

**SOUTH AFRICA – SAFE HAVEN FOR HUMAN TRAFFICKERS?  
EMPLOYING THE ARSENAL OF EXISTING LAW TO COMBAT HUMAN  
TRAFFICKING**

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**SUMMARY**

Having ratified the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, South Africa is obliged to adopt legislative measures that criminalise human trafficking and comply with other standards laid down in this international instrument. However, by mid-2011, South Africa had not enacted the required comprehensive counter-trafficking legislation. The question that now arises is if the absence of such anti-trafficking legislation poses an insurmountable obstacle to the prosecution of traffickers for trafficking-related activities. In asking this question the article examines the utilisation of existing crimes in order to prosecute and punish criminal activities committed during the human trafficking process. Firstly, a selection of existing common law and statutory crimes that may often be applicable to trafficking-related activities is mapped out. Secondly, transitional trafficking provisions in the *Children's Act 38 of 2005* and the *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007* are discussed. Finally, since the *Prevention and Combating of Trafficking in Persons Bill B7 of 2010* will in all probability be enacted in the near future, the use of other criminal law provisions in human trafficking prosecutions, even after the passing of this bill into law, is reflected upon.

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**KEYWORDS:** Combating human trafficking; human trafficking; prosecution of human trafficking; South African counter-trafficking; anti-trafficking legislation; trafficking in persons