

REPORT:
MIDSA WORKSHOP ON TRAFFICKING IN PERSONS
7 - 9 October 2002
Maputo, Republic of Mozambique

Countries, Presenters and Observers

The Workshop, arranged as a follow-up to the MIDSA Forum in Gaborone in March 2002, had government participants from Botswana, The Democratic Republic of Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe. Presenters included IOM, INTERPOL/SARPCCO, South African Police Service (SAPS), United Nations Office for Drug Control and Crime Prevention (UNODCCP), United Nations Children's Fund (UNICEF), and NGOs Eye of the Child, Terre des Hommes, Molo Songololo, and SAMP. Observers included officials representing Australia, the United States of America, the Netherlands, Switzerland, and South African-based NGO Lawyers for Human Rights (LHR). Participating MID SA members Angola and Madagascar were unable to attend.

Summary of proceedings

Opening Session

The Workshop was opened with introductory statements by the Honourable Minister, H.E. Almerino Manhenje, Minister of the Interior of the government of the Republic of Mozambique, Mr. Vincent Williams, Project Director, SAMP, and Mr. Hans-Petter Boe, Regional Representative, IOM.

H.E. Minister Manhenje welcomed all participants to Maputo on behalf of the Government of Mozambique and noted that trafficking is a very important issue that needs to be addressed nationally as well as regionally. The Minister stated that his understanding of the trafficking concept was that it was a social phenomenon that is closely linked to crime, which creates instability and affects citizens as well as national productivity. He described globalisation as a process that involves the movement of persons, including trafficking and smuggling, and stressed the importance of identifying the groups and individuals involved in such activities. He further encouraged the participants to develop a picture of the extent and impact of trafficking as well as the international legal instruments that can assist in combating trafficking in the region. In his concluding remarks, the Minister said that this Workshop should be seen as a practical way to evaluate the impacts of trafficking in terms of the SADC region and asked that the participating governments co-ordinate their efforts against the trafficking in persons.

Mr. Williams emphasised that for SAMP, as one of the implementing partners, MIDSA is an important initiative that can address the significant migration challenges faced by the region. He offered his personal reflections on some of the purposes of the Workshop; namely, to address the issue of trafficking at the global, regional and local levels, and to determine the appropriate responses by Governments to combat trafficking.

Mr. Boe expressed appreciation to the Government of the Republic of Mozambique and introduced MIDSA to the new government representatives from the Ministries of Social Development. He emphasised that IOM has been active in addressing the trafficking issue

around the globe, both in terms of projects and research activities. He expressed his hope that the Workshop on Trafficking would assist the countries in developing a regional approach to combating trafficking.

Trafficking. as a Global Phenomenon

Mr. Paul Holmes (IOM) gave an extensive introduction to the distinction between trafficking in persons and human smuggling. As he explained, the key difference is the relationship between the criminal and the victim. In cases of human smuggling, the relationship ends once the client has successfully crossed the desired border illegally - typically having paid the smuggler for the service in advance. The trafficker, by contrast, intends and carries out a coercive and exploitative relationship with the victim even *after* the border has been crossed. As evidence of the globalisation of trafficking, Mr. Holmes cited UN figures of 700,000 victims per year, generating approximately 8 billion USD in criminal gains. The appeal of ethnicity was highlighted to explain the presence of African victims in Europe, European victims in South East Asia and South East Asian victims being exploited around the world. He indicated that trafficking is first and foremost an economic crime based upon a chain of supply and demand that is increasingly controlled by organized crime. The best way to combat trafficking, then, is to make the trade unprofitable.

The presentation addressed the root causes of the crime: poverty, the feminisation of poverty, lack of economic opportunity and the exclusion of females from what little opportunity does exist. Gender discrimination was identified as a key element of the root causes, together with a lack of education, domestic and familial abuse, and an increasingly awareness of the richer countries and a desire to share in their prosperity.

An ever-present and serious obstacle to the effect of combat of trafficking is the prevalence of xenophobia in governmental responses - the fact that the majority of the victims were foreign seems to create a reluctance to assist them.

The control mechanisms deployed by the traffickers were identified and described in terms of social isolation, lack of language skills, threats and use of physical and/ or sexual violence, seizure of documents, inability to seek police help because of the risk of deportation or the belief that the police were corrupt and working with the traffickers. All of these factors were overlain with the dimension that adds unique difficulty when addressing the crime - the threat of reprisals against the victim's loved ones in her country of origin. Mr. Holmes concluded his presentation by giving an overview of the latest political and practical developments in the counter-trafficking response in the European Union, as a result of the IOM-EU Conference held in Brussels on 18-20 September 2002.

During the discussions following the presentation the participating governments raised the question of issuing visas to students without control mechanisms to ensure that some of the students are not being deceived and trafficked. The issue of learning from other regions, especially Europe, was requested at the same time as it was stressed that the conditions in Southern Africa are specific to that region. Governments also stressed the need for a regional response to the issue of trafficking in the SADC region.

Mr. Mukonda, representing the **United Nations Children's Fund (UNICEF)**, addressed the issue of child trafficking. He stated that child trafficking is a global problem and that the revenue from human trafficking is estimated to be between 7 and 10 billion US dollars per year. In his

presentation he described child trafficking as a transfer of a child by fraudulent means for exploitative purposes. The most vulnerable children, and those most like to be victims of child trafficking, are orphans and children affected by HIV / AIDS, street children, children affected by war and displaced children and refugees. Some of the child rights violations were described as sexual abuse and exploitation, economic exploitation, political instability and war and criminal activities such as organised crime, selling and trafficking of drugs, petty theft, organ transplant and illegal and unregulated international adoptions. The main underlying causes behind child trafficking include economic disparities (a major cause), traditional beliefs and practices, weak law enforcement and/or lack of legislation, the need for cheap labour and the demand for sex with children being a key component.

Mr. Mukonda pointed at the established frameworks for combating trafficking in children, describing among others the international Convention for the Suppression of the Trafficking of Persons and the Exploitation of the Prostitutions of Others; the supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and practices Similar to Slavery and the Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption. Some basic principles for combating child trafficking include the distinction between trafficking in adults and trafficking in children, with definitions of child trafficking reflecting the need for special safeguards and appropriate legal protection. He emphasised that children who are victims must not be subject to criminal procedures. In Mr. Mukonda's concluding remarks, and in the discussions that followed, it was observed that a strong political will was needed to combat child trafficking by facilitating cross-border collaboration and initiatives and by strengthening the laws and the efforts of law enforcement officials.

Trafficking in the SADC Region

Ms. Van Vuuren-Smyth & Mr. Pieczkowski (IOM) presented the first phase of the IOM research assessment on 'the Trafficking of Women and Children in the SADC Region'. The objective of the research is to document and assess the needs of trafficking victims in Southern Africa in order to provide the most appropriate assistance to victims while developing strategies with governments to prevent the practice. It was pointed out that the extent and character of trafficking in the SADC region is largely undocumented. The first phase of the research has focused on South Africa, due to its position as the regional economic power and transportation hub. A second phase is planned and will, based on information gathered during phase one, cover selected SADC countries found to be points of entry, transit and/or destination for trafficking victims.

The initial findings of the research point to the recruitment of trafficked persons through advertised job opportunities, and approaches by agents, with tickets and travel documents arranged and paid for by an agent subject to an agreement that the victim would repay the debt. The research found trafficking routes from South East Asia, Eastern Europe, and South America into South Africa. Detection of African trafficking within the region proved far more difficult than detection of extra-regional operations, although the researchers' interaction with refugee communities in South Africa strongly suggested the particular vulnerability of mobile populations to traffickers. Preliminary findings suggest that trafficked women from Zimbabwe and Botswana travel with the agents to pre-determined "central collection points" in those countries, where they are then handed over to middlemen and held for approximately two weeks before being transported illegally across the border and into South Africa. The research identified a process of children being trafficked to the Far East. The research additionally identified the trafficking of children from South Africa to South East Asia, and found that South Africa is also a transit country for trafficking operations to especially Europe and Mexico.

During the research Ms. van Vuuren Smyth and Mr. Pieczkowski identified needs based on prevention (training of officials and information campaigns), protection (call centres, HIV / AIDS advice) and rehabilitation (voluntary repatriation, skills training, reintegration and resettlement).

United Nations Conventions and Protocols

Dr. Zvekic, representing the **United Nations Office for Drug Control and Crime Prevention** (UNODCCP), described the problem of transnational organized crime and trafficking in persons as a serious and growing problem and emphasised that due to the transnational nature of the problem it requires a transnational solution. The trafficking process was described in terms of recruitment, transportation, and exploitation. At the same time it was stressed that trafficking is a lucrative business that for the traffickers involves low investments, high profits and lenient penalties. Dr. Zvekic described the nature of the legal instruments and stated that the relevant conventions and protocols are established to symbolize recognition of the problem and a commitment to take effective measures as well as to standardize terminology, laws, and practices. Dr. Zvekic gave a brief presentation of the United Nations Convention against Transnational Organized Crime and stressed that transnationality must be made an element of the offences such as organized criminal groups, laundering of proceeds of crime, corruption and obstruction of justice in the domestic laws.

The purposes of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, was described by Dr. Zvekic in terms of preventing and combating trafficking, protecting and assisting victims and promoting co-operation. He stressed the obligation to criminalize trafficking, rather than individual elements of the offence. In terms of assistance and protection of victims the protocol calls for further measures to support physical, psychological and social recovery in terms of counselling (legal and other), assistance (medical, psychological, material and housing) and compensation (possibility of obtaining assistance to be created). On the Protocol Against the Smuggling of Migrants by Land, Sea and Air, it was pointed out that migrants who are also refugees are not affected by this protocol. In terms of the return of smuggled migrants, states shall facilitate and accept the return of migrants who are their nationals and permanent residents, verify whether a migrant is a national or permanent resident, and carry out the return with due regard for safety and dignity. The presenter called for a multi-agency approach that includes international organizations, regional bodies, government agencies, NGO's and civil society. In his concluding statement, he emphasised the development of witness protection programmes, increased cooperation between law enforcement, judicial authorities, immigration offices and NGO', and awareness-raising campaigns in origin and destination countries.

Mr. Matewere, from the NGO, **Eye of a Child**, discussed the conditions predisposing certain communities and countries to trafficking and traffickers. He pointed out that a variety of social and economic factors contribute to the occurrence of trafficking in women and children. On the economic side, the factors range from poverty, an inequitable distribution of social services and a growing culture of consumerism that reduces all activities to a monetary value. On the social side, the lack of education and the often weak legal (and other) status of women and girls, inadequate legislation, HIV / AIDS, media, urbanization, demographic factors, and individual and family considerations. Other factors that may play a role are societal disruptions caused by civil disorder and governance and sometimes practices and cultural beliefs. It was noted that apart from being contaminated by immoral foreign culture, children are also exposed to the sex trade as means of survival. It was also observed that the increase of single parenthood in Southern Africa has resulted in orphans who lack care and support, and are at risk of being

exploited. He noted that street children, in particular, are more vulnerable to sexual exploitation.

In search of restoring the dignity of victimized women and children, practical intervention should consider the enormous impacts. The most obvious relates to the health of the victim and other social and psychological repercussions. Mr. Matewere pointed out that some practical interventions to help victims of trafficking reintegrate into their communities should include research (put within the cultural context), advocacy and social mobilization (to increase the level of social concern and to communicate specific information to all levels of society). Other important aspects include capacity building (to strengthen partner's ability to identify, plan, execute and monitor interventions) and partnership and alliance building (which have to involve collaboration in planning, policy studies and implementation of projects). In his conclusions, Mr. Matewere gave a practical example of how strategic planning with academic institutions could help to provide valuable data opportunities while alliance building with religious organizations can open new possibilities for women and children in programming.

Children as a Particularly Vulnerable Group

Ms. Boaventura, from the NGO Terre des Hommes, described the campaign against child trafficking in Southern Africa. She called on SADC Member States to ratify relevant UN and ILO conventions relating to the trafficking of children. In her presentation she especially focused on the assistance to victims and emphasised the training needs of law enforcement personnel.

The International Campaign Against Child Trafficking is directed world-wide towards decision-makers, multipliers, the responsible executive authorities, the interested public, and the children living under the threat of child trafficking. The pertinent international conventions and the accompanying supplementary protocols promise extensive protection. The Campaign wants to present the topic of child trafficking in political dialogues with the active participation of the civil society.

Ms. Abass, representing the NGO **Molo Songololo**, presented a study from year 2000 on trafficking in children for purposes of sexual exploitation, based on findings from interviews with girl children being trafficked in Cape Town, Johannesburg, Port Elizabeth and Durban. She stated that the factors behind sexual exploitation are diverse, but often include migration and urbanization, family disintegration, lack of effective social welfare support, and high levels of domestic violence. According to the findings of the study, children were trafficked into both legal and illegal sectors of the sex industry. The study also profiled the traffickers, which included teachers, local gangs, and foreign nationals. It was further shown that violence towards trafficked children is used as a form of coercion and control.

Ms. Abass ended her presentation by recommending that the participating governments develop legislation to prohibit the trafficking in persons. She emphasised the need to have specialized police units to increase detection and prosecution, and to establish recovery and re-integration programmes to deal with trauma suffered by trafficked children. Skills training and development for victims who have lost a sense of self-confidence was described as another important way of dealing with the problem of trafficking in children.

Concluding the first day, **Mr. Holmes** noted the common experiences of this global phenomena of trafficking. The governments acknowledged the fact that economic opportunities in South Africa are a pull factor in terms of global and regional trafficking, but also the fact that it is a transit place for trafficking victims to destinations in the US, Europe, Latin America and Asia. Even though there is some useful legislation in the region, there is a lack of specific trafficking

legislation that considers regional conditions. It was agreed that the lack of legislation should not be used as an excuse not to take further actions in order to combat the problems related to trafficking. In terms of research, regularly updated, credible research is necessary in order to achieve political decisions. The government representatives especially emphasised the need for training, and that this training should also reach the front-line people within immigration departments.

Legal Instruments Available to Combat Trafficking in the SADC Region

Prof. Klaaren, (SAMP) described the legal framework in the SADC region based on an ongoing research study on the harmonisation of laws. In the SAMP research trafficking was seen as only one among many immigration enforcement problems. It was noted that many countries had expressed difficulties in distinguishing between trafficking and economic migration. SADC presently lacks a regional instrument that addresses trafficking and it was noted that the closest instrument was probably the SADC Declaration on Gender and Development. It was noted that only one SADC member state had a specific anti-trafficking piece of legislation in its Parliamentary process.

He pointed out that women and children are particularly vulnerable when their migration status is derivative of the migration status of a male as is often the case in a marriage or family situation. This creates a dependency and power imbalance between the male and the female, or the male and the children. He said that the standard set of responses to the problem of trafficking could be critiqued from a gender point of view. This is especially the case in terms of the speed with which women who are trafficked are deported back to their country of origin. Regarding human rights guidelines he said that anti-trafficking measures should not adversely affect the human rights and, in particular, the rights of those who have been trafficked, migrants, internally displaced persons, refugees, and asylum seekers. While the additional elements distinguishing trafficking from migrant smuggling may sometimes be obvious, in many cases they are difficult to prove without active investigation.

Prof. Klaaren also mentioned the issue of capacity and even more importantly the obstacle of the phenomenon of corruption to enforcing laws against trafficking. He found it reasonable to assume that since trafficking is a profitable industry with supply and demand, one of the costs of doing business is the buying of public officials, and the purchase of failures to prosecute.

The Role of Law Enforcement

Mr. Msutu, representing **INTERPOL/SARPCCO**, talked about the response of international and regional law enforcement structures to trafficking in persons. At the global level inefficient border management, false travel documents and money laundering were identified as problems that need urgent attention in order to address trafficking in human beings. Joint training on border control should involve representatives from the police, customs and immigration officials at the regional as well as national levels. At the regional level, Mr. Msutu showed that some efforts had been made in order to address the issues, i.e. through a decision among the countries in Southern Africa to establish national databases on criminal acts and to work towards the computerisation of border points. A regional task team has recently been set up.

The participating countries expressed need for closer co-operation and collaboration between different Ministries as well as Departments. In addition, it was stressed that information sharing at the national level would need to be improved.

Supt. Kloppers, of the **South African Police Service (SAPS)** - Border Police, described the background to the profiling of suspects in the trafficking of persons. He also presented the monitoring process that is being used by SAPS, including the liaison with other law enforcement agencies, and action steps that need to be taken against perpetrators. The key enforcement agencies for SAPS include the intelligence agencies, Department of Home Affairs, the Department of Justice, and the airlines. In terms of categories of trafficking operations Supt Kloppers identified prostitution, work seekers, asylum seekers, refugees, and crime syndicates. In his concluding remarks he pointed out the way forward in terms of identifying strengths and weaknesses of the current process, and the need for and methods of co-operation in the region.

In the discussions following the presentation, the participants highlighted the issue of sensitising neighbouring countries as well as the need to address these issues at the SADC ministerial level, through the Council of Ministers. Another aspect raised to address to the problem was the creation of specialized teams to access intelligence information, at the national as well as regional level. Concerns were also raised by the participants regarding the reluctance of some SADC countries to identify the issue of trafficking as a national problem. It was recognised that South Africa is unfortunately not only a transit site for trafficked victims but also a sending country and the SAPS recognized that they would need to look into this issue with immediate effect. It was also noted that the profits earned by organised crime syndicates through certain illegal activities, such as trafficking, were then used to nourish other illegal activities.

Scenarios and Group Discussions

The participating Governments were given five specific scenarios to be discussed in smaller groups and to identify and find various solutions each. In the plenary, group presentations highlighted the following important issues:

- economic empowerment, poverty alleviation, and civic education;
- the problem of invisible victims that are not reported to authorities;
- proper passport and visa controls in order to carry out screening at points of entry;
- government safety nets;
- information campaigns in countries of origin (especially focused on countries of destination) and awareness of the responsibility of parents and family;
- specific legislation against the employment of children and international instruments;
- the need to develop infrastructure to provide counselling and other services;
- corruption at border posts and in other parts of the system as well as need for rotation of staff;
- access to information systems (e.g. missing persons register);
- the need to recognise trafficking as an organised crime problem, rather than an immigration problem;
- access to other international laws and instruments.

Recommendations

The participating Governments pointed out the need to:

- Strengthen national policy, structures, and laws, and establish co-ordinated, structured and integrated approaches at the national and regional levels, particularly criminalizing trafficking in persons in national and regional legislation;

- Encourage the gathering of information, research and analysis of trafficking in order to effectively counter the phenomenon, including information on the changing patterns of trafficking and smuggling routes, and greater inter-ministerial information-sharing and coordination;
- Concrete action and measures to counter smuggling of migrants and trafficking in persons at the national and regional levels through strengthened co-operation and co-ordination between concerned ministries within and between countries, the harmonisation of immigration laws between countries within the sub-region, strengthened and modernised border management and information campaigns;
- Recognise the lack of national and regional resources to counter trafficking, and the need for implementing programmes related to capacity building in countries of origin through an open dialogue between origin, transit, destination countries, and relevant entities and institutions;
- Provision of support services to victims of trafficking including assisted voluntarily return, physical and judicial witness protection, medical and psychosocial counselling, etc;
- Special protection and support to the most vulnerable groups, i.e. women and children;
- Victims should not be criminalised and further victimised;
- Provide relevant training for government personnel working to combat trafficking in human beings.

Closing of the Workshop:

In his final remarks, Mr. Boe thanked all participants, observers and presenters for a most engaging workshop and called for a committed effort on the part of everyone to combat the growing scourge of trafficking in persons, both at national and regional levels. As participants had noted, this is a cross-cutting, multisectoral issue that requires interministerial as well as international cooperation and alliance building across functional lines. He noted that if there were a call for a follow-up workshop on this issue from Governments, MIDSA partners would be pleased to assist in its organisation.