not being covered by the programme due to the large size and geographical spread of the population. There needs to be a greater response from the Zimbabwean government which, despite lacking resources, has a wider reach and more influence than an international organisation that is based in Harare. The government also bears primary legal responsibility for its citizens and should be taking the lead in such efforts.

This does not downplay the efforts of the IOM, which has made an invaluable contribution to combating trafficking in the country. However, there is only so much that non-state actors can do. It is also conceivable that government could give responsibility to certain NGOs, but in the absence of a clear legislative and regulatory framework, it is not possible for government to set the parameters for state and non-state intervention. And whilst it is clear that there is close cooperation and regular consultation between governmental and non-governmental bodies, there is also evidence that these organisations lack strong coordination and leadership. One respondent mentioned that at times there is duplication of efforts amongst the different NGOs.

There is a need to raise the awareness of members of the public. The respondent from Interpol noted that due to resource limitations, their efforts to educate the public were limited to large public events such as shows and exhibitions and this leaves out those people who do not attend the shows. Furthermore, he noted that most awareness programmes do not reach rural areas, where there is the biggest push towards trafficking due to the promise of a better life in the city or outside of the country. This is unfortunate, since knowledge of trafficking at a personal and family level will build that strong local capacity to detect and resist the deception that is part of the traffickers' recruitment strategy.

There is a certain level of public awareness. Two respondents mentioned the role of members of the community in alerting the law enforcement authorities to incidences of child prostitution. For example, in Harare drivers of commuter omnibuses have been known to alert the police when they suspect cases of child prostitution to be taking place. In addition, at times there are whistle-blowers within communities who alert authorities where they suspect that trafficking is taking place.

Measures to prevent trafficking also need official support and two respondents noted that there was official denial of the existence of trafficking in general. One respondent noted that this is due to the paucity of data and statistics, which if available would give credence to the allegations that trafficking is taking place.

In November 2012, an Anti-Trafficking awareness campaign was launched by the Deputy Minister Thokozani Khupe. In her speech she said that the launch of the campaign was:

“In line with the efforts of the Ministry of Home Affairs together with Parliament in pushing the enactment and domestication of Anti-trafficking legislation in Zimbabwe, among other things”.

She said that the enactment of an Anti-Trafficking Act had been a priority of the Prime Minister since the inception of the Inclusive government in 2009 and that the Anti-trafficking Publicity Awareness Campaign is a national initiative not only in response to those recommendations; but to raise the attention of the public to this problem. Ms Khupe noted that many ordinary citizens do not know what trafficking is and that this lack of awareness cuts across all levels of education and backgrounds. Clearly, there is a need for this programme and it is to be hoped that it will serve the very important purpose of raising public awareness, which will assist in the prevention of trafficking.

Lack of official awareness of trafficking was mentioned with particular reference to the police, where it was asserted that the police were not always aware of what to look for in terms of arresting suspected perpetrators. This lack of knowledge was given as one of the reasons why perpetrators were not being arrested, and if arrested, were set free easily for lack of evidence. This reveals the need to build awareness of child trafficking in the police in order for them to be able to detect it as it is taking place. For example, in dealing with cases of prostitution, police are often unable to detect whether the child arrested is a victim of a crime ring or whether she is operating alone. In general, most respondents felt that government organisations that deal with the issue needed to be more aware.

The respondent from the Department of Immigration outlined how the department has used the current legislation to craft and implement measures and regulations to manage the movement of children across the country's borders. These regulations are used to protect children who may be in transit to and from Harare. For example, Zimbabwe has a three-tier visa system which rates countries based on whether they are perceived to

be source countries for trafficking or not. Nationals from countries with strong push factors for trafficking and or illegal migration countries require visas to enter Zimbabwe.

No traveller under the age of 16 is allowed to enter or exit the country if he or she is travelling alone and all travellers must present themselves in person before an Immigration officer before they can be granted the right of entry or exit. At this point, a trained immigration officer should be able to assess the prospective migrant and report any suspicious activities. The Zimbabwe Republic Police has established Border Control Units to police the country's borders, which work closely with the Immigration Department. Denying entry or exit to underage migrants, as well the requirement for strong supporting documentation, point to the fact that these departments recognise the particular vulnerabilities of children and seek to protect them from being trafficked. However, corruption of border officials was mentioned by more than one respondent as helping to facilitate transnational trafficking. The department needs to act on this otherwise implementing anti-trafficking measures will not be effective.

4.5.3 Institutional Measures to Protect Child Victims of Trafficking in Harare

This section examines measures to protect victims in Harare, or victims in transit to and from Harare for internal or transnational trafficking. According to those who work with child victims of trafficking in Harare, when a victim has been rescued from their traffickers, she will be taken first to the police department, where a statement is recorded. After that it is the health department's responsibility, then the Department of Social Welfare for counselling. Then the child is taken back to the police to prepare for trial and to courts for the actual trial.

In the case of transnational trafficking detected at an exit or entry point, the victims are first identified by immigration officers who hand them over to the police and then they follow the same route as described above. In the case of transnational trafficking, the IOM also has drop-in centres at Plumtree and Beitbridge border posts to receive victims. According to the immigration department, there are social workers at all border posts and these also provide psychosocial support to victims of trafficking.

There are a number of non-governmental organisations who assist mainly with counselling services as well as assisting victims to return and reintegrate into their families. Respondents commented on the lack of capacity and ability of these key organisations to meet their mandates as institutions but also spoke on the cooperation and coordination between the different organisations and institutions, noting that it is not strong and suggesting a certain degree of mistrust. .

Zimbabwe has a Victim Friendly System (VFS) that was created by the government in order to protect vulnerable victims of crime from the effects of their experiences. The system is coordinated by the Ministry of Justice and Legal Affairs which collaborates with the Ministry of Health, the Ministry of Labour and Social Services, the Zimbabwe Republic Police and several NGOs. The components of this system are provision of psychosocial support and medical, legal and referral services to child victims of sexual abuse and sexual exploitation.

There are two main components of the VFS. The first is the Victim Friendly Units (VFU) found at 267 Police Stations countrywide. At these units, specially trained officers provide child-sensitive interviews, give children access to medical care and prepare children to testify in courts. Where necessary, they also refer children to places of safety. The other component is the Victim Friendly Courts, established by an amendment to the Criminal Evidence and Procedure Act (1997). There are at least 17 of these at magistrate's courts around the country and the aim is to ensure that children who need to testify in court do so in a safe environment such as for instance, testifying in private. These courts are also designed to expedite cases that involve children in order to reduce the trauma that victims have to go through. Where necessary and possible, court officers send children to child-friendly hospitals.

The Department of Social Services is also required to provide places of safety for child victims of abuse. The National Victim Friendly System committee meets regularly to consult with stakeholders to discuss issues pertinent to children.

However, some respondents noted shortcomings with the VFS. There are not enough places of shelter and safe houses and it was alleged that some of the cases involving

children who have been sexually exploited take a long time before resolution. According to some media reports, the courts at times suffered from insufficient equipment where children could not testify *in camera*, leading to dismissal of cases. Thus, whilst the system represents very noble intentions, due also to the economic crisis which places great burden on the state, it does not meet its mandate as effectively as it could.

An interview with a prosecutor who works in the VFC also revealed that there is insufficient public awareness of the victim friendly environment that is available to victims of trafficking and that they receive few reports of cases of trafficking for child prostitution. She noted that many in society do not appreciate the severity of the crimes and their impact. She also said that people did not want to report because they were afraid of losing benefits from the crimes. Thus, whilst there is a level of awareness within the professional community, victims and or their guardians may be afraid to report.

According to another respondent, some of the street children involved in crimes of sexual exploitation requested payment before testifying. This reveals a sad distortion of the criminal justice system and the fact that upmost in the minds of these victims is not justice but survival. Even if a perpetrator is convicted and incarcerated, how does that help the child meet her day to day needs? Prosecution of perpetrators must go hand in hand with a long term solution for the child. The system must balance the child's rights to justice with the right to nutrition, education, health, shelter, care and protection.

The role of the police is to identify arrest and detain alleged perpetrators of sex trafficking, and to collect evidence that can be used in court to prosecute them. The police should also protect the community from the perpetrators by ensuring that perpetrators are detained and are not allowed into the community in case they re-offend. With regard to protecting the victims, it is the responsibility of the police to protect victims from re-victimisation by removing them from the scene of the crime.

Respondents did not feel that the police carried out this role effectively. The police were lauded for their efforts on the streets of Harare to protect street children from sexual exploitation by undertaking plain clothes investigations as well as arresting perpetrators

on tip-offs from families. However, one of the respondents alleged that members of the police force are themselves abusing children on the streets of Harare. This is unfortunate as it undermines children's trust in the police and the assistance they can get from the police force. This distrust then acts against the children's desire to report the crimes.

Police need more training in terms of being sensitive to the plight of children. A number of respondents mentioned that the manner in which some members of the police received victims and interviewed them amounted to re-victimisation. For instance, in the case of teenage prostitutes, members of the police allegedly mock victims, and chide them for being on the streets late at night. According to one respondent, this was a reflection of the socio-cultural context of Zimbabwe and reflects a particular mind-set about women and girls that may lead some police officers who come from the same society to blame the girls for what is happening to them.

Additionally many members of society look down on people living on the streets, regarding them as second class citizens and trouble-causers and this reduces public sympathy for their plight. Clearly, even if institutions exist, it is also important that attitudinal changes take place in those who work in the respective institutions. One respondent from the Justice for Children Trust noted that child victims were susceptible to being labelled as criminals at the time of first contact with the police. It is difficult however to see how the police can escape this since these children technically fit the description of criminal under the law.

However the respondent from the VFU stated that in principle, arresting children was strongly discouraged. Another respondent reported that in most cases children who had committed crimes were usually remanded out of custody and therefore were protected from the negative environment of jail and of prison. The Immigration Department does not arrest or detain children but will assist social workers and other organisations to work with the children and find them a place of safety even where the children may have violated immigration regulations. A report on a case of trafficking at the Beitbridge border post provides anecdotal evidence of this. The adults involved in the case were

taken to Beitbridge police station whilst the children were taken to a temporary centre in the town run by Save the Children (Mzaca, 2011).

With regard to the social welfare department, views on its effectiveness were mixed. The Immigration Department expressed satisfaction at the presence of social welfare officers at Zimbabwe's border posts as they are able to provide on-site counselling to victims of irregular migration including trafficking victims.

However, most respondents felt that the social welfare department lacks adequate staff and resources. For example, social workers are at times unable to respond to cases due to the fact that they do not have transport and have been known to ask complainants to provide the transport themselves. In other instances, respondents noted cases where the social workers were overburdened and there was not enough manpower to cover all cases especially to follow up on people who had been reintegrated into their families and communities. Many victims went back into the community without any follow up. This echoes the observation by Todres (2010) that victim protection measures are usually short-lived.

There are also many non-governmental organisations that offer protection and support to victims of child trafficking. Organisations such as Streets Ahead, Just Kids Foundation, and Justice for Children Trust, Childline, IOM, Oasis Foundation and others are all there to provide assistance to victims of sexual exploitation including trafficking. This is in the form of counselling, or reintegration, and financial assistance to return home in the case where the victim has been transported from their place of origin. Most of them are funded by donors and they all cited lack of resources as a major hindrance in their work.

As was noted by the respondent from the Oasis Foundation, rehabilitation and reintegration of one individual is an expensive long term process requiring continuous counselling and support and it may be years before the impact is felt or measured. In a struggling economy such as Zimbabwe where resources are scarce, allocating funds to such 'soft' issues is also not easy to justify.

4.5.4 Institutional Measures for the Prosecution of Perpetrators and Perpetrators

For most crimes, successful prosecution is both a preventive as well as a protective measure. It prevents the crime from occurring if the sanctions or punishments are harsh enough to act as a deterrent and it prevents those who are incarcerated from offending again. At times, media coverage of the offence and especially of the sentence or punishment will also be strong enough to deter prospective perpetrators. Prosecution, especially when it leads to long-term incarceration, also removes perpetrators from the community and therefore protects victims and other members of society from their actions. Thus, successful prosecution of perpetrators is key in the fight against trafficking and in this section the researcher reviews the perceptions of the key stakeholders about the prosecution of perpetrators in Zimbabwe.

As already discussed in section 4.4, on the legal framework, in the absence of anti-trafficking legislation, prosecution is difficult. Successful prosecution also requires evidence that can conclusively prove that the offence took place. It requires that the justice system works well. It requires police officers, social workers, counsellors, lawyers, magistrates and judges who are tasked with dealing with these issues. But it is not enough to have these officials in place. They must be supported by the material resources needed to do their work effectively. A number of respondents noted that even in such instances, investigations of suspected traffickers were not thorough with the effect that when matters came to court, they were dismissed for lack of evidence. The alleged abuse of children by members of the police force is also unlikely to support cooperation between child victims and members of the police. More than one respondent reported that sometimes evidence 'disappeared' due to corruption. Lack of equipment in the victim friendly courts is also another sign of institutional failure. Firstly, in cases where the process is delayed, some became frustrated with the process and chose not to continue. The other difficulty is, as cited above, that some victims requested money before testifying.

For the Department of Immigration, concerns about prosecution centred on the courts' (magistrates and High Courts) appreciation of the severity of trafficking and the need to

punish perpetrators with strong sentences. The respondent from the department felt that at times, some of the cases they brought to the courts were not given due consideration and were dismissed prematurely.

4.5.5 Coordination between the Institutions

As is evident from the preceding section there are many different organisations that work to support vulnerable children in Zimbabwe. This is both at the governmental and non-governmental level. There are also many that deal specifically with children on Harare's streets who are vulnerable to sexual exploitation, or who may already be victims of trafficking. As noted previously, the Ministry of Home Affairs coordinates an Anti-Trafficking Committee which brings together government departments and other non-governmental organisations working together to discuss trafficking issues, particularly the proposed anti-trafficking legislation. In addition, the Victim Friendly System Committee, comprised of the same type of organisations also meets regularly but appears to be geared more towards the practical implementation of the current provisions for protecting children, including those who have been victims of trafficking for the purposes of prostitution.

Respondents made reference to these forms of collaboration. However, it appeared that the overwhelming majority of organisational responses are implemented in a piecemeal manner and led by the organisations' own imperatives. Zimbabwe lacks a comprehensive coordination mechanism, where the different initiatives are part of a national agenda to address trafficking. From the outside looking in, government leadership is lacking in terms of the fight against child prostitution and especially against trafficking in general. There is no National Action Plan which could clearly spell out the roles and responsibilities of the different actors as well as their rights and obligations. Such a plan would also assign responsibility and ensure accountability.

It is clear that IOM is the leading anti-trafficking organisation in Zimbabwe. Many of the government departments look to it for leadership, advice and direction in terms of fighting trafficking. However, being an international organisation, it could be argued that its programmes are also driven by the global agenda of IOM International even if they

are sensitive to the particular environment in Zimbabwe. For instance, the assistance to Zimbabwe's counter trafficking efforts which was launched in 2011 is a positive contribution to government's efforts but still represents efforts initiated outside of government to deal with a national crisis such as trafficking. It is the responsibility of government to lead responses to national crises.

5. CHAPTER FIVE - CONCLUSIONS

5.1 Introduction

Whilst the study focused on legal and institutional measures, it became evident that without integrating perceptions of the society at large, as well as attempting to change some values and beliefs about women and about children living on the streets, the fight against trafficking for child prostitution will have minimal effect. Only a stronger and better coordinated government-led effort with all the stakeholders working together will have an impact on the fight against trafficking. The research showed that efforts have been made but they are not intensive or comprehensive enough to deal with the scale of the problem.

Many people including parents and guardians are unwittingly facilitating the trafficking of their children because they cannot recognise the tricks used by traffickers to lure their victims. This will work to prevent many cases of trafficking. There is also a need to protect victims from further trauma by providing adequate support services for their rehabilitation and for their testifying against people who abuse them. That means police and courts must be adequately equipped to work with victims. In terms of prosecution there is need for sentences that are harsh enough to act as a deterrent and a legislative framework will provide the foundation for harsher sentences.

Since trafficking for prostitution cuts across many areas of life, the response to it must also be comprehensive and cross-cutting. The researcher began the study with a somewhat cynical approach and attitude, given that the data and literature review suggested that the efforts to address trafficking were minimal at best and non-exist at worst.

However, through a study of the legal framework that is currently in place, as well as interviewing those working with victims and perpetrators, the researcher found that the situation was not as dire as the external assessments would suggest. There are shortcomings certainly in the way that the government has organised the response to child trafficking and internal structural weaknesses in some of the institutions charged

with protection of children, but the study also showed that there have been admirable attempts to protect vulnerable children. This same philosophy of child protection can also be used to motivate for stronger measures against trafficking once trafficking-specific legislation has been put in place. These will need strong monitoring however, to avoid the current pitfalls and implementation failures in the child protection spheres.

The study revealed that the push and pull factors for trafficking for prostitution were becoming stronger, given worsening socio-economic conditions and the effect that efforts to improve livelihoods may have on family harmony and family stability. This pushes children out of areas of perceived and actual difficulty and pulls them to those places where they think they will get a better life. For example, the study has shown that when it comes to prostitution, children living on the streets are the ones most likely to be lured and exploited. However, the response remains at the level that it has been for a number of years and is not only insufficient for the current scale of the problem, but for the likely escalation of the crime. In the past year, there have been encouraging signs that the government is intending to strengthen anti-trafficking measures including legislating against it. However, until this actually happens and the legislation is implemented appropriately and effectively, the response will remain weak.

Although many respondents professed that trafficking for child prostitution was a serious problem, those who were at the frontlines of working with child victims had few statistics to back up their claims. In their day to day lives, they heard of cases of alleged trafficking but due to non-reporting, they did not come across many of these cases professionally. This was due mainly to non-reporting and to a lesser extent the inability to classify the crimes as trafficking crimes. What is clear is that there are a number of shortcomings that need to be addressed in order to reduce the occurrence of trafficking for the purposes of child prostitution, as well as to improve the response and support to victims if and when it has taken place.

5.1 Zimbabwe's Socio-Economic Crisis

The socio-economic crisis that is crippling the country was found to be the key causal factor of trafficking for prostitution as well as a hindrance to its amelioration. It occurs in the midst of the HIV-AIDS pandemic, which has orphaned hundreds of thousands of Zimbabwean children. These children can no longer rely on the social net of the extended family, which has been weakened due to these two crises. These orphans and other vulnerable children are the most vulnerable to traffickers not only because of financial problems but in the case of the orphans, due to the lack of parental guidance and support.

Unfortunately, the economic crisis has also affected government's ability to provide a safety net for citizens in distress such as the orphans and vulnerable children. This exacerbates the push and pulls factors for trafficking. Due to the scarcity of funds including donor funds, response programmes have been prioritised over preventive measures. The ability of government and NGOs to mount awareness and prevention campaigns has also been severely compromised. The lack of knowledge undermines the ability of victims and communities to respond to the problems. Even if a law on trafficking was passed, there may not be sufficient funds to support its full implementation or awareness raising.

5.2 The Problem of Data

Until the lack of data is addressed, efforts to address trafficking for child prostitution will remain weak. Scientific and targeted data collection by the state that identifies the root causes and is able to provide more of an analysis of the traffickers, will allow policy makers and practitioners to identify causes, trends and patterns and design appropriate programmes that are effective. It will also provide clarity on the actual reality as opposed to anecdotes and allegations. Without scientific data, it is difficult to motivate for strong action from policy makers. Furthermore, if research is done by the government, it will enhance ownership and buy-in and reduce suspicion about the

intentions of those who are advocating for a strong response. The problem of data needs much focused attention.

5.3 Lack of a clear and specific legal framework

Without a clear and specific legal framework, the fight against trafficking continues to be a 'poor relation' to other crimes in the Criminal Code and by extension cannot receive as much support and attention from police and prosecutors. Elevating anti-trafficking to a specific Act of Parliament will exhibit the value or danger of the crime and will also allow for its incorporation in the Criminal Code. This will make it an arrestable and prosecutable offence and will empower the police to arrest perpetrators and the courts to prosecute the crime with the full measure of the law. It will also work to change the perception about the seriousness of trafficking and at a government level, would allow for more funds to be allocated to programmes associated with combatting trafficking.

5.4 Priority Given to Government Body on Trafficking

The study showed that there are two government committees that are key to the fight against child prostitution and trafficking. These are the Victim Friendly System Committee and the Anti-Trafficking Committee. They are operating as inter-departmental or inter-ministerial committees. Given that a number of respondents already noted that there was insufficient coordination and the lack of a national programme against trafficking, it may be necessary to consider elevating the status of these committees and considering making them organs of state or even government departments to ensure comprehensive, sustained government leadership on the issue. This is particularly so in the case of trafficking.

As soon as legislation is passed or even before it is passed there needs to be a national plan of action supplemented by a government body officially sanctioned and empowered to act against trafficking. Again, this will go some way in showing government's commitment to the fight against trafficking. It may also allow such a body to be able to have more authority and control over the different organisations that have

anti-trafficking programmes and hold them accountable. Such a body should promote a standardised approach amongst stakeholders and limit contradictions and duplication.

5.5 Societal Beliefs

There are cultural beliefs that may have an impact on how people perceive prostitution. Some beliefs are based on the perception that the sexual desires of men in particular need to be satisfied and prostitution is a necessary evil. Within this perception is a view of women and girls as sex objects. The study also showed that those who are most at risk of being trafficked in Harare are those who live on the streets. Unfortunately, society still has negative beliefs about street people and these beliefs need to be challenged in order to build public support for victims. Given that Zimbabwe is a somewhat traditional society, there is still a lot of stigma associated with sex work. Victims and their parents, friends, and other relatives may not be willing to bring their activities to light in order to maintain a good reputation. Thus, an effective public awareness campaign is required to change these beliefs.

5.6 Progress

Despite these reservations, it should be noted that government making is efforts to address trafficking and that in 2012, government showed a renewed commitment to fighting trafficking. The accession to both the OPSC and the Palermo Protocol in the same year and support from the office of the Deputy Prime Minister for an anti-trafficking campaign is a sign that government is committed to the fight. However, until there is anti- trafficking legislation, there is a limit to how effective any preventive or awareness measures can be. Without legislation, it is hard for those conducting awareness programmes and those working with perpetrators and victims to have a strong point of reference and one that gives direction to their efforts.

5.7 Community Awareness

It was also the researcher's conclusion that there is more that needs to be done in educating the community. Government needs to do more to encourage whistle blowers, to laud their efforts and protect them from post-disclosure reprisals.

5.8 Systemic Issues

The researcher also concludes that adjunct to putting in place laws and other measures against trafficking, actors must address systemic problems that impede efforts to address trafficking. One of these is corruption. Corruption may impede prevention methods because it facilitates the occurrence of trafficking. And it also impedes prosecution where officials such as police officers and law officers are bribed to 'lose' evidence or case files. Particularly in the case of trafficking where there is a lot of involvement of organised syndicates, it doesn't address the problem. Most of those dealing with trafficking in and outside of government reported a shortage of staff especially to deal with protection of victims. In the case where staff is available, there is still need to train them

5.9 Conclusion

In conclusion, it can be seen despite the denials of some child trafficking is taking place in Zimbabwe. Whilst the law may not have named it as child trafficking the practices that ordinarily accompany trafficking have been identified and some measure put in place to address these practices. At the moment what is lacking is coherence in terms of clearly identifying the crime, legislating against it and prosecuting it. This lack of coherence which begins with the absence of a legal framework leads to ineffectiveness in terms of dealing with the crimes.

6. CHAPTER 6 - RECOMMENDATIONS

Whilst the following recommendations are made to all those working in the field of child prostitution and trafficking in order to show the importance of collaboration and cooperation between them, they are aimed specifically at government, which has been criticised for its lack of leadership to stop trafficking. It is hoped that these recommendations will provide pointers for advocacy that organisations will need to do in order to pressure government to act more strongly against trafficking and to support it (government) when it does.

Research

Government should immediately undertake a comprehensive country-wide research study of trafficking for child prostitution in Zimbabwe, with a view to understanding how it manifests within the Zimbabwean context. This study should involve as many of the stakeholders as possible and should take the appropriate time in order to cover all the essential areas that need to be covered.

Legislation

Government should immediately pass the Anti-Trafficking Act. An Act of Parliament will support law enforcement officers to do their job effectively, bring public attention and legitimacy to the current actions against trafficking. Legislation will also animate and bring momentum to the current anti-trafficking initiatives.

Coordination

Government should immediately create a body at the level of a ministerial department at least, to deal with issues of trafficking. This body can be located within a ministry, the Office of the Prime Minister or the Office of the President and lead government efforts on trafficking. Once there is legislation on trafficking, this body can become a statutory body. This will also be the lead coordinating organisation for matters associated with trafficking and can also operate to register those organisations that work in the area of child trafficking.

National Plan of Action

A National Plan of Action on trafficking should be developed and implemented with urgency to guide actions around trafficking. This plan of action will be based on the benchmarks for effective responses to trafficking, will set clear goal posts and milestones for those working in trafficking and will enable better coordination between stakeholders. It should be administered by the government-designated body highlighted above with special powers to ensure that maximum effort is made to implement the action plan.

Awareness Raising Campaign

There needs to be a massive campaign to raise public awareness on trafficking-related issues. Firstly, the campaign should target potential victims and their parents and guardians to recognise signs of trafficking and be able to forestall it. Secondly, should teach members of the public to look out for signs of trafficking as well as where and how to report it. For instance, it is possible that members of the public are not aware of the VFU or VFC. They need to feel secure that if they report they will not be victimised or stigmatised.

Conclusion

The purpose of this research was to establish and evaluate the elements that constitute the response to trafficking in Harare, Zimbabwe. The elements considered included the legal, institutional and regulatory framework; coordination amongst the relevant governmental and non-governmental organisations; availability of resources to support effective implementation as well as tolerance of the cultural and social practices that promote child trafficking. This enquiry was necessitated because evidence suggested that efforts in Zimbabwe were ineffective in addressing the problem of child trafficking for child prostitution.

Addressing trafficking requires a three-pronged approach: prevention of the crime, protection of victims and prosecution of perpetrators. The review of literature found that

trafficking is one of the most difficult crimes to prevent or to prosecute. This is often due to the lack of legislation, and due to the difficulties in implementing existing legislation. Before policy makers can make policies they want to know how serious a problem is and the exact nature of the problem. In the case of Zimbabwe, media reports highlight the problem but lack analysis and therefore there is a need for research.

Through in-depth interviews with key stakeholders, the study found that the lack of a legal framework in Zimbabwe hinders responses to the problem. Even non-legal responses to trafficking tend to be charity based and not rights based. It also found that the government had abdicated much of its responsibility in dealing with the problem of trafficking to non-state actors.

The research findings have informed the development of recommendations primarily targeting government. This is because though action is required of organisations, individuals, families and communities, comprehensive and sustainable success will only be achieved if government takes the lead. Key recommendations are that the state should lead in the conduct of multidisciplinary and multi-stakeholder research, promulgation and implementation of legislation and coordination of stakeholders in implementing the legal and regulatory framework and applying measures necessary to prevent trafficking, prosecute perpetrators and protect victims.

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APPENDICES

- a) Response to a request for information from Chief Magistrate
- b) Instructions for Intercape bus company booking staff for selling tickets to travellers under age 17
- c) Response to a request for information from the Commissioner-General of Police.