

CHAPTER EIGHT

NON-LEGISLATIVE MEASURES

Training of law enforcement officials

8.1 In order to ensure the effective implementation of the proposed trafficking legislation, the training of those tasked with the implementation thereof is crucial. Various government departments have a role to play in the implementation of the proposed legislation. These include inter alia the Departments of Justice and Constitutional Development, Home Affairs, Social Development, Education, Health and the South African Police Service. The role that non-governmental organisations play in the provision of services to victims of trafficking is also of utmost importance. Hence, training on issues relating to trafficking in persons should be targeted at not only government departments directly responsible for the implementation of the proposed legislation, but also at those who usually come into contact with victims of trafficking in the course of their work.

Comparative overview

8.2 Various countries have programmes in place to train those tasked with the implementation of measures against trafficking in persons. Just to mention a few,⁶⁰⁶ in Turkey, the Ministry of Interior has compiled a training programme on trafficking in persons for several officials, including judges and prosecutors.⁶⁰⁷ In 2004, the Government of Croatia incorporated anti-trafficking training into the police academy curriculum.⁶⁰⁸ Hong Kong provides training on how to deal with witnesses and victims of trafficking to police officials and social workers.⁶⁰⁹ In the Republic of Korea, the Ministry of Justice Training Institute conducts 10 classes annually on various aspects of detecting and handling trafficking cases.⁶¹⁰ In January 2005, the Austrian Ministry of Justice held a training conference on trafficking for approximately 75 judges, public

⁶⁰⁶ Other countries providing training to law enforcement officials include Bosnia and Herzegovina, Croatia, Denmark, Macedonia, Poland, Uzbekistan, Qatar, Pakistan, and Suriname.

⁶⁰⁷ Information received from the Embassy of the Republic of Turkey on 20 June 2003.

⁶⁰⁸ USA Department of State **Trafficking in Persons Report** June 2005, p. 90.

⁶⁰⁹ US Department of State **Trafficking in Persons Report** June 2004, p.93; USA Department of State **Trafficking in Persons Report** June 2005, p. 121.

⁶¹⁰ US Department of State **Trafficking in Persons Report** June 2004, p.100.

prosecutors, police and officials from the Ministries of Interior and Justice.⁶¹¹ Latvia provides annual training to consular officers assigned abroad on how to recognise trafficking cases and to assist victims in obtaining the necessary travel documents to return to Latvia.⁶¹² In Bosnia and Herzegovina in 2004, the State Co-ordinator's Office provided four training seminars addressing trafficking-related investigations and prosecutions for judges, prosecutors and police. The State Border Service further provided training to its officers on victim identification, interviewing techniques and referral procedures.⁶¹³ In 2004, the Swiss Ministry of Foreign Affairs provided specialised training to its consular staff and distributed trafficking awareness information to visa applicants in local languages, directed especially at those applying for entertainer visas.⁶¹⁴

Submissions received

Should provisions on training for law enforcement officials on the issue of trafficking in persons be included in the envisaged legislation on trafficking in persons? If yes, what should be the content of the training programme for the police, immigration officers, social workers and the judiciary respectively?

8.3 **Childline** stated that it is highly desirable to provide in legislation for specialised training of personnel involved in the management of crimes relating to trafficking in persons. The respondent suggested that the following be included in the training programme:

- (a) The content of anti-trafficking legislation.
- (b) The process to be followed in investigating cases of trafficking in persons.
- (c) The methods used by traffickers to ensnare their victims and understanding the psycho-social functioning of victims.
- (d) Possible rehabilitation needs and available resources for such rehabilitation.
- (e) Self care and debriefing.

⁶¹¹ USA Department of State **Trafficking in Persons Report** June 2005, p. 59.

⁶¹² US Department of State **Trafficking in Persons Report** June 2004, p.154; See also USA Department of State **Trafficking in Persons Report** June 2005, p 142.

⁶¹³ US Department of State **Trafficking in Persons Report** June 2005, p.70.

⁶¹⁴ USA Department of State **Trafficking in Persons Report** June 2005, p. 207.

8.4 With regard to point (e), the respondent stated that the management of crimes, especially crimes relating to the exploitation of children, may have a profound impact on the psyche of the professional managing the case or providing services to the victim. Debriefing and the knowledge to know when one must use debriefing opportunities are thus essential components of self care.

8.5 **Jhb Child Welfare Society**, the **SA Human Rights Commission** and **Mr Masoa** answered the question in the affirmative. Jhb Child Welfare Society submitted that the content of training programmes should be based on the inputs received from organisations specialised in dealing with trafficking and commercial sexual exploitation cases. Mr Masoa proposed that training should focus on the protection of the rights of victims of trafficking, the prosecution of traffickers, the means and methods used by traffickers and measures for detecting trafficking cases.

8.6 The **Children's Rights Project** suggested that the legislation should oblige the relevant Departments, namely, Safety and Security, Home Affairs, Social Development and Justice to provide for training of their officials. Furthermore, provision for training must be made a component of each of the department's budgets.

8.7 **SWEAT** recommended that the content of training programmes should be based on the following:

- (a) The principle of non-discrimination.
- (b) Safety and fair treatment.
- (c) Access to justice.
- (d) Right to institute civil action and claim reparation.
- (e) Residency status.
- (f) Health and other services.
- (g) Repatriation and reintegration.
- (h) Government co-operation.

8.8 **Ms Koen** submitted that legislation should mandate the training of law enforcement officials, but should not specify the content of training programmes. The respondent suggested that law enforcement officials should be trained on how to (a) identify a case of trafficking in persons, (b) identify a victim of trafficking, and (c)

interview victims of trafficking and other witnesses.⁶¹⁵ The respondent added that model strategies such as the Model Strategies and Practical Measures on the Elimination of Violence against Women⁶¹⁶ that have been developed at the international level should also be considered.

8.9 The **Western Cape Ministry for Community Safety** suggested that training programmes should include the protection of the rights of victims, counselling of victims and the prosecution of traffickers.

8.10 **UCT Legal Aid Clinic** suggested that all immigration officials must undergo mandatory training on trafficking. Furthermore, training programmes must deal with trafficking as a human rights issue.

8.11 The **Immigration Law Committee of the Law Society of the Northern Provinces** suggested that officials from the Department of Home Affairs, particularly immigration officials, should undergo training to sensitise and to familiarise them with the international instruments addressing trafficking in persons and the Bill of Rights.

8.12 **Anex Cdw** suggested that the police, social workers and volunteers should be provided with training by experienced non profit organisations.

8.13 **Molo Songololo** answered the question in the affirmative. The respondent proposed that social workers, mental health professionals and other health professionals who work with children at risk, particularly in rural areas, should receive mandatory training on trafficking in persons. Such training should focus on the consequences of trafficking in persons, intervention, reintegration and treatment. Furthermore, law enforcement officials in rural areas, areas near ports of entry, border police and immigration officials should receive mandatory training. Such training should focus on the following:

- (a) the manifestation of the crime of trafficking in persons;
- (b) the detection and investigation of trafficking cases;

⁶¹⁵ This suggestion is supported by the Western Cape Ministry of Community Safety.

⁶¹⁶ **Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice** Annex to General Assembly Resolution A/RES/52/86 (February 1998)

- (c) interviewing and de-briefing;
- (d) statement taking;
- (e) referral of victims to relevant social assistance agencies;
- (f) legislative measures addressing trafficking in persons;
- (g) the interviewing of child victims of trafficking and their needs; and
- (h) social crime prevention strategies in respect of trafficking in persons.

8.14 **Molo Songololo (Consultative Workshop)** suggested that police officials should receive training on issues relating to trafficking in persons and officials working at ports of entry should receive compulsory training. Furthermore, the South African Police Service should be obliged to provide such training to new recruits through Police Training Colleges.

8.15 **Lawyers for Human Rights, Pretoria** answered the question in the affirmative. The respondent submitted that the content of training programmes should be broad and should inter alia deal with the identification of victims of trafficking, the prevention of trafficking in persons, the protection of victims of trafficking and the prosecution of traffickers.

Are there any other categories of persons which in your view should be provided with training on the issue of trafficking in persons? If yes, who, and what should be the content of such training programmes?

8.16 **Childline** suggested that training should be provided to health professionals and non-governmental organisations providing psycho-social services to victims of trafficking. The respondent added that it may be helpful for correctional services staff and parole board members to have some basic training on trafficking.

8.17 **Jhb Child Welfare Society** proposed that all the sectors involved in the National Strategic Plan for the Management of Child Abuse, currently being drafted by the Department of Social Development, should have information about trafficking included in their training programmes. The respondent suggested that each sector should have some guidelines for the management of actual or suspected trafficking cases in its internal protocol. The respondent identified the relevant sectors, in addition to those already mentioned, to be the Departments of Health, Labour, Education and Correctional Services.

8.18 **SWEAT** suggested the inclusion of childcare workers, embassy personnel, relevant labour and health officials.

8.19 **SAPS** suggested that intelligence officials, immigration officials, and officials from the Defence Force should be included in the list of persons who will require training on the envisaged legislation.

8.20 The **SA Human Rights Commission** submitted that non-governmental organisations such as those that work with children, women, sex workers and refugees would also benefit from training programmes.

8.21 **Anonymous** suggested that the following categories of persons should be provided with training: NGOs, prosecutors, police officials, shelter operators, social services, border police, customs and airport personnel. The respondent mentioned that annual meetings comprised of police officials, prosecutors and NGOs to discuss the outcome of trafficking cases have proved to be useful.

8.22 **Lawyers for Human Rights, Pretoria** suggested that any person or organisation that usually comes into contact with victims of trafficking should be provided with training. The respondent added that although training programmes should be broad, such programmes should focus on preventative measures and support services to victims.

8.23 **Mr Masoa** proposed that traffic police officials should also benefit from training programmes.

Evaluation and recommendations

8.24 Although the respondents agreed that training on trafficking in persons should be provided for in the proposed trafficking legislation, the Commission, after due consideration, concludes that the issue of training will best be addressed in policy. Policy is more flexible to amend should the need arise to revisit and change any aspect relating to training on trafficking in persons.

8.25 The Commission is pleased to note that various organisations have commenced with training courses on issues relating to trafficking in persons. The IOM has been conducting training seminars at all major border crossing points and

ports of entry. This training was directed primarily at border police and immigration officials. The IOM is also providing training to non-governmental organisations and the Department of Social Development. This training focuses mainly on the provision of appropriate services to victims of trafficking. The Organised Crime Unit of the South African Police Service conducts five training sessions on the issue of trafficking per annum. Furthermore, Molo Songololo, a non-governmental organisation based in Cape Town, has conducted a number of two-day training sessions for members of the South African Police Service in Cape Town.⁶¹⁷

8.26 In terms of an agreement between the South African government and the European Union, the Tea Cegos Consortium has compiled a Report on a Programme of Assistance to the South African Government to Prevent and React to Human Trafficking and to Provide Support to the victims of the crime (hereafter referred to as “the Report”). One of the result areas of the report is capacity building and training. The Report identifies the training needs of the following institutions as a priority:

- The South African Police Service.
- The Department of Home Affairs: National Immigration Branch and Refugee Affairs.
- The National Prosecuting Authority: Directorate of Special Operations, the National Prosecutors’ Service and the Asset Forfeiture Unit.
- The Department of Labour.
- The Department of Social Development.
- Non-governmental organisations providing services to victims of trafficking.

8.27 The Report recommends that the Regional Office of the IOM, based in Pretoria, be responsible for co-ordinating the proposed training. The Report further recommends that a training needs analysis be conducted in respect of the above-mentioned institutions in order to ensure that training is directed at the appropriate persons.

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Report on a Programme of Assistance to the South African government to Prevent and React to Human Trafficking and to Provide Support to the victims of the crime June 2005, compiled by the Tea Cegos Consortium, p. 19 -20.

8.28 The Commission believes that resources should be utilised optimally and does not wish to reinvent the wheel by making recommendations for training on trafficking in persons, separately from those recommended in the Report.

8.29 Given the IOM's expertise on issues relating to trafficking in persons and the active role it has been playing in conducting training courses on the issue, the Commission endorses the Report's recommendation that the IOM should be responsible for co-ordinating the training component of the programme.

8.30 In addition to the institutions identified to receive training on trafficking in persons, the Commission recommends that the following institutions should also receive training:

- Officials from the National Intelligence Agency dealing with cases of trafficking in persons.
- Officials from the Defence Force responsible for border control.
- South African embassies abroad.

8.31 As the IOM has branches in most countries, the training of relevant South African embassy staff could be done with little effort. Educating embassy staff on issues relating to trafficking in persons will enable them to identify potential victims of trafficking applying for South African visas. Embassies could inter alia do the following:

- (a) Inform young women about the risks of becoming a victim of trafficking.
- (b) Report unaccompanied children travelling to South Africa to the authorities for purposes of monitoring such children until they have reached their destination.⁶¹⁸
- (c) Keeping themselves informed regarding the trafficking situation within the countries where they are based.

8.32 The Commission recommends that training of border officials should, where possible, include the training of border officials of countries sharing a border with South Africa. This will facilitate the identification of traffickers and their victims prior to

⁶¹⁸ This is in line with guideline 8 of the Recommended Principles and Guidelines on Human Rights and Human Trafficking which provides that special protective measures for children must include the rapid identification of child victims of trafficking. See in this regard paragraph 2.4 above.

entering South Africa. Furthermore, training should also be provided to health care workers who may come into contact with victims of trafficking.

8.33 The Commission recommends that, in addition to the training needs within a particular institution, training on issues relating to trafficking in persons should in general focus on the following:

- International and regional instruments, especially the Trafficking Protocol, relating to trafficking in persons.
- Legislation and policy relating to trafficking in persons.
- Causes making persons vulnerable to becoming victims of trafficking.
- The investigation of trafficking cases, including investigation techniques and the kind of evidence needed for a successful prosecution.
- The prosecution of traffickers.
- Means and methods used by traffickers, including the recruitment and transportation of victims, routes and links between and amongst individuals and groups engaged in trafficking operations, and possible measures for detecting them.
- Common profiles of traffickers and victims of trafficking in persons.
- The protection of victims, including the identification, referral, needs, care, treatment of and resources available for victims of trafficking.
- The prevention of trafficking in persons, including educational and awareness-raising campaigns.
- The rights of victims of trafficking, including their rights as set out in the Victim's Charter.
- The various purposes for which persons may be trafficked and the industries into which they may be trafficked.
- The distinction between trafficking in persons and human smuggling.
- The need for co-operation and the exchange of information amongst law enforcement officials.
- The benefits of partnership between law enforcement officials and non-governmental organisations providing services to victims of trafficking.

8.34 The Commission would like to emphasize that the European Union's programme of assistance to the South African government should not be seen as discharging those departments responsible for implementing the proposed trafficking

legislation from training their personnel on the content and implementation of the proposed legislation. These departments should ensure that provision for training is included in their respective budgets. **The Commission therefore recommends that the relevant departments, including the Departments of Justice and Constitutional Development, Home Affairs, Social Development and the South African Police Service, should ensure that they have policies in place regarding training on the content and implementation of the proposed trafficking legislation.**