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## HUMAN RIGHTS INTERVENTIONS

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**Theme:** Proposed Bill on Trafficking in Persons

**Nature of Intervention:** Seminar

**Date:** 04 June 2010

**Venue:** Diakonia

**Location:** Durban

**No of participants:** 50

**Presenters:** Val Lotan and Brian Dafel

### **Introduction**

The Commission in collaboration with the DDP hosted a seminar on the human trafficking with a target audience of both government departments as well as civil society in general. The seminar coincided with the Soccer World Cup which is about to commence in South Africa which has on its own brought attention to this organised crime of human trafficking. People who are involved in human trafficking prefer to target major sporting events such as the Olympics and the Soccer World Cup. Since this crime entails the movement of people against their will, the perpetrators are said to take advantage of the hosting of such special events to commit these crimes.

Simply put human trafficking could be defined as modern day slavery which has been widely accepted as the correct term the world over. This entails the buying and selling of human beings for the sole purpose of exploitation. The status quo in South Africa is that there is no legislation in place currently that deals specifically with human trafficking, therefore law enforcement agencies have to rely on other pieces of legislation, eg. the Sexual Offences Act and the Children's Act to attend to such matters. There is however an intention to ensure that there is specific legislation in place to deal with human trafficking and to this extent, a Bill known as *Combating of Trafficking in Persons Bill*, is before Parliament.

It has been reported that human trafficking is probably one of the most profitable and most organised crimes in the world. This was in fact informed by the notion that the traffickers do not invest much money yet the profits of this hideous crime are astronomical. One of the first known cases involving human trafficking that received a lot of media coverage was that of the case of Saartjie Baartman who was taken to Europe in the 1800's after having been lured there under false pretences. She had been promised a better life by her trafficker who was from England. Looking at this case of Saartjie Baartman one can see

that it met all the requirements of human trafficking, namely she was recruited then transported to Europe where she was exploited on arrival.

In South Africa, research has shown that there are different methods of recruiting used by the recruiters. Often victims can be recruited for various reasons. There are people who are being recruited from one province to another and in certain instances you find people being recruited from the rural areas to the urban areas. In other cases people are being recruited from one country to another especially those from war torn countries and countries that are unstable on the basis of a promise for a better future. Research has also revealed that in many countries especially those at war, children being trafficked to be child soldiers are rife.

With the advent of brothels and escort agencies across the globe some victims of human trafficking are being trafficked for the sole purpose of working as sex workers in these establishments. In South Africa for example young girls and women of Eastern European decent are mostly recruited to work as sex workers and their recruiters will in most cases keep these girls travel documents as collateral. The recruiters would pay for the victims travel expenses including visas where applicable and when these victims arrive in the country the recruiters confiscate their travel documents. Experts have also discovered that traffickers often use various methods of torture to induce victims eg. sleep deprivation, physical and mental abuse, rape etc..

Research has further revealed that most children that are trafficked in South Africa, are in most cases being trafficked to become labourers and perhaps work as domestics on farms or in homes. Other are trafficked to work as beggars on street corners or as parking lot attendants. The money that these children generate daily is given to their “owners.” There have also been some instances in which it has been found that some children are being sold by their families or relatives.

A distinction was made between the crimes of human trafficking and human smuggling, in most cases of the former there was no consent from the victim whereas in the latter the smuggled person is aware that they are being smuggled. People who have been smuggled often pay the perpetrator to assist them. This is mostly influenced by the fact that the person being smuggled does not have legal documents to enter another country. In cases of smuggling people alleged victims are non-nationals which is also a major distinguishing factor because with human trafficking nationals can be trafficked.

With regard to the proposed Bill it was encouraging to note that there is no prescription when dealing with this crime. This will have far reaching implications when the law gets passed because it would mean that traffickers will still get prosecuted years after they had committed the offence thus ensuring justice for the victims. The Bill also provides that trafficking in persons shall be deemed a Schedule 6 offence which would make it difficult for the alleged perpetrators of this offence to receive bail once arrested.

A number of concerns were also noted that were raised by the participants at the seminar and some that were captured include:

- Lack of trust of the members of the SAPS by the community which in turn discourages people from reporting cases with the police.
- The municipalities around the province, Ethekewini included, continue issuing out licences for brothels and or escort agencies but they are unable to carry out the mandatory inspection of these establishments.
- That there is one specialised crime unit consisting of six (6) members dealing with the entire province of Kwa-Zulu Natal.

- Members of SAPS in general are inexperienced in dealing with this crime in particular.
- The law that is currently in place deals with human trafficking with respect to sexual offences only hence the urgent need of a new legislation.

On assessment of the evaluation sheets from participants, it was noted that most participants found the seminar very interesting and informative. Others commented that they would be happy to see such seminars being held in other districts or areas.