

Migration and new slavery in Southern Africa

Increased migration has brought with it new forms of slavery that have caught governments and law enforcement agencies flatfooted, writes **Janet Munakamwe**.

Today, the movement of people across continents has become a permanent feature facilitated by expansion in the global economy and improvements in technology. Likewise, the Southern African region is being increasingly integrated into both formal and informal transnational continental and regional trade networks. Certainly, the region's link to the global economy has unlocked corridors for movement worldwide. New global and regional employment opportunities in various sectors have contributed to migration.

In discussing global migration in Southern Africa, South Africa can be identified as the place of danger and promise. The country is rated as the strongest economy in Africa and therefore offers hope to so many people who want to further develop their careers or to simply look for better opportunities. The vibrant South African economy and stable political environment attract immigrants, while struggling economies of other regional states are push factors.

The increase in immigrants to South Africa as a result of regional migration has created a ripe environment for new forms of slavery to flourish. In its general definition, slavery can be recognised as the violation

of human dignity and freedoms through engaging in the abuse of others. Those who suffer the enslavement feel powerless and are violated at will. Slavery, according to Kevin Bales, occurs in diverse forms though the 'outcomes tend to be more similar across times and cultures'.

Enslavement forms range from subtle cases of capital accumulation through labour abuses to grave crimes of human trafficking and sexual exploitation. Slavery has different forms such as oppressive labour practices, debt bondage, unpaid domestic work, human trafficking, child labour, and sexual slavery. However, there are ways of stopping it.

Labour migration is not a new phenomenon among the Southern African countries as it existed before the introduction of colonial boundaries. In fact, since the mid-nineteenth century, Southern African countries have experienced labour migration as both hosts and sending countries.

Historically, the main common countries of attraction have been Zambia, Zimbabwe and South Africa. Voluntary migrant workers, predominantly male, would move freely among countries to seek employment opportunities in mines and commercial farms. However, mine migration was the most

highly-regulated through systems of recruitment under a single agency: The Employment Bureau of Africa.

Since the turn of the 21st century, there has been an increase in intra-regional migration within the Southern African Development Community (SADC). In this period, the major shift was in the make-up of immigrants. Large numbers of immigrants were women and children – the same group also considered vulnerable to abuse and exploitation. Human abuse includes smuggling, trafficking in persons and contemporary forms of slavery, which are described as abusive forms of migration by the United Nations (UN).

EMERGING FORMS OF SLAVERY

'Slavery' has been given many definitions. However, in general it refers to the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised. In modern days, 'slavery' goes beyond this simple definition to include a variety of human rights violations. In the case of children such abuses include selling them, prostitution, pornography and child labour. There is also the sexual mutilation of female children, the use of children in armed conflicts, debt bondage, trafficking of persons and the sale of human organs.

With reference to the 1926 UN Convention, slavery includes the practices and institutions of debt bondage, servile forms of marriage, and the exploitation of children and adolescents.

As transnational migration has increased, so has the movement of women across borders. Female migrants have become breadwinners for their families. Other than voluntary migration, women and girls also form part of forced migrants who emigrate due to several forms of human displacement, chief among them being domestic upheavals, strife and conflicts and general conditions of poverty. With the South African economy's failure to keep pace with the high number of immigrants and not being able to provide jobs, women and children become vulnerable. To survive they 'indulge in prostitution, forced marriages, domestic work, sweatshops and types of exploitation that constitute a contemporary form of slavery'.

Despite South Africa being the strongest economy in Southern Africa, it is still dealing with its colonial past and making efforts to transform its society and economy. Its labour laws are designed to address past injustices. Therefore, many migrants who come to the country find themselves unable to get some jobs.

The Employment Equity Act and the Black Economic Empowerment Act impose specific compliances on the employers that discourage them from employing foreigners. The above acts of parliament refer to only black South Africans as candidates for empowerment. Excluded by the law, immigrant workers are left with no option but to trade their freedoms for a livelihood.

Some employers are in schemes of short-changing foreigners through underpaying and overworking them, thereby abusing employees who have little or no

legal options. Exploitation varies from subtle unfair treatment among professionals to outright subjugation among migrants on farms and in factories.

The definition of citizenship by nation states makes a mockery of the UN Universal Declaration of Human Rights of 1948 that says 'everyone has the right to recognition everywhere as a person before the law'. In many respects, countries have looked at their internal situations and turned a blind eye on the plight of foreigners.

South Africa may have had the 'appetite' for migrant labour in the last five years due to the advent of the FIFA soccer World Cup 2010, but failed dismally to protect foreign workers before the law. If one feels less of a citizen, he may also become vulnerable and yield to enslavement if it will earn him a life. Feeling sub-human could be the worst feeling a person can endure and has the potential to impact on one's dignity and power of will.

Because of their vulnerability, most immigrants are eliminated from major national production chains and find employment in the lower echelons of the economy. In the case of domestic work, the exploitation is exacerbated by the fact that workers are employed in private homes, behind closed doors. Even law enforcement agents like labour inspectors cannot trespass private homes to inspect working conditions for domestic workers. Again, migrant domestic workers may be sexually or physically harassed and find it hard to seek justice. Instead, they are vulnerable to deportation once they report the abuse so they suffer in silence when their rights are violated, often with impunity.

DEBT BONDAGE

Debt bondage is similar to the historical serfdom and is as a result of the need for repayment of a

debt. Societal economic classes play a major role in this type of 'slavery' practice. The interrogation of debt bondage is particularly relevant within the South African context, one of the countries with the widest disparities between the rich and the poor in the region. In cases of debt bondage, the rich conspire against the poor. Debts are notorious for creating a vicious cycle, which may include surrendering one's right of free will to those to whom they owe. Debt bondage prevents the victim from leaving his job or the owner's territory until the debt has been repaid.

A modern form of debt bondage is through consumer credit. However, the government introduced the National Credit Act in an attempt to cushion citizens from losing their possessions after failing to pay debts. Those who are unable to service their debts are asked to surrender their affairs to the management of a debt agent. From then on, such individuals can only act as they are told by the debt agent.

On the other hand, many 'illegal' migrants seek shelter, food and security. Farm owners tend to take advantage and employ the labourers in exchange for accommodation and some subsistence allowance. In many cases, the farm owner runs a shop where workers buy on credit and have the amount owing taken from their wages. The worker owes the farmer both in rent and groceries all the time!

HUMAN TRAFFICKING

Despite its geographic location, South Africa is a magnet for migrants from several countries. However, as reality sets in and their environment remains bare and bleak, the migrants continue to seek those areas that can offer them a reward. On the same scene are agents of human trafficking who promise a good life and



abundance. These agents prey on stranded migrants with no jobs, homes or money for food. Once a human being has become a commodity, s/he also becomes a subject with a master.

Studies reveal that human trafficking usually involves related people and to some extent Internet networks. Usually, those relatives who migrate first to neighbouring countries are involved in the trafficking of their own siblings or friends.

Positioned at store fronts and church alleys, desperate women decide on the better of two evils: living on the streets or becoming a sex slave. Some homeless mothers

at road intersections are forced to sell their babies. Such is the plight of some illegal migrants.

Brothel owners offer foreign women a place to stay in exchange for selling sex. Some women turn to prostitution after failing to get jobs. These individuals have little control over what becomes of them. In a society that regards prostitutes as social misfits, the option to seek redress is considered an occupational hazard.

According to the UN, human trafficking has become one of the largest income earners globally with an estimated annual profit of 'some seven to ten billion dollars' writes Luke Hilton. A trafficker of women to Europe, according

to Kathleen Fitzgibbon, can earn between \$20,000 and \$50,000 per victim. Another researcher, Siddhartha Kara asserts that the gross income generated through all forms of slavery in 2007 only, stood at \$91.2-billion. Indeed, worldwide, illicit criminal enterprises are generating huge amounts of income for the perpetrators.

CHILD LABOUR

Despite the fact that all Southern African countries have ratified the Convention on the Rights of the Child, child labour is still common. Children are smuggled through porous borders for prostitution or exploitation on farms as domestic labourers. The Southern African region has been ravaged by HIV and AIDS leaving behind many orphans. Anecdotal evidence suggests that relatives of these orphans tend to adopt them and force them to work for no pay other than providing them with board or lodging.

Botswana, Lesotho, Malawi, Namibia and South Africa have signed the associated Protocol on the Rights of the Child in Armed Conflict. Botswana, Malawi, Mozambique, Namibia and South Africa have all signed the associated Protocol on the sale of children, child prostitution, and child pornography. On paper, there are good laws to protect children from exploitation, and to prohibit child labour, but the problem resides in implementation and enforcement.

STOPPING SLAVERY

Laws and policies speaking to issues of human rights and against slavery have been formulated at international level and states have the obligation to ratify and translate them into regional or national laws and policies. According to the UN 'policy responses at local, national, regional and international level should take into cognisance the extra ordinary dynamism and instability of migration forms and

patterns in the region’.

The UN Convention of 1926 marked the turning point in outlawing slavery. The second instrument to be passed by the UN against slavery is the Universal Declaration of Human Rights of 1948. Relevant to migration is the pronouncement that ‘everyone has the right to recognition everywhere as a person before the law.’ All UN member states are signatories to this declaration, although not all have ratified it into law.

Other instruments are the International Labour Organization (ILO)’s ‘Convention 29’ (1930), which outlaws forced labour. The UN Convention for the Suppression of Trafficking in Persons and the Exploitation of Others of 1949 also prohibits human trafficking.

The Palermo Protocol is an international instrument dedicated to the abolition of all forms of slavery, and attempts to further build a global consensus on the abolition of slavery. This attempt will encompass three main efforts: first, making trafficking a crime; second, providing protection to the victims of trafficking; and, third, ensuring greater solidarity amongst nations in the battle against sex-related crimes.

LAWS AND POLICIES

Regional cooperation among member states is essential for harmonised migration policy and the fight against any forms of slavery. In the Southern African region, migration policies and legislation are fragmented along national lines, and sometimes do not appear to meet the objectives of contemporary regional and continental policies of the SADC, Common Market for East and Southern Africa (Comesa), or New Economic Partnership for Africa’s Development (Nepad). Despite the endorsement of the SADC Free Trade Protocol in 2000, regrettably the safety of migrants is not covered. In many aspects, borders

have remained closed and countries have pursued protectionist policies.

Due to a harsh economic climate in most regional countries, many have resorted to illegal means of entering and exiting borders especially those of South Africa. They are then regarded as ‘undocumented’ migrants, hence they live and work under threat and ‘slavery-like’ conditions in their host countries.

On a positive note, regional migrants can enjoy the benefits of Comesa whose founding principle advocates for the free movement of people in the region. Again, the Migration Dialogue for Southern Africa has created a platform for training and policy debate on a variety of issues pertaining to migration management in the region. Nonetheless, more effort should be invested in coming up with protective laws and policies to curb human trafficking, which consequently lead to slavery in host countries.

Most states in the region, as members of the UN have ratified laws and policies at international level and have the obligation to translate them into national laws. Nonetheless, this varies from country to country with national immigration policies and legal instruments focusing essentially on enforcement, control and exclusion. Mozambique, Namibia, South Africa and Zimbabwe have made significant changes to migration laws.

However, only the immigration legislations of South Africa and Mozambique make reference to international conventions, multi- and bi-lateral accords. For instance, bi-lateral agreements and legislation allow the South African mining and agricultural sectors to employ contract migrant workers from neighbouring countries. Though this is supposed to formalise the recruitment of migrant labourers, unfortunately most workers are exposed to slave-like conditions on

farms and mines.

With regard to human trafficking legislation, other than Mozambique, none of the countries in the region have passed any laws against human trafficking or ‘slavery’.

HOW TO STOP ‘SLAVERY’

Strict immigration laws contribute to illegal immigration practices which will consequently lead to slave-like employment relations for migrant labourers in their host countries. ‘Slavery’ victims suffer through lack of support mechanisms, anti-immigration legislation, and a lack of sufficient police protection to report their cases to labour courts. Southern African states need to cooperate to curb against slave-like practices such as human trafficking, debt bondage, child labour or sexual exploitation. It would be advisable for regional countries to establish effective bi-lateral or multi-lateral agreements to strengthen border controls and to facilitate extradition for traffickers.

Broad and comprehensive legal frameworks including heavy penalties must be introduced to effectively deal with exploitative forms of employment. Further, there is need for implementation of policy and enforcement of laws pertaining to ‘slave-like’ practices. Immigration laws should be made flexible to curb trafficking of people and to further allow victims of slavery to report unjust labour practices. Finally, UN agencies, national governments, unions, civil society and non-governmental organisations (NGOs) should establish alliances to end newer forms of slavery. It is also the obligation of trade unions as worker representatives to preach and practice solidarity among workers, irrespective of borders. ¹⁸

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