The global theme for 2026

"Peace Begins with Dignity: A Global Call to End Human Trafficking"

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Date: 24/06/2026

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South Africa

Legislative and Policy Framework

South Africa's Prevention and Combating of **Trafficking in Persons Act** 7/2013 (TIP Act) is a comprehensive legal tool that criminalizes all forms of trafficking in persons with a wider definition of trafficking than the United Nation's standard, and requires the implementation of a **National Policy Framework** on **Trafficking in Persons (NPF)** that guides a coordinated, uniform approach for all government departments and stakeholders in the implementation and administration of the Act.

National Policy Framework (NPF) on Trafficking in Persons

- Consists of four pillars (4 Ps), namely **Partnership**, **Prevention**, **Protection** and **Prosecution**, and must be reviewed every three years.
- The TIP Act also requires the establishment of a **national integrated information system**. A national integrated data collection excel tool was implemented by the SA government in 2019 to collect data on TIP prosecutions and convictions.
- The Act also established a **National Intersectoral Committee on Trafficking in Person (NICTIP)** for a coordinated, uniform implementation by all government departments and stakeholders of the Act and the NPF.
- Developed and implemented **Standard Operating Procedures for Integrated Victim Support.**

Trafficking in Persons Act 7/2013 **(TIP Act)**

THE ACT	BY MEANS OF	WITH THE PURPOSE TO EXPLOIT
What *was done*	***How*** *it was done*	***Why*** *it was done*

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It is the Act of;

- Delivering
- Transporting
- Transferring
- Selling, Exchanging
- Harbouring, Receiving

By Means of;

- Threat of harm
- Use of force / Coercion
- Abuse of vulnerability
- Fraud
- Deception
- Abduction
- Kidnapping
- Abuse of power; or
- Payments or any type of benefit to you or the person having control or authority over you to allow your exploitation.

Abuse of Vulnerability

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Any abuse that leads a person to believe that he or she has **no reasonable alternative but to submit to exploitation**, and includes but is not limited to, taking advantage of the vulnerabilities of that person resulting from—

(a) the person having entered or remained in the Republic illegally or without proper documentation;

(b) pregnancy;

(c) any disability of the person;

(d) addiction to the use of any dependence-producing substance;

(e) being a child;

(f) social circumstances; or

(g) economic circumstances.

For the **Purpose to Exploitation**

“Exploitation” is defined to include:
(a) all forms of slavery or practices similar to slavery;
(b) sexual exploitation;
(c) servitude;
(d) forced labour;
(e) child labour as defined in section 1 of the Children’s Act;
(f) the removal of body parts; or
(g) the impregnation of a female person against her will for the purpose of selling her child when the child is born.

Slavery

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<u>Reducing</u> a person by any means to a state of submitting to the control of another person as if that other person were the owner of that person. *Article 1 of United Nations Human Rights Slavery Convention 1926* defines slavery as <u>"the status of a person over whom any or all of the powers attaching to the right of ownership are exercised</u>". It establishes that the exercise of any "powers" similar to ownership rights over a person constitutes slavery, and the treaty obligates State Parties to suppress the slave trade and abolish all forms of slavery as defined by this article.

'*Ownership*' is described in the *1961Oxford Essays in Jurisprudence* as an owner that controls the possession he owns. Slavery should be understood as the ability of one person to control another as they would a possession. <u>It is control exercised in such a manner as to significantly deprive that person of their individual freedom of movement and liberty.</u>

Servitude

A condition in which the labour or services of a person are provided or **obtained through threats of harm** to that person or another person,

or through any scheme, plan or pattern intended to cause the person to believe that, if the person does not perform the labour or services in question, that person or another person would suffer harm.

Forced Labour

Labour or services of a person obtained or maintained

(a) **without the consent** of that person; and

(b) **through threats** or **perceived threats of harm, the use of force**, intimidation or other forms of coercion, or physical restraint to that person or another person

The TIP Act also lowers the requirements for *dolus* (intention) by defining it as similar to *culpa* (negligence) - *reasonable man test*

(1) For purposes of this Act, a person is regarded as having **knowledge** of a fact if

(a) that person has actual knowledge of the fact; or

(b) the court is satisfied that—

(i) the person believes that there is a reasonable possibility of the existence of the fact; and

(ii) the person has failed to obtain information to confirm the existence of that fact.

(2) For purposes of this Act, a **person ought reasonably to have known or suspected** a fact if the conclusions that he or she ought to have reached are those which would have been reached by a reasonably diligent and vigilant person having both—

(a) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and

(b) the general knowledge, skill, training and experience that he or she in fact has.

Liability of Carriers

Carries includes a person who is the owner or employee of the owner, an agent, an operator, a lessor, a driver, a charterer or a master, of any means of transport, and who transports a person within or across the borders of the Republic, knowing or ought reasonably to have known that the person is a victim of trafficking.

- A carrier who suspects on reasonable grounds that any of its passengers is a victim of trafficking, **must report that suspicion** to a police official and failure to do so is an offence.
- A carrier can also be ordered to pay the expenses incurred in connection with the care, accommodation, transportation and repatriation or return of the victim if the court finds, on a balance of probabilities, that the carrier has knowingly transported a victim of trafficking or ought reasonably to have known or suspected that it was transporting a victim of trafficking.

Vicarious Liability

Liability of an employer or principal is established when the conduct of an employee or agent of, or any other person acting on behalf of the employer or principal may be attributed to the employer or principal if that person is acting—

- *(a)* within the scope of his or her employment;
- *(b)* within the scope of his or her actual or apparent authority; or
- *(c)* with the express or implied consent of a director, member or partner of the employer or principal.

- The vicarious liability created does not exclude personal liability of employee, agent or any other person acting on behalf of the employer or principal.

Prosecution of Corporations/ Corporate Bodies

The SA Criminal Procedure Act provides for the criminal liability of a corporation for any act performed or omission to perform an act that ought to have been performed, on instruction or permission of a director or servant of that corporate body in the exercise of his powers or in performance of his duties to further the interests of that corporate body, shall be deemed to have been performed or omitted by that corporate body.

In any prosecution against a corporate body, the representative, director / servant, of that corporate body shall be cited as the accused and dealt with as if he committed the offence.

Extra Territorial Jurisdiction

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The TIP Act gives the courts in the Republic of South Africa extra-territorial jurisdiction, in respect of an act committed outside the Republic which would have constituted an offence if committed in the Republic.

The **National Director of Public Prosecutions (NDPP)** must, in writing, designate an appropriate court in which to conduct a prosecution against any person accused of having committed an offence under this Chapter in a country outside the Republic.

The institution of a prosecution in terms of this section **<u>must be authorised in writing by the NDPP.</u>**

Duty to Report

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The TIP Act places a duty on everyone and designated child protection organisations to report a child who they know or reasonably suspect to be a victim of trafficking, to a police official, for investigation

- This is despite any law, policy or code of conduct prohibiting the disclosure of personal information.
- Failure to report knowledge or reasonable suspicion that a child is a victim of trafficking is an offence.

Duty to Report

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*The TIP Act also places a duty **on everyone and accredited organisations** to report an **<u>adult</u>** who they know or reasonably suspect to be a victim of trafficking, to a police official, for investigation*

- Failure to report **<u>knowledge or reasonable suspicion</u>** that an **adult** person is a victim of trafficking to a police official for investigation, is an offence.

Prosecution of Victim of Trafficking

If, during prosecution of a person the prosecutor suspects that person to be a victim of trafficking and that the offence was committed as a direct result of that person's position as a victim of trafficking, that person must be referred to the provincial DSD for an assessment whether they are victims of trafficking.

Unauthorised access to and disclosure of information

The Act prohibits the unauthorised access to a victim of trafficking and the disclosure of certain information regarding a victim of trafficking for example:

- The identity of the victim.
- The place where a victim is accommodated or treated.
- Any information which undermines or compromises the investigation or prosecution of a case of TiP

Compensation

Section 29

- Provides for the court to order compensation to any victim of trafficking after conviction.

Section 30

- Provides for the court to order the carrier or any convicted person to pay the expenses incurred in connection with the Care, Accommodation, Transportation and Repatriation or return of the victim.

Return and Repatriation

Section 31 – 35: *provides for the return and repatriation of victims which take cognisance of the safety of victims during the return and repatriation process, and in the countries to which they are to be repatriated.*

- This section does not prohibit the voluntary repatriation of an adult victim of trafficking to his or her country of origin or country from where he or she has been trafficked.

- Provided the victim has been given information on the protective measures offered to victims in terms of this section and a clear explanation of repatriation procedures.

South Africa's **National Policy Framework** (NPF) on Trafficking in Persons, is a comprehensive legal tool to combat this crime in all its forms and explicitly recognizes this vital link between TIP and organized crime.

The NPF has a strategic goal to pursue the seizure and confiscation of assets and proceeds of crime in cases of trafficking. This is where the specialized knowledge and skills of Anti-Money Laundering (AML) experts become invaluable.

TIP NATIONAL STRATEGY

Goals

Objectives

Structure of the NPF

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The NPF consists of the following components:

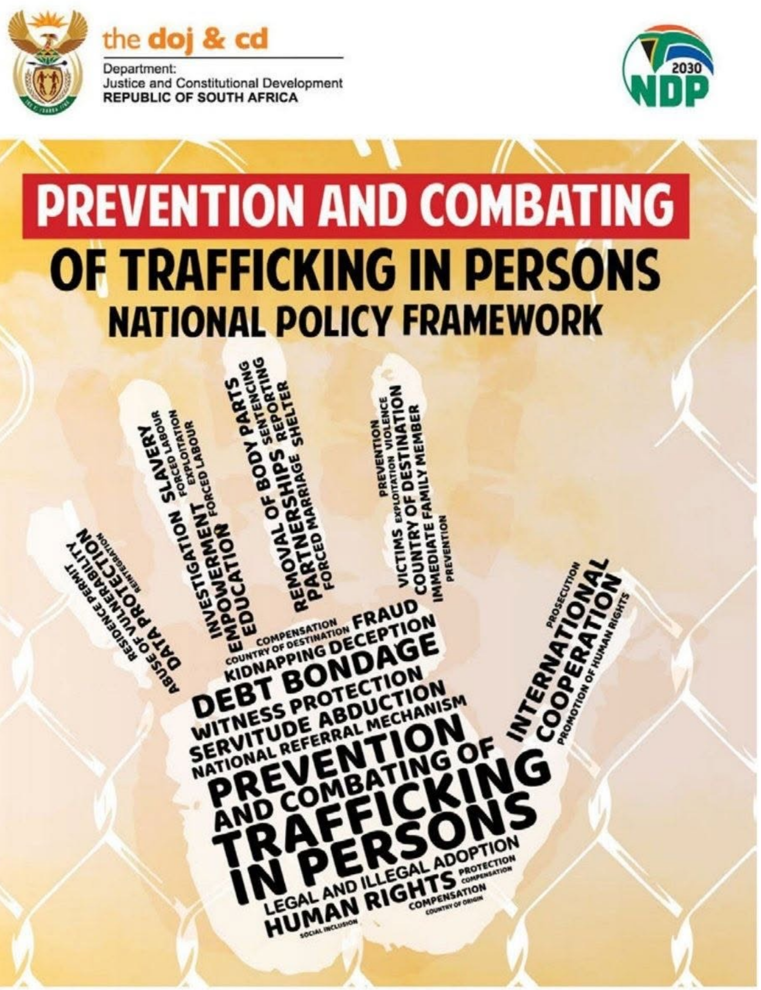
(i) Objectives of the framework

(ii) Management Structures of the Act

(iii) Roles and responsibilities of various government departments, organs of State, Institutions, Court Administration and Parliament

(iv) Monitoring and evaluation mechanism

(v) Three-year inter-departmental strategic plan 2023-2026 (activities, responsibilities, timeframes)



PROSECUTION

STRATEGIC GOAL	SPECIFIC OBJECTIVES	RESPONSIBLE
Strengthen the capacity of the criminal justice system to investigate and prosecute the crime of TIP ensuring the conviction and appropriate sentencing of traffickers	• Improve cooperation between investigators, prosecutors and all other stakeholders • Investigate organised crime groups engaged in TIP • Institutionalise training on TIP for all criminal justice actors • Ensure the correct implementation of provisions concerning the non-criminalisation of victims of trafficking • Enhance the capacity of investigators and prosecutors to conduct financial investigations in TIP cases	NPA, DoJ&CD, SAPS, DPCI
Investigate and prosecute trafficking for labour exploitation	• Enhance the capacity to detect and investigate cases of trafficking for labour exploitation • Roll out training on the sector-specific manual for TIP labour cases	NPA, DoEL, SAPS
Confiscate and seize assets and proceeds of crime in TIP cases	• Strengthen cooperation between specialised investigative units and the Asset Forfeiture Unit (AFU) • Pursue confiscation and seizure of assets and proceeds of crime in TIP cases • Enhance the capacity of investigators/prosecutors to conduct financial investigations in TIP	NPA, SAPS, SARS, SAMLIT, FIC
Promote effective, proportionate and dissuasive application of penalties and sanctions	• Sensitise judicial officers to the specificities of the crime of TIP • Promote a shared understanding of the crime among judicial officers and prosecutors	SAJEI
Eliminate corruption as one of the contributing factors to TIP	• Ascertain the level and scope of official complicity in trafficking and related crimes	All

Structure Specific for TIPSOM

NATIONAL INTERSECTORAL COMMITTEE ON TRAFFICKING IN PERSONS (NICTIP)

The aims of the TIP Act are achieved through proper coordination in the effective implementation of the TIP Act in an integrated and multi-disciplinary manner by means of the National Inter-Sectoral Committee on Trafficking in Persons (NICTIP) which comprises of national departmental representatives from, amongst others, Justice and Constitutional Development, Health, Home Affairs, International Relations and Cooperation, Labour, Social Development, Women, the SAPS, the NPA as well as civil society organizations.

The Committee leads the implementation and administration of the Act at a national government level. Provincial Task Teams (PTTs) on Trafficking in Persons were also established as well as Provincial Rapid Response Teams to attend to operational matters relating to suspected complaints and pending cases of trafficking in persons and providing support to the victims.

Structure Specific for TIPSOM

NATIONAL CASE MONITORING TEAM (NCMT) ON TRAFFICKING IN PERSONS

The NCMT consists of members of law enforcement and provides guidance and support in complex investigations and/or investigations that cross national or provincial borders.

EXPERT WORKING GROUP ON TIPSOM – SA ANTI-MONEY LAUNDERING INTEGRATED TASK FORCE (SAMLIT)

The EWG is a public-private partnership with members from law enforcement and the finance sector. The EWG facilitate, inter alia, information sharing between the banking sector and the DPCI with shared reports (STR and SAR) to law enforcement increasing every year including pro-active reports that can be used for the disruption of criminal networks that rely on financial systems.

Anti-Financial Crime Coalition & Asset Recovery Hub

- In December 2021, three agencies (FIC, DPCI and NPA-AFU) came together to form the **Anti-Financial Crime Coalition** (AFCC).
- In February 2023, **the Asset Recovery Hub** (ARH) was formed as a vehicle to achieve the objectives of the AFCC.
- ARH was implemented as a pilot project consisting of members from the DPCI, FIC and NPA-AFU.
- The goal of the pilot project was to convert financial intelligence into <u>admissible evidence</u> in court for POCA application purposes.
- **Financial Action Task Force** (FATF) definition: "*the process of identifying, tracing, evaluating, freezing, seizing, confiscating and enforcing a resulting order for, managing, and disposing of (including returning or sharing), criminal property and property of corresponding value*."

ARH Model

Upwards and Downwards Monitoring & Reporting

Proactive Financial Intelligence Report **(PFIRs)**

FIC Nodal Point

DPCI Nodal Point

SAPS Nodal Point

AFU Nodal Point

Asset Recovery Hub Committee (National Joint Nodal Points)

Regional Operational Hubs
(AFU, DPCI, SAPS in nine Provinces)
Financial Investigations | Criminal Investigations
Preservation & Forfeiture | Restraint and Confiscation

Asset Recovery Hub Regions (Provincial Operational Teams)

Financial Intelligence Centre

Asset Recovery Hub

Asset Recovery is prioritised at a national level in SA including non-conviction-based forfeiture in place. Law enforcement agencies and prosecutors are tasked to target assets of criminal organisations in investigations with emphases on cooperation.

Asset recovery is a critical component of a country's anti-money laundering efforts that should be consistently applied to disrupt money laundering and predicate all crimes to ultimately make crime unprofitable.

This prioritisation cannot be merely identified in writing through policy pronouncements but must be reflected in practice through the development of sound asset recovery frameworks and practices.

AML as a Critical Weapon Against Human Trafficking

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Anti-money laundering (AML) efforts are therefore essential to combat trafficking in persons to **disrupt the financial flows** that traffickers rely on to operate and profit from their crimes.

By **tracking and identifying illicit financial activities**, such as the movement of victim-generated funds, AML programs help authorities to prosecute offenders, protect victims, and dismantle trafficking operations.

AML and TIP structures are crucial in this fight, using tools and indicators to **report suspicious activities to our Financial Intelligence Centre (FIC)** and law enforcement, fostering essential partnerships between the public and private sectors.

NPA's Commitment:

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Leverage Financial Intelligence Capabilities to

- Secure convictions and long-term imprisonment for traffickers
- Disrupt profit motives and seize ill-gotten gains
- Dismantle trafficking networks

Relentlessly Pursuing the Money to

- Strike at the heart of the vile crime
- Ensuring justice for survivors
- Holding all the perpetrators accountable
- Dismantle criminal syndicates

Provide a Victim-Centred Approach

- Support survivors and ensure access to justice
- Compensation orders for victims of trafficking

The Goal

A South Africa free from all forms of violence and exploitation

Human Trafficking and Organised Crime

Sexual Offences & Community Affairs (SOCA) Unit

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➢**Okeke and Another v S** (A173/2020) [2023] ZAGPPHC 110 (23 February 2023)

*The act of **harbouring / selling** by means of **abuse of vulnerability / coersion** for **sexual exploitation***

The VOT had a long history of prostitution, drug abuse and being handed down from pimp to pimp that does not involve the appellants in this case. Her evidence indicates that *it was her substance abuse disorder, for which neither the appellants are to blame, that initially drove her to prostitution*. She testified that the appellants provided her with drugs daily whilst in their employ and the appellants **kept the income she earned from clients**.

Her evidence proves that appellants were instrumental in the exploitation of her substance abuse disorder to engage in prostitution for their enrichment.

➢**Okeke and Another v State** continues

The Court held that;

Human trafficking is endemic. Research has shown that traffickers use substance abuse as a means of coercion, to get victims to comply with their demands, increase productivity, inhibit self-protection, decrease escape attempts, and continue entrapment. Drug addicts are vulnerable individuals. The VOT’s evidence before the trial court supports a finding that her substance abuse disorder was exploited to motivate her to remain entangled in prostitution and docile in her entrapment.

She regarded accused number two as her pimp because he gave her instructions, paid for the internet advertisements, received the money she was paid by clients, and provided her with the drugs she desperately craved.

S v Osabiya (CC47/2019) [2021] ZAGPPHC 716 (21 October 2021)

When the accused was arrested, a minor female was found in his apartment dressed in lingerie and engaged in an online sex chat on a computer in the bedroom. Electronic equipment, passports, other documentation and cash cards were seized during the arrest.

The two victims stated that they were threatened, assaulted and forced against their will to perform in sexually explicit videos or films creating and producing visual presentations of child pornography that the accused disseminated on the internet, after registering the victims on internet sex chat platforms to participate online in the streaming of cyber-sex performances with males in and across the borders of SA.

The VOT lived in fear of him.

He allegedly lived off the earnings of the sexual exploitation of the 2 VOT.

The accused also created and was found in possession of child pornography.

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Osabiya continues

During the search of the accused's residence, the following articles were seized, placed in separate Evidence Bags and sealed with unique seal numbers

1.1 1 x Logitech Webcam (PAD 002243072);

1.2 1 X Webcam and 1 X camera (PAD 002243071)

1.3 Passports, ID books, bank cards, SIM cards (PAD 40025444954)

1.4 8 X Cellphones (PAD 002243069)

1.5 9 X Cellphones (PAD 4002544957)

1.6 1 X Apple Laptop (PAD 002243070)

1.7 1 X HP Laptop, memo stick, blue tooth devices (PAS 4001214738)

1.8 1 X E Machine (PW 4001214739)

1.9 1 X Huawei modem (PW 3000615351)

1.10 1 X HP Laptop (PAB 000506771)

Osibiya continues

The defence of the accused was that the two VOT had his passwords to his computers and he was oblivious of the fact that they were engaging in the online streaming of sexually explicit performances.

Mr. Henry Schomper, an expert and Senior Manager at Western Union Financial Intelligence Unit – Law Enforcement Outreach and Investigations for the Southern and East Africa Region testified that he did a financial analysis of transactions done by Western Union and the result was captured on an excel spreadsheet which was admitted in evidence as an exhibit.

Schomper's evidence as tabulated in his spreadsheet, which contains a myriad of detail, is indicative of an extensive and an ongoing operation of sexual exploitation on the internet internationally over a lengthy period and was not a once-off exercise.

The accused said he only collected moneys from Western Union which were business related.

It is significant that Schomper's testified earlier that Western Union does not allow business transactions.

Osibiya continues

<u>**Ms van Eeden**</u> testified that she was employed at Makuru Africa (Pty) and that Makuru provides a money transfer service in South Africa that assists customers with sending remittances to recipients in other countries and remittances from disbursing organisers sent from other countries to people in South Africa. Her role at Mukuru is to monitor Makuru Africa's customers and their transactions, investigate and <u>report financial crime and ensure that Makuru Africa adhered to all requirements of the Financial Intelligence Centre (FIC).</u>

Her evidence was that she was alerted by Mr Schomper from Western Union that Makuru Africa was possibly linked to a human trafficking case in Johannesburg. She ascertained the involvement of certain clients who probably **paid for services for online sexual material**. Her evidence was that the VOT had received funds at the Hillbrow (Jhb) and Bosman street (Pta) Makuru branches in US Dollars from four Americans males, one German male and one British male whose names were listed in the schedule which she produced together with the report she had drafted.

Van Eeden's Excel spreadsheet schedule reflected 74 remittances to the VOT on her Makuru account to the amount of R174 OOO in total. All moneys collected were paid out in cash.

The VOT testified that she was told by the accused to collect the money from the Makuru account. The accused was also a customer but had never utilised his Makuru account.

Osibiya continues

Mr. Ultrich Kruger, an expert certified computer forensic examiner, testified that he analysed the cell phones of the accused and SMS notifications sent by Makuru to the accused's cell phone that was tabularised in the analysis report he submitted to court.

The accused stated that he did not remember receiving the SMSs and he never collected the moneys from Makuru. He maintained throughout that he never received the SMSs, knew nothing about them and that he never received any money.

Mr. Kruger found that the electronic devices of the accused were used to create user accounts on multiple adult webcam streaming websites, and a video taken by the accused with his cell phone in an act of self-gratification. The accused admitted he sent to a girlfriend in Nigeria.

This proves that this phone was his and used by him.

Kruger's evidence and evidential material which he extracted from the seized media, also corroborates material facts deposed to by both the VOT.

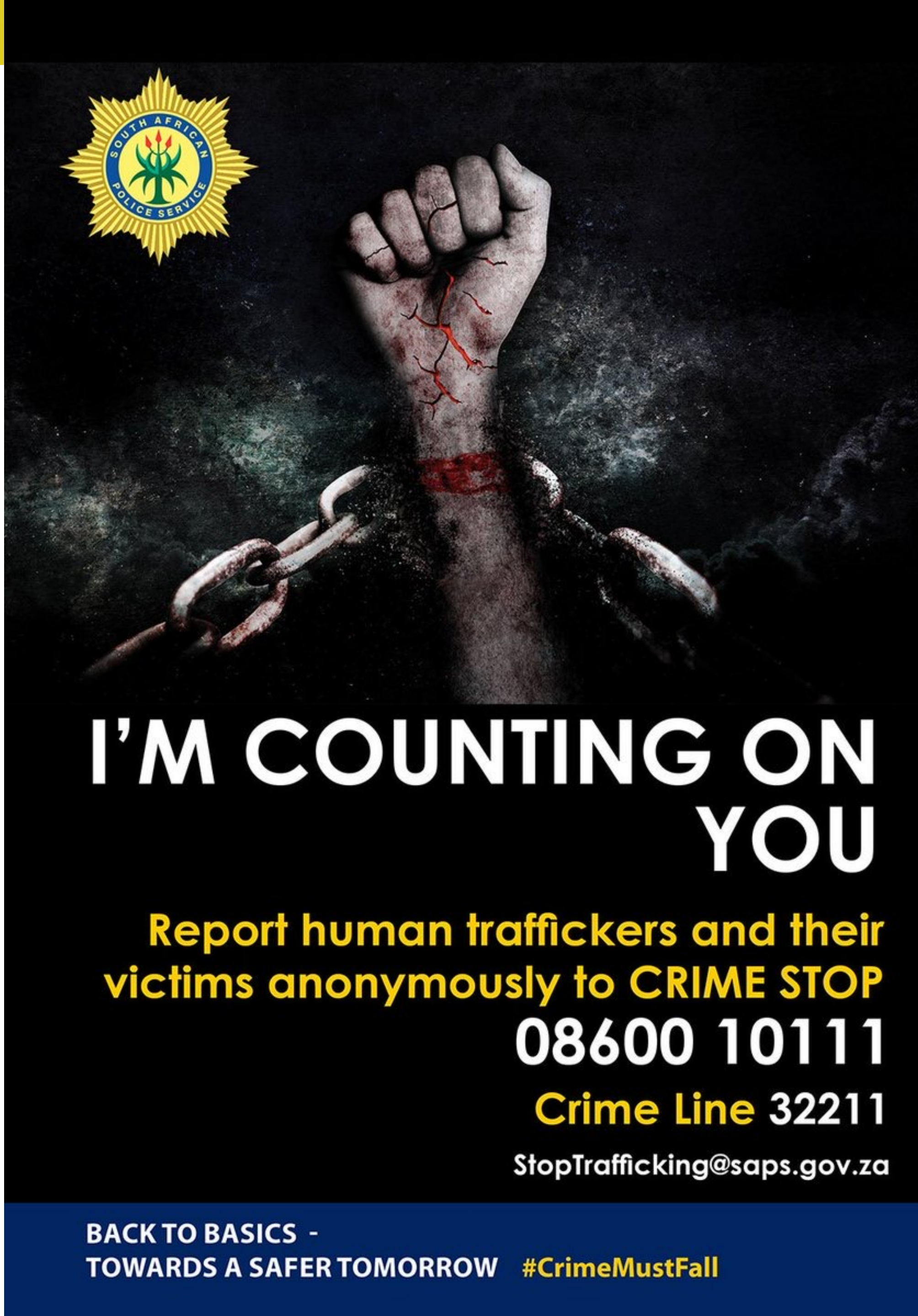
It also established what the VOT earned for purposes of compensation.

CONCLUSION:

Our collective fight against TIP demands a multi-disciplinary approach that integrates expertise into every stage of investigation and prosecution.

IMPORTANT TIP HOTLINE CONTACTS NUMBERS

NAME	NUMBER
Crime Stop, SAPS	08600 10111
A21 TIP Hotline	0800 222 777
Child Line	08000 55 555



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Thank you

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