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Justice for victims of human trafficking in Gauteng Province, South Africa

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Abstract. Human trafficking is not a new problem in South Africa and statistics have indicated that it is on the increase. The crime of human trafficking is clandestine and complex. Human trafficking is a complex issue that can be considered from different perspectives and its associated legal framework, in very general terms, states will be responsible for their own acts or omissions that breach their obligations under international law, including human rights law. This article explores and attempts to find solutions for victims of human trafficking. This study utilised a phenomenological qualitative framework following semi-structured interviews. The sampling methods adopted for this study were purposive, using snowball sampling, where the authors could identify the samples, one after the other, through references given earlier. It focused on 40 participants from the Directorate for Priority Crime Investigation (DPCI), the South African Police Service (SAPS), the Department of Home Affairs (DHA), the Department of Social Development (DSD) and the Gauteng Provincial Office, from Pretoria, Springs and Kempton Park. The key findings indicated that the challenges are corruption, lack of motivation and commitment to combat human trafficking, lack of limited awareness and information about the human trafficking scourge in South Africa, the findings also indicated a lack of clear strategy and response by stakeholders to successfully investigate, prosecute and incarcerate the perpetrators of human trafficking and the findings further indicated lack of capacity, resources and training to deal with human trafficking. Based on the findings, the author provided, possible recommendations such as; the utilisation of advanced technology and use of intelligence-led policing to strengthen the work of stakeholders, advanced training and better education including improved awareness strategies; and the utilisation of social media as a tool to deal with human trafficking and strengthening of enforcement responses and reporting techniques.

Keywords. Human trafficking, Human rights violations, Migration laws, Victims, Criminal justice system

Introduction

Human trafficking is a global phenomenon that disproportionately affects women and children (Anderson, 2015:54). Human trafficking has been on the rise globally, and Africa has been an integral part of the worldwide market in human beings (Motseki, 2018; and Mofokeng and Olutola, 2014). Human trafficking and counter-trafficking in South Africa remain understudied from all perspectives. The problem is real, hidden in plain sight and tearing at the social fabric of the nation as the demand for cheap labour, and sexual services keep growing (Motseki,

2018). In-depth knowledge and understanding of the phenomenon, as well as the efficacy and impact of responses, are required to formulate effective policies and strategies (Emser, 2013:3). Human trafficking is generally understood to refer to the process through which individuals are placed or maintained in an exploitative situation for economic gain (United Nations Human Rights, 2018). Victims of human trafficking are deprived of the most basic human right: the right to freedom. Trafficking victims are often forced into cruel and dehumanizing working conditions and are helpless to leave their exploitative situation or seek help. It is a crime that affects people from all around the world, including here in the South Africa.

According to global report on trafficking in persons (2020) female victims continue to be particularly affected by trafficking in persons. In 2018, for every 10 victims detected globally, about five were adult women and two were girls. About one third of the overall detected victims were children, both girls (19 per cent) and boys (15 per cent), while 20 per cent were adult men. This article aimed to determine the phenomena of human trafficking, and identify the existing challenges of policing this scourge and suggest possible effective responses for stakeholders and the criminal justice system (CJS) and mostly on how to protect the victims of human trafficking.

Problem statement

The egregious and devastating impact of human trafficking engendered the United Nations Organisation (UNO) to introduce legal standards that aim to criminalise the heinous crime on a global scale (Bello, 2015:vi). South Africa, being a signatory to the Palermo Human Trafficking Convention, ratified it and has taken radical steps to domesticate some of the provisions of this law (Palermo Convention) by introducing a comprehensive law on human trafficking, namely the Prevention and Combating of Trafficking in Persons Act (7 of 2013). Human trafficking and counter-trafficking in South Africa stay under-concentrated from all points of view. In-depth understanding and comprehension of the problem, as well as efficacy and the effect of reactions, are required to plan viable policies and techniques. Understanding the human trafficking and role players associated with counter-trafficking, their cooperation and their modus operandi (MO) is important as this assists South Africa in developing strategies for handling the human trafficking crime. There is a gap in the literature on preventing and combating human trafficking in South Africa.

The different ways to deal with fighting human trafficking are moderately new to the CJS in South Africa. In certain occurrences, this has resulted in the mishandling of trafficking cases, with the victims of the crime being arrested and treated as criminals (Erez, 2010). In addition, it destroys the trust required for compelling joint effort in the investigation and prosecution of the offenders. It additionally revictimises and derides victims in the process. Hoshi (2013:1) explains that the experiences to which victims of human trafficking are subjected cause severe and enduring psychological trauma. Unaccounted thousands of victims of human trafficking for sexual, forced labour and different types of misuse in South African are yet to be known (Motseki, 2018).

Literature review

Limited research exists on the actual effects suffered by victims of human trafficking (Hoshi, 2013; Trafficking in Persons Report (TIP Report), 2010; 2011; 2012; 2013; 2014; 2015; 2016; 2017; 2018; Warpinski, 2013) although scholars concur that human trafficking is a growing phenomenon in South Africa, despite a lack of official statistics (Connell, 2012; Mofokeng & Olutola, 2014). This paper provides an overview of the effects of victims of human

trafficking and the practical implications of related relevant stakeholders in the areas of responding adequately to minimise traumatic maltreatment and secondary victimisation (Hossain, Zimmerman, Abas, Light & Watts, 2012; Moore, 2006; Warpinski, 2013). First, this section provides a brief overview of the previous studies regarding causes and consequences that have been identified, as well as the gaps in the literature that exist and how the current study seeks to fill that gap.

The consulted literature indicates that a high demand drives the high volume of supply; increasing demand from consumers for cheap goods incentivises corporations to demand cheap labour, often forcing those at the bottom of the supply chain to exploit workers (Bello & Outola, 2020; Burke, 2017; Dragiewicz, 2014; Enrile, 2018; Gallagher, 2011; U.S. Department of State, 2018). Secondly, increased demand for commercial sex – especially with young girls and boys – incentivises commercial sex venues including strip clubs, pornography and prostitution to recruit and exploit children (Bucher, Manasse & Milton, 2015; Monto & Milrod, 2013; Shively, Kliorys, Wheeler & Hunt, 2012; Spencer & Broad, 2012). Lastly, systemic inequalities and disparities make certain groups much more vulnerable to exploitation (Bales, 2012; Duvel, 2014; Wheaton, Schauer, & Galli, 2010). Mass displacement, conflict, extreme poverty, lack of access to education and job opportunities, violence and harmful social norms like child marriage are all factors that push individuals into situations of trafficking (Campana, 2015; Spencer & Broad, 2012; Mofokeng & Olutola, 2014).

The consequences of human trafficking are that families living in extreme poverty or families in situations of desperation are more likely to accept risky job offers. When girls are not allowed to learn, parents are more likely to sell their daughters to men for marriage. Ultimately, harmful social norms and systemic inequity fuel trafficking because traffickers target vulnerability. Traffickers look for people living in poverty, those who are desperate, those without legitimate job options, those without educational opportunities and the those looking for a way to escape violence (Gould, Richter & Palmery, 2010; Naramore, Bright, Epps & Hardt, 2017; International Labor Office (ILO), 2014; Kimberly, Finkelhor & Wolak, 2010). Previous research focused more on quantification of the problem (Gould, 2010a, 2010b; Qaba, 2007) instead of trying to quantify the problem in terms of the number of human trafficking victims.

Previous research thus describes human trafficking as a growing phenomenon and the authors of this study question such views, since any assessment of an increase in human trafficking is impossible to quantify, except in general terms. Thus, the authors of this study make an attempt to bridge the gap by focusing on vulnerability of victims, as this approach will enhance the human rights component of trafficking prevention policies. Reasons for this include differences in national definitions of the crime of trafficking, as well as of who constitutes a victim of trafficking, along with a lack of consistent, reliable and comparable data. Both crime prevention and reduction of vulnerability are valid approaches to combating human trafficking and each calls for different dynamics in policy and programme planning. A focus on vulnerability will enhance the human rights component of trafficking prevention policies

Methodology

This paper adopted a qualitative research approach. This approach used a phenomenological design that is both descriptive and exploratory. For this study, the use of a qualitative research approach enabled an in-depth appreciation of the participants' responses and a detailed understanding of the stakeholders views of implementation of anti-trafficking laws.

Study Population

SAPS	DSD	DHA	DPCI	Survivors of human trafficking	Total
24	3	5	4	4	40

(Source: Researchers illustration)

The population of this study consists of officials from Directorate for Priority Crime Investigation unit which deals with human trafficking, four officials were interviewed and their ranks were Lieutenant Colonel, Warrant Officer, and Captain, all of them were males in terms of gender, and three of them had between 24 and 34 years of experience. In terms of the South African Police Services, 24 officers in total were interviewed from three selected areas of Gauteng Province, namely Pretoria, Springs and Kempton park, the ranks were Constable, Sergeant, Warrant officers, Lieutenant, and Captain, in terms of the gender, it was 8 females and 16 males and their experience were between 10 years to 27 years. In terms of the Department of Social Development, two officials were interviewed from a head office in Pretoria, they were both males, holding the position of Deputy Director: Coordinator of the prevention combating of the trafficking in persons and Director: social crime prevention, and one female from Gauteng provincial office, their position was Social Work Policy Developer (Trafficking in Persons Coordinator).

In terms of the Department of Home Affairs, five officials were interviewed, three of the officials were females and two were males, three were holding positions of assistant directors: analysis, one was the assistant director: immigration service and assistant director: tracing and monitoring, four of them had between 2 to 3 years of experience and only one had 28 years of experience. 4 survivors of human trafficking were also part of the study and were trafficked between 2 to 8 years from different parts of South Africa and other countries.

Sampling Procedures

The selection of participants of this study was conducted using two sampling methods: Purposive sampling and Snowball sampling. Purposive sampling allowed for maximum variation, which was looking for participants who had different ideas concerning the topic and a broad range of experience from each other. This was used to pick participants from the SAPS, DPCI, DSD, and DHA, as these participants are knowledgeable about human trafficking in Gauteng Province. Snowball sampling, is a type of sampling where the researcher gets help from one participant to another. The choice of the participant is guided by the aims and objectives of the study. This method was used to select members of the community who have been victims of human trafficking to ensure that the participants are aware of the phenomenon to be studied. Unfortunately, most of the survivors of human trafficking did not feel safe to participate in the study due to security reasons, fear of victimization, and shame, only one survivor was interviewed.

Data Collection Techniques

The researcher used the interviews to collect data. The interviews are gathered from more than one person because the goal is to identify differences and similarities across participants in a sample. In-depth interviews were used by the researcher, and the reason being that in-depth interviews are conducted with unique individuals or a small number of people (Creswell, 2014:15). The advantages of the interviews are:

Firstly, considerable input from each participant and an independent view is obtained on a situation. Secondly, participants can discuss intimate and confidential issues without fear, and no peer group pressure creates bias. Additionally, allows a rapport to build between participants and interviewer and can accommodate widely scattered participants. Thirdly, better for heterogeneous participants who may not gel in a group and allows the interviewer to see the surrounding home or office of the respondent. The study used a semi-structured interview schedule as it allowed the researcher to use the pre-planned schedule, and it allowed for elaborate discussions between the participants and the researcher. The interviews were in-depth and done on a one on one this was done to illicit detailed information. The interviews took place at locations that were chosen by the participants and the duration ranged from 20–40 minutes, this was dependent on how much information the participants were willing to share.

Data Analysis

Thematic analysis is a method for identifying, analysing, and reporting patterns (themes) within data as it organises and describes data in detail (Braun & Clarke, 2006). At the heart of thematic analysis, the familiarisation of data by the researcher is important. Data familiarisation was possible because the researchers personally conducted audio-recorded interviews and transcribed them. This process allowed the researchers to familiarise themselves with the data for expedited and insightful analysis.

Following this thematic transcription, the scripts were analysed using NVivo version 8 software. This software organised the raw data so that it was possible to link and compare thematic issues within and across documents. The list of “starter nodes” was generated from an initial entry in a project journal in the software where the questions and assumptions brought to the report were outlined. The software gave results that allowed for a deeper examination and management of the qualitative data that might not be possible in traditional coding.

Two distinct types of coding were used in the analysis. The first was descriptive coding, which described the cases in this study. This process-related both to the coding of information in categories and the creation of attributes to clarify them. The second type was analytical coding, which was done by selecting source content to interpret and reflect on the meaning of the data to arrive at new ideas and categories. The process entailed gathering material that could be rethought and reviewed given the growing understanding of the inter-relationship of the categories in the data.

Ethical Clearance

The research received ethical clearance from Tshwane University of Technology (TUT), and permission to conduct interviews was granted by the following organisations: The South African Police Service (SAPS), Directorate of priority crime investigation (DPCI), Department of social development (DSD), Department of Home Affairs (DHA), and National prosecuting authority (NPA).

Findings and discussion

Challenges that Hinders the Relevant Stakeholders to Successfully Combat Human Trafficking in Gauteng Province

It should be noted that findings such as those given below were similar among all the selected participants, regardless of the study location. Examples of some of the remarks regarding their experiences in terms of dealing with cases of human trafficking were similar:

“Victims status affects the whole investigation if the victim is subjected to threats or intimidation. Lack of cooperation from victims, corruption is also a problem, Language barrier from the victims who are from outside South Africa, delays in the court proceedings, courts are taking long to deal with cases of human trafficking, no specialized courts in South Africa dealing with cases of human trafficking” (participant 16).

“Corruption in the case of home affairs is a problem. Police officers are friends with traffickers, they tip traffickers about the operation of the police. Immigration officers should undergo security clearance and vetting when they are being employed” (participant 5).

“The problem is the resources on our part, we don’t have that can enable us to respond effectively to human trafficking. I will also say we still lack intensive training on issues of human trafficking. We can’t differentiate between victims of human trafficking and those working as sex workers in the night clubs, brothels so we need intensive training on that. Lack of cooperation and support from other stakeholders. Another challenge is the budget, for any program or imbizo, a proper budget has to be prioritized for the event” (participant 11).

Based on the above there are a lot of challenges which hinder the stakeholders from successfully identify, locate, investigate and prosecute the perpetrators of human trafficking. Victims which are not cooperating with the investigation due to their mental, physical or psychological status. Intimidations and threats from the traffickers is another challenge which leads to the victims not cooperating with the stakeholders. Corruption is a major contributing factor to the increasing numbers of human trafficking, the victims are being abducted and kidnapped from the safe houses. The government officials responsible for safety homes work with the traffickers and victims find themselves back in the trafficking ring after being rescued by the police.

Another challenge that was revealed was the lack of resources to effectively, investigate, and combat human trafficking. Resources like manpower and budget are lacking and traffickers use the money to suppress the powers of the stakeholders responsible for human trafficking. Cooperation and support from other role players responsible for human trafficking were identified as a challenge and was significantly hindering the progress in combating human trafficking.

Nature and Extent of Human Trafficking in Three Selected Areas of Gauteng Province

The participants when asked about the nature and extent of human trafficking in three selected areas of Gauteng Province highlighted the problem of a lot of brothels, massage parlours, and prostitution (related verbatim):

“Prostitution is very high in Gauteng Province, there are a lot of brothels and night clubs in Gauteng, massage parlours, spars, and this are used for human trafficking. Prostitution is very rife in Gauteng Province” (participant 14). “Gauteng is the most problematic when it comes to human trafficking. Nigerians traffic or lure victims from small areas of South Africa and neighbouring countries to areas like Hillbrow in Gauteng. The problem is very big and uncontrollable” (participant 10). The problem is very big when I look at numbers between 2013 to 2016 is 300 victims of human trafficking trafficked from the rural areas of South Africa to Gauteng Province” (Participant 24).

“Human trafficking is rife in Gauteng despite the low numbers DSD is sitting with. The dilemma is that people are not reporting this crime. Some say they not even aware that it is trafficking, while others say they don’t even know if it is a crime. Gauteng is considered as

the land of milk and honey and everyone who comes from outside the country and even other provinces aspire to be in Gauteng and experience its lifestyle” (Participant 9).

The above paint a clear picture that the extent of human trafficking in South Africa is very deep. The problem with this scourge is that no official statistics available to measure the problem, the police do not release the official statistics.

When asked about the profile of victims and profile of traffickers of human trafficking in three selected areas of Gauteng Province, the participants explained that the profile of victims of human trafficking include girls between the age 13 to 27 years from the rural areas of South Africa and victims were from all different races. Other victims were from South African Development countries, Thailand and Brazil and the age is from 18 to 31 years. The participants further explained that the trafficker's profile include South African citizens, Nigerians, Somalians, Thai and Brazilian mafias. These are some of the responses from the participants (related verbatim):

“The profile of victims of human trafficking include the girls below teenage age 13 years Thai, South African girls, Asian girls involved in massage parlours, and spar, European girls involved in entertainment, Mozambique, Zimbabwe, and Lesotho. The profile of perpetrators includes Nigerians, Thai and to a small extent you will find them on forced labour Somalians, Brazilians ladies” (participant 3).

“Profile of perpetrators of human traffickers include South Africans, Nigerians, Asian women, Thai and SADC countries. Profile of victims of human trafficking includes the girls from the age of 17 to 24 years and that would be South African, and mostly Thai ladies between the age of 18 to 27 years of age” (Participant 18).

“Perpetrators of human trafficking mostly is Nigerians, Somalians, and Pakistan on Labour, they traffic their brothers to come and work in South Africa and for sex and prostitution, it's Nigerians. Victims of human trafficking include Thai ladies, SADC, Zimbabwe, Lesotho, and South Africans. Inland mostly the victims will be from areas like (KwaZulu-Natal, Eastern Cape, and few from other countries)” (Participant 36).

“Perpetrators of human trafficking are Thai, there is a sophisticated syndicate from Thailand. You also hear their Nigerians involved in human trafficking. There are also South African working with people from outside, South African is used by Nigerians. There is a trend of Lesotho nationals who are lured to South African to work as domestic workers, when they get to South African, they are forced to sex trafficking and labour. Profile of victims of human trafficking is Thai, in Thailand opening a brothel is acceptable, and sex work is legal. The late twenties to early thirties foreigners. South African is young girls between 16 to 25 years. You also get young adults from South Africa, SADC countries like Mozambique, Malawi, Zimbabwe and Lesotho” (Participant 31).

Emerging themes

Challenges of Policing Human Trafficking

The challenges of policing human trafficking in South Africa are many and remained extremely difficult for the CJS and stakeholders to successfully combat human trafficking. The challenges identified by this study were the following, corruption from the SAPS in terms of leaking confidential information to the traffickers about the planned operations, corruption from Home Affairs in issuing documents illegally, and ensuring that the victims are transported in and out of the country illegally, corruption from Social development in handing the victims of human trafficking back to the traffickers are they are being rescued to the safety homes. Lack of professionalism, commitment, and lack of motivation from the stakeholders. The

stakeholders involved in dealing with human trafficking in South Africa irrespective of the laws and policies enacted and implemented by the government, lack motivation and commitment to prevent and counter the scourge of human trafficking.

Poor remuneration was one of the major factors which were affecting the stakeholders, other stakeholders indicated that they did not have enough budget to conduct awareness campaigns, to pay their personnel. Long court proceedings, absence of witness in courts, inexperienced magistrates (judges). Lack of training in dealing with human trafficking was also a problem for the stakeholders, the police were not able to differentiate between human trafficking victim and prostitute.

Lack of Effective Response to Human Trafficking

The stakeholders and CJS did not make an impact in combating human trafficking irrespective of the laws and policies available to them. The arrest, prosecution, and incarceration rates post the implementation of the human trafficking act remained very low. The study discovered that there was no adequate and effective strategy or response to prevent and combat human trafficking from the stakeholders and CJS. The stakeholders and CJS relied mainly on awareness which was not done properly to target areas where human trafficking was very high.

Reliance on Traditional Investigation Methods and Strategies

The police relied mainly on proactively identifying human trafficking cases, they commonly utilised traditional investigation methods and strategies, such as stings in known brothels in a bid to rescue the victims and to arrest the perpetrators. This did not yield any positive results as some of the operations and traditional investigations were compromised due to corruption between the SAPS and the traffickers. Motseki and Mofokeng (2020) highlighted that the prevalence of corruption amongst the officials hampered effective implementation of the national anti-trafficking strategy. The lack of command and control measures offers fewer restrictions for perpetrators who incentivised the officials involved in corruptive practices, thus increase widespread illicit practices with trafficking vulnerabilities. Despite endemic corruption among officials that impedes anti-trafficking efforts and enables traffickers to operate with impunity, there were very few of the officials prosecuted for trafficking offenses.

Recommendations and conclusion

Human trafficking is a very complex and hidden crime needs the undivided attention of those responsible to combat it. The study recommends that training of the SAPS officials at all levels was crucial, it was revealed that only investigators tasked with human trafficking receive training in this regard, and not local SAPS officials. This could jeopardize the whole process of responding to the human trafficking problem, as initial contact with the victims, their families, and even with the criminals occurs at the local police station level. The study further recommends that many incidents of human trafficking are initiated on the Internet, this calls for the use of technologically advanced devices by the stakeholders and CJS officials. Officials should be trained in and be able to use different sophisticated devices to access covert sites on the Internet to detect incidences resembling human trafficking. It was clear during the data collection that all the stakeholders dealing with human trafficking use awareness as the main strategy to fight and combat human trafficking. The study recommends that all the relevant stakeholders should ensure that awareness is done in the areas where there are a lot of potential victims of human trafficking. The study further recommends that all social media platforms should be used by stakeholders in terms of raising awareness. Perpetrators of human trafficking

use different social media platforms to lure and recruit their potential victims, as a result even the stakeholder combating human trafficking should also use the different social media platforms to raise awareness about human trafficking on potential victims.

This study has revealed that the current strategies utilised by the stakeholders and CJS are not enough to deal with human trafficking, especially in the context of its current status as a crime that is perpetuated and perpetrated with impunity. In South Africa, illegal brothels are increasing, and people enter the country unrestrictedly for unlawful practices through the port, borders, and airport. This study recommends intelligence-led policing that will involve a holistic approach to human trafficking investigations and prosecutions. The study further recommends that stakeholders should be given more resources especially the budget to deal with a crime, especially human trafficking.

In conclusion, this study managed to successfully determine the phenomena of human trafficking, identify the existing challenges of policing this scourge and to suggest possible effective responses for stakeholders and CJS. Overall, it was clear that the efforts of the SAPS and CJS were mostly reactive, and it is argued that such efforts are ineffective in curbing the problem of human trafficking. Moreover, if partnerships are not strongly forged on collaborative and consultative practices that include all stakeholders – also members of society – their efforts to bring the perpetrators of human trafficking to book will remain impaired. The world as a whole has a task to approach the problem of human trafficking collectively. Furthermore, some improvements should be done to stabilise the response of all stakeholders to human trafficking in South Africa. Again, relevant legislation and how it is implemented should be questioned and addressed because the number of convictions is limited compared to the extent and nature of human trafficking in South Africa at large.

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