



World Day Against Trafficking in Persons

1. Introduction

Since 2013 the United Nations has designated 30th July as the *World Day Against Trafficking in Persons*, with a special focus on 'raising awareness of the situation of victims of trafficking and promoting and protecting their rights.'¹ By 31st March 2019, 173 parties had ratified the Palermo Protocol and 168 countries had implemented domestic legislation criminalising human trafficking within the understanding or framework of this Protocol.² Human trafficking is thought to be one of the fastest growing activities of trans-national criminal organisations.³ The 2019 Day had a special focus on the importance of promoting government action in the interests of trafficked persons.⁴ As with all other UN designated special days, it is designed to increase awareness of the problem, to mobilise political will, and to increase resources to combat the problem. The International Labour Organisation estimates that there are 40.3 million victims of trafficking worldwide;⁵ and Pope Francis has called trafficking in persons 'ugly, cruel and criminal.'⁶

In 2018 it was noted that the majority of detected victims, for purposes of either sexual exploitation or forced labour, continued to be female. It was also noted that 58% of all detected victims were trafficked within their own countries.⁷ It is estimated that \$32 billion is made annually from such activities.⁸

2. The South African Government's Response

In a statement on 16th July this year, Justice Minister Ronald Lamola said:

"Furthermore, to give effect to the Prevention and Combatting of Trafficking in Persons Act, the Department has launched the National Policy Framework on Trafficking in Persons in South Africa, which is a tool for implementation, management and monitoring of the Act. We hope that this will combat the increase of trafficking in persons, especially women and children, and the role played by organised criminal networks in the trafficking of persons globally."⁹

In terms of the 2019 theme, the most recent US State Department report notes the following:

"Foundational elements of human trafficking are difficult to grasp and the real world instances of this exploitation are even harder to identify. Importantly, how governments address human trafficking depends heavily on the way authorities perceive the crime. When officials view trafficking as a crime and have a precise understanding of its core elements, they are better equipped to identify and combat it, regardless of the particular scheme the trafficker uses."¹⁰

In a keynote address in Pretoria on 30th July, and addressing the focus of the 2019 World Day directly, Deputy Justice Minister John Jeffery underlined a core achievement in the fight against trafficking:

"In April 2019, the South African government launched a comprehensive National Policy Framework (NPF), comprising a three-year

strategy and action plan. It is informed by internationally recognised anti-trafficking

guiding principles such as a government ownership and leadership, a human rights and victim-centred based approach, a multi-disciplinary approach, civil society participation, a gender-sensitive approach and overall sustainability. One of the key actions of the NPF is to establish a reliable trafficking-in-persons (TIP) data collection and management system that is supported by all stakeholders.”¹¹

He added that government was now better able to determine the number of victims who were receiving services at established shelters, the number of convictions, and the number of pending cases in the criminal justice system pertaining to TIP. In addition to the importance of data collection, it was also important to highlight the services available to victims of human trafficking.

“In terms of the national legislation and the NPF, services are offered to all victims of trafficking – whether they are suspected of being victims or confirmed as victims, they are included in services rendered by care facilities (such as help centres, Thuthuzela Care Centres, Ikhaya Lethemba, government hospitals, accredited shelters, child and youth care centres, temporary safe care, Khuseleka One Stop Centres, individual placements, and so forth.)”¹²

This marks a significant, practical step forward in terms of the government’s response to this scourge.

3. SA’s Designation in the US Anti-TIP Report

This year’s US report demoted South Africa from a Tier 2 ranking to Tier 2 Watch List. This was partly due to the decreased number of cases being investigated (a drop from 82 to 36), and the seeming reluctance to follow through on cases involving the complicity of government officials. There was also a decrease in the number of victims identified, a drop from 399 in 2017 to 260 in the period under review. 244 were identified as foreign nationals, 201 were men and 21 women; the rest were children. It is estimated that 238 victims were in forced labour situations, and 20 in sex work. The government assisted 17 to return to their countries of origin, and placed 118 in shelters.

The report also cited serious concerns around the ongoing complicity of state officials in various operations using trafficked persons, such as brothels previously identified as sites of trafficking, which continued to operate. There was also no

prosecution of complicit officials during the year under review, and callers to various hotlines operated by NGOs complained of being turned away by the police. Another serious concern is in the field of labour and the exploitation of trafficked persons in the agricultural and fishing sectors. In July 2018 the Constitutional Court judged that temporary workers are the employees of the clients of labour brokers and thus entitled to the protection of labour law. Finally, there was a lack of compliance with testing requirements which would ordinarily reveal indications of trafficking. Thus, trafficked persons remained undetected. This was true in the areas of labour and sexual exploitation. These and other deficits, such as the inadequate funding of anti-trafficking activities, accounted for the downgrade of the Tier 2 ranking which SA held over the past number of years.

On the positive side, the report recognized that there was more training of front-line responders, and that a regular stipend was being paid by the government to NGOs providing care in this area. There was a significant increase in the number of awareness campaigns around trafficking, and from government’s side the approval of the National Policy Framework with its own action plan was significant. The Deputy Minister’s commitments will speak into the vacuum identified by the US report. It must also be noted that it is a report emanating from the political world and thus contains its own bias. However, it remains a useful tool for assessing countries’ progress in the fight against trafficking.

4. Botswana

Botswana remains on Tier 2, a higher grade than South Africa.¹³ The report commends the government for investigating and prosecuting more traffickers, and for increasing the funding for victim support. The growing political will to fight this scourge seems to have received a boost with the passage of the 2014 Anti-Human Trafficking Act. In this period 21 cases were being investigated, and 2018 saw the first conviction of a trafficker, a South African woman who was sentenced to 18 months’ imprisonment with nine months suspended. The victims are mainly women and children in poverty-stricken rural areas, and most are destined for agricultural and domestic labour.

The report also points to several failures. One of them centres on the issue of leniency of sentence, as in the case mentioned above, and there is strong criticism of allowing suspended sentences or fines

in this area. There is also a perception that, despite the existence of a specialised law, the application was uneven especially in terms of identifying victims, but also in terms of their access to social services and broader protections. So, for example, the only shelter for victims is run by an NGO which uses its own assessment process for access to and care in the shelter. Some commentators think that too little is being done to remedy the obvious gaps in the legislation.¹⁴

5. Eswatini (formerly Swaziland)

Swaziland moved to a Tier 2 classification (from Tier Watch List previously) in the period under review.¹⁵ The report noted that the Task Team for People-Trafficking and Smuggling, which had lapsed for many months, had been reconstituted. It also noted that the Sexual Offences and Domestic Violence Act was passed. The investigation of trafficking falls under this Act, which provides for imprisonment of up to 20 years, and which replaces the 2009 Bill on the Prohibition of Trafficking in Persons and Smuggling of Persons. Part of the reason given for abandoning this Bill was that it would have been too costly to set up the structures it envisaged.

The Report appreciated that increased training had taken place for officials on the front lines of identification and detection of victims. It also noted that steps had been taken to ensure that practical gaps in policy, such as the lack of shelters for victims, had also been remedied. In addition the first conviction and imprisonment of a trafficker took place, the first in six years. Commentators have also noted that the political will of government has given an impetus for taking this task more seriously.¹⁶ However, having acknowledged the progress, the report also notes that there is still some resistance, often by senior officials. Finally, Eswatini is regarded as a transit

area for trafficking into South Africa, not only of Swazis, but of Mozambicans as well.

6. Conclusion

Despite multiple positive steps forward in combatting trafficking, the problem remains one of the most serious blights across the globe. In the political and policy domains the guidelines for policy development and practical legislation continue to be based on the Palermo Protocol. These include:

- institutionalising a clear understanding of human trafficking;
- developing a robust anti-trafficking co-ordination process;
- confronting harmful cultural norms and local practices; and
- empowering communities to recognise and address the problem of human trafficking.

On 11th April 2019 Pope Francis said that human trafficking “constitutes an unjustifiable violation of the freedom and dignity of the victims, constitutive dimensions of the human being wanted and created by God. This is why it is considered a crime against humanity. Trafficking seriously damages humanity as a whole, tearing apart the human family and the Body of Christ.” It was the worst manifestation of the commodification of others, since it not only hurt its victims, but destroyed the humanity of those doing the trafficking or taking advantage of victims, because it denied them access to the abundant life of Jesus.¹⁷

Peter-John Pearson
Director

¹ <https://www.un.org/en/events/humantrafficking/>

² <https://www.state.gov/reports/2019-trafficking-in-persons-report/>

³ https://en.wikipedia.org/wiki/Human_trafficking

⁴ <https://www.un.org/en/events/humantrafficking/>

⁵ <https://www.sistersagainstrafficking.org/2019/07/25/world-day-against-trafficking-in-persons-july-30-2019/>

⁶ <https://cruxnow.com/vatican/2017/07/30/pope-calls-human-trafficking-brutal-cruel-criminal/>

⁷ <https://www.un.org/en/events/humantrafficking/>

⁸ <https://cruxnow.com/vatican/2017/07/30/pope-calls-human-trafficking-brutal-cruel-criminal/>

⁹ <https://www.gov.za/speeches/minister-ronald-lamola-media-briefing-justice-and-constitutional-development-dept-budget>

¹⁰ <https://www.state.gov/reports/2019-trafficking-in-persons-report/>

¹¹ http://www.justice.gov.za/m_speeches/2019/20190730-TIP_Data_dm.html

¹² http://www.justice.gov.za/m_speeches/2019/20190730-TIP_Data_dm.html

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- ¹³ <http://venturesafrica.com/apostories/first-reception-centre-for-victims-of-trafficking-opens-in-niger/undefined>
- ¹⁴ <http://www.sundaystandard.info/botswana-still-not-doing-enough-end-human-trafficking---us-government>
- ¹⁵ <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/eswatini/>
- ¹⁶ <https://allafrica.com/stories/201907300512.html>
- ¹⁷ <https://www.catholicworldreport.com/2019/04/11/pope-francis-calls-human-trafficking-a-crime-against-humanity/>

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