

Prospects and Challenges in the Investigation of Human Trafficking in the Tshwane Policing Area of the Gauteng Province, South Africa

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Abstract

This article explores the prospects and challenges that are associated with the investigation of human trafficking in the Gauteng Province of South Africa. The study employed a qualitative research approach that used semi-structured interviews to collect data. The study targeted participants from three key stakeholder groups: (1) the South African Police Service, (2) the Sunnyside Community Service Centre, and (3) the Directorate for Priority Crime Investigation officials with expertise related to human trafficking. The sample consisted of 15 participants, utilising purposive and snowball sampling. This study found that there is a specialised unit assigned to investigate the crime of human trafficking. It was also found that many investigators of human trafficking are unable to draw a distinction between operational and technical concepts relating to human trafficking and that they face multiple challenges in the course of investigations.

Keywords: human trafficking, modern-day slavery, sexual exploitation, prostitution, child labour.

Introduction

Human trafficking or trafficking in human beings, also known as modern-day slavery (Leslie, 2018; Metcalf & Selous, 2020; Mofokeng & Olutola, 2014), is considered a transnational crime. It is a rising phenomenon in Africa and has generated concern and debate about the effectiveness of the state criminal justice system (CJS) (Ambagtsheer, 2021; Motseki & Mofokeng, 2020a). Trafficking in human beings is a global phenomenon (European Commission, 2021; International Labour Organization [ILO], 2017; United Nations Office on Drugs and Crime [UNODC] 2020) that happens in every country and every region. Virtually all law enforcement agencies in South Africa, and elsewhere, undergo both elementary and advanced training pertaining to how to respond to cases of human trafficking. It is argued that, despite the proliferation of agencies charged with interventions, as well as legislation relating to human trafficking, there has still been a declining rate of prosecution in recent years, which calls for action and investment in the area of detection and prosecution (Portland State University, 2011; Kreston, 2014).

The above is alluded to by researchers such as Clawson, Dutch, and Cummings, (2006) as well as Zimmerman and Kiss, (2017) that human trafficking not only crosses national and international borders, but also surfaces at the street level. South Africa has ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol), which places greater responsibility on the South African government to investigate and prosecute cases of human trafficking, while coordinating with service providers to meet the unique and diverse needs of trafficking victims. However, little is known about how the South African Police Service (SAPS) organises its response to human trafficking, or what its capabilities to detect and prosecute human trafficking-related cases are. Thus, missing from this debate is concrete information about the readiness and ability of local and state officials, such as the police, prosecutors, and courts, to investigate and prosecute human trafficking cases, which is the aim of this study. This study seeks to fill these gaps. The following research questions were posed by this study:

- To what extent can participants demonstrate their knowledge and/or understanding regarding the concept of human trafficking?
- What are some of the current strategies or methods of identifying and/or prosecuting human trafficking-related cases employed by the SAPS?
- What is the level of awareness by participants regarding participation of other role players in combating human trafficking-related cases?
- What possible strategies can be used to enhance the detection or prosecution of human trafficking cases in the Gauteng province?

Literature Review

The Concept of Human Trafficking

The exact origin of the concept “human trafficking” is unclear and has been branded as “trafficking in persons” and “modern-day slavery” as umbrella terms, often used interchangeably, to refer to a crime whereby traffickers exploit and profit at the expense of adults or children by compelling them to perform labour or engage in commercial sex (Bello, 2015; Kiss & Zimmerman, 2019; United States [U.S.] Department of State, 2021a). It is an old problem (Mofokeng & Olutola, 2014; Palmary & De Gruchy, 2016) and a global concern (Bishop-Royse, Bastian, Heart & Scott, 2021; Davy, 2016; Fang, Nguyen, Coverdale & Gordon, 2021) and “is better understood as a collection of crimes bundled together rather than a single offence; it is a criminal process rather than a criminal event” (Yesufu, 2020:105).

Article 3 of the United Nations (UN) protocol defines human trafficking as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (UN, 2004:42).

Doezema (2010:5) highlights the complexity brought by a lack of consensus regarding

the concepts of “slavery” or “victim” of “trafficking”. This is also subject to a similar narrative that often creates an elusive subject that is not easily defined or quantified. The above is supported by Du Preez and Simmonds (2013:103) that “[t]his complex definition reflects the multi-faceted nature of human trafficking, which includes hegemonic, economic, social, political, physical, hierarchal and emotional factors”. The South African government adopted the UN definition but also opted for a holistic, broadened approach to trafficking, especially taking the local context into consideration with regard to exploitation by listing a variety of means (Bello, 2018; Botha, 2017).

Challenges to Quantify, Identify, and Prosecute Human Trafficking Cases

To date, little is known regarding official statistics relating to the extent of the problem except that it is on the rise (U.S. Department of State, 2018). What is not valued cannot be measured (Farrell & Reichert, 2017) and this remains true regarding making official statistics relating to human trafficking more accessible to the public. One can expect that these individual or community-reported crime counts underestimate actual crime because of underreporting, which itself is caused by many factors (Moreira, Kassouf, & Justus, 2018). The above is alluded by research that whereas most crimes are generally reported to the police (Bhorat, Lilenstein, Monnakgotla, Thorton, & Van der Zee, 2017), trafficking is not, mainly because victims fear retaliation (Kruger, 2020).

Exact statistics are therefore not available anywhere in the world. The incongruence of statistics presented in different sources demonstrates that there is no definite answer and reveals the unreliability of statistical information on human trafficking (Mofokeng & Olutola, 2014). Combating human trafficking and, in particular, the successful prosecution of this crime remain a daunting challenge both in South Africa (Kruger, 2016) and globally, as offenders use “tried-and-true” methods to lure victims and then intimidate them to keep them subservient, while they have a variety of opportunities to commit their crimes and relocate frequently to avoid apprehension (Portland State University, 2011:5).

Literature on the challenge of the CJS response to human trafficking based on limited knowledge and/or lack thereof about the existence and potential benefits of state human trafficking laws is not surprising considering the fact that local law enforcement officials generally do not believe that human trafficking is a problem in their local community (Farrell, McDevitt, Pfeffer, Fahy, Owens, Dank & Adams, 2012; Kruger, 2016). It is argued that the CJS is unaware of human trafficking and lacks adequate training to detect and prosecute perpetrators (Bello & Olutola, 2020; Mofokeng & Olutola, 2014).

Local criminal justice officials are generally uninformed about the problem of human trafficking, have limited experience in investigating such cases, and lack organisational tools such as protocols or policies to guide their identification and investigations (Bello, 2018; Department of Justice and Constitutional Development [DOJ&CD], 2019; Farrell et al. 2012). The implications of the lack of knowledge or awareness to identify victims and prosecute perpetrators increase the likelihood of victims’ continuous victimisation, and thus missing opportunity to be rescued by the

CJS and relevant stakeholders. This suggests that the CJS has generally done little to establish institutional responses to guide frontline police officers and prosecutors in the identification of, or response to, human trafficking incidents that occur in local communities (Bello, 2018).

The DOJ&CD (2019: 49) emphasises the above when it states that “[i]t is necessary to raise the attention of all stakeholders in the judiciary and in particular of judicial officers to the crime of trafficking in persons in its national and transnational dimension. In connection with adequate, high-level awareness-raising efforts, it is also necessary to promote the effective, proportionate and dissuasive application of sanctions, in line with the Prevention and Combating of Trafficking in Persons Act (PACOTIP)”. It is promising to note that some relevant stakeholders such as the SAPS, the Directorate for Priority Crime Investigation (DPCI, also known as the Hawks), the Department of Social Development (DSD), the National Prosecuting Authority, the Department of Home Affairs (DHA), and the DOJ&CD have shared formal procedures to identify and refer trafficking victims to care, in accordance with the PACOTIP, No. 7 of 2013. These role players identified 399 victims in 2018 and referred them to care, compared to 220 victims in 2016. In six cases, the government’s response was concerning: four victims reportedly disappeared, one was reported missing from the police station and may have been returned to her traffickers, and the government incarcerated the sixth victim for holding a fraudulent visa. Of the 399 victims identified, 305 were victims of forced labour, 66 were victims of sex trafficking, and 19 were exploited in domestic servitude. The overwhelming majority of victims were from South Africa, while other victims were from Thailand, Lesotho, Ethiopia, Mozambique, Ghana, Nigeria, Eswatini, Bulgaria, and Tanzania.

Despite these actions, a number of explanations have been offered for the lower-than-expected number of human trafficking prosecutions. Some non-governmental organisations (NGOs) and researchers continue to report widespread official complicity in human trafficking that go unaddressed, particularly among the DHA, the DSD, the SAPS, and the DPCI (Bello & Olutola, 2017; Motseki, 2018; Nkosi, 2018). Some claim that law enforcement protects traffickers, including that at least three dozen police officers have protected or tipped off traffickers, that SAPS officials leaked information on operations to traffickers, and that the DSD returned survivors to their traffickers (Motseki & Mofokeng, 2020a). Others suggest that there is insufficient coordination among agencies responsible for state and federal anti-trafficking efforts (Motseki, 2018). Still, others argue that law enforcement agencies, particularly the SAPS, have insufficient resources to address all reported trafficking cases (Bello & Olutola, 2020; Botha, 2017). Even when agencies have sufficient resources and civil society refers suspected trafficking cases, civil society reports that some law enforcement units were notably less responsive to trafficking referrals than in previous years and were, on multiple occasions, unwilling to initiate investigations into the reported cases (U.S. Department of State, 2018; 2020; 2021a).

The above is confirmed by two studies; first by the DOJ&CD (2019: 49), that “[a]lthough efforts to investigate trafficking cases have been stepped up, the number of convictions is still relatively low and sanctions applied in recent years have not always been commensurate to the gravity of the crime. This reflects a generally low

awareness about the crime of trafficking and its specificities. It is also possibly a consequence of weaknesses in investigative approaches, which result in insufficient or poor evidence produced in courts". The other study, conducted regionally by the UNODC (2020), found that the number of convictions per 100 000 people recorded in sub-Saharan Africa has been generally lower compared to the rest of the world. In addition, over the last 15 years, the conviction rate per 100 000 has fluctuated between zero and one persons, with no marked increase recorded.

The above findings clearly indicate that the CJS grapples with the challenge of detecting and convicting human trafficking cases. The inadequate response to human trafficking is due to, among others, low awareness levels and lack or inadequate knowledge to timeously intercept this "criminal process" (Yesufu, 2020). The U.S. Department of State (2018) posits that the South African government does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated significant efforts during the reporting period during 2018/2019 by investigating 82 potential trafficking cases, prosecuting 23 potential traffickers, and convicting eight traffickers, two under the PACOTIP. The government has also arrested several low-level officials for complicity in cross-border trafficking. The government, however, maintains uneven and inadequate prosecution efforts. Official complicity in trafficking crimes remains a concern (U.S. Department of State, 2018; 2020; 2021b).

Strategies to Adequately Respond to Human Trafficking

The literature presents a number of strategies that the CJS can take advantage of for effective detection and prosecution of human trafficking-related cases. One of these strategies, according to the DOJ&CD (2019:38), is that "prevention is a key component of any anti-trafficking response and requires the involvement of different stakeholders depending on the case. This entails flexibility in the response mechanism, but requires standardisation of procedures to ensure quality of services and consistency of interventions". The above is supported by the Department of Homeland Security (DHS, 2020:7) when it states that prevention is critical to achieving the goal of ending human trafficking. Effective prevention stops these crimes and all associated harms before they occur.

Villacampa and Torres (2017) postulate that the victim-centred approach to human trafficking is needed, which emphasises protection of the victims and respect for their rights. To make this protection effective, the victims must be treated as such as they make their way through the criminal justice system, which can be difficult with lesser-known forms of trafficking, such as trafficking for criminal exploitation. It is therefore critically important for the SAPS and wider criminal justice system, as well as relevant role players working with possible victims, to identify the indicators of human trafficking, to offer a protective response, and to seek appropriate help. Even though these crimes may seem hidden from the public eye, there can be numerous opportunities for individuals to recognise that something is amiss and report that information for further investigation or assistance (Farrell & Kane, 2020).

Methodology

Research Design

The study employed a qualitative research approach that used semi-structured interviews to collect data. The study targeted participants from three key stakeholder groups: (1) the SAPS headquarters, (2) Sunnyside Community Service Centre (Police Station), and (3) DPCI or Hawks officials with expertise related to human trafficking. The sample consisted of 15 participants, whereby five participants were recruited from each key stakeholder group. Eight males and seven females participated. Purposive and snowball sampling were used to identify participants. The study opted for a qualitative approach because human trafficking in South Africa is a relatively new, emerging area of research.

Instrumentation

Data were collected using semi-structured interviews with participants at a location of their choice (private or public interview locations were offered based on the participants' preference). One-on-one semi-structured interviews were conducted with 12 of the participants, while three participants were interviewed telephonically. Comprehensive verbal informed consent was obtained prior to data collection, and all participants had the choice to opt out of audio recording. The interviews were audio recorded and transcribed and lasted approximately 30 minutes (20 to 40 minutes). The first author conducted all sessions in English and asked follow-up questions as needed. Furthermore, an interview schedule guided the first author to ask the same questions to the participants. Fieldnotes were made during the interviews and the author monitored the wellbeing of the participants due to the sensitive nature of the topic. Interview questions focused on the following topics: awareness of human trafficking cases; knowledge of role players in the CJS to detect and prosecute human trafficking; and how the role players could be involved in the prevention, education, and delivery of care for human trafficking victims.

Data Analysis

The collected data were analysed using thematic analysis. An interpretive phenomenological approach was also utilised. The interviews with the participants were transcribed verbatim, and all notes taken during the interviews were typed up.

Results

This section provides a summary of the key findings of the study as directly presented by the participants, who had between one and 30 years of experience in their current positions. The following four themes, which are discussed in the relevant section, emerged regarding prospects and challenges associated with the criminal investigation of human trafficking and are a representation of the findings of this study: (1) lack of understanding of the meaning of human trafficking, (2) methods of investigation and challenges, (3) the body that is responsible for the investigation of human trafficking, and (4) role players in the investigation of human trafficking.

Emerging Theme 1: Knowledge and Understanding of the Concept of Human Trafficking

The participants were asked to indicate their knowledge and understanding of the concept of human trafficking. They responded differently to this question. Many of them demonstrated some degree of understanding of the meaning of human trafficking; however, others confused human trafficking with human smuggling, migration, slavery, and prostitution. Below are some of their comments:

"The term means human smuggling from one country to the other to do a certain task and one is benefiting or remunerated for taking or transporting the said human illegally" (Participant 1).

"Human trafficking is the trade of humans for the purpose of forced labour, sexual slavery, or commercial sexual exploitation for the trafficked" (Participant 2).

"Human trafficking deals with recruitment, transportation and exploitation of victims. Victims are given false promises (e.g., jobs, or any other offer) but eventually are captured. These captured victims are used for prostitution and cheap labour" (Participant 3).

"One person having control over another by means of threat, abuse, or payment to another to have control over a person, exploitation" (Participant 12).

"Human trafficking involves the illegal trafficking of persons for the purpose of exploitation" (Participant 13).

"It is the abuse and control of humans by powers to benefit financially or obtain power over another human to seduce the human for other benefits" (Participant 14).

"The perpetrator uses a deceptive approach to exploit the victim, for the purpose of sexual exploitation, forced labour, illegal adoption, child labour, and removal of organs" (Participant 15).

"Unlawful taking of people from one country to another for the purpose of forced labour or sexual exploitation" (Participant 4).

"It is the selling or the buying of transported human beings for the purpose of slavery, prostitution, debt bondage, and forced labour" (Participant 10).

The above participant responses indicate that the participants' understanding of the concept of human trafficking differed but, generally, their definitions indicate some degree of knowledge of this concept. Of concern is the observation that some participants were unable to distinguish between human trafficking and other crimes such as human smuggling, human migration, human slavery, and prostitution, which are connected to the concept of human trafficking. Perhaps this could be attributed to the fact that human trafficking is considered a complex concept that is not easy to define (Bello, 2015). It therefore stands to reason that the foregoing observation regarding the participants' inability to draw a distinction between operational and technical concepts is a challenge and could lead to not only failed investigations, but also poorly prepared dockets for successful prosecution.

Emerging Theme 2: Methods of Identifying Human Trafficking

This theme aimed to understand how the police identify human trafficking in general and the participants were asked to outline the methods they utilise to identify human trafficking. It emerged from the findings that the majority of the participants were

aware of and could outline different methods of identifying human trafficking. Below are some of the participants' comments:

"... deploy informers to assist in tracking such crime" (Participant 1).

"Social media method, utilisation of the Department of Home Affairs through fingerprinting and photo image identification, and telecommunication through section documents" (Participant 2).

"We have informers to get human trafficking information. Lots of times I receive calls from random people reporting human trafficking activities. We also have lawyers, stakeholders, and Red Cross who inform us about human trafficking activities" (Participant 3).

"Use of informers and members of the community since it happens at their doorsteps" (Participant 4).

"The most common methods are roadblocks, search and seizure, as well as through the assistance of government departments such as the Department of Home Affairs. Investigation by means of informers and by using a grabber" (Participant 5).

"... our department of SAPS as a whole uses informers to track human trafficking activities" (Participant 6).

"Human trafficking victims can often be identified through excessive and burdensome labour conditions, or visibly strained or awkward" (Participant 11).

"Interviewing of suspects and victims" (Participant 13).

"We visit massage shops and inspect the legality of workers and working rights, in the mines we check the legality of workers and their status. Social workers also provide us with human trafficking information" (Participant 14).

"We identify the places where exploitation is common, such as brothels, mines, farms, and cleaning places to inspect the documents of the workers and to know their status. This often leads to the tracking down of victims and perpetrators of human trafficking" (Participant 15).

These responses point to the fact that the participants possessed knowledge of multiple methods of identifying human trafficking, which are proactive and reactive in nature. However, what remains a concern is the practical implementation of such methods. From these responses, it would appear that the police rely heavily on informers to identify human trafficking, which is reactive in nature. Despite that, knowledge of methods of identification of human trafficking is a prospect for successful investigation and ultimately successful prosecution. Practical application of multiple methods of identifying the occurrence of human trafficking could yield better results in terms of successful investigations and prosecutions.

Emerging Theme 3: The Investigation of Human Trafficking

When asked whether there are specialised units, groups, or members who are assigned to conduct human trafficking investigations and whether such investigations are successful, it emerged from the findings that the majority of the participants indicated that there is a specialised unit assigned to conduct human trafficking investigations, which is called the Organised Crime Unit. A few participants appeared uncertain as to whether there is such a unit or not. This suggested that some police officers do not know whether the investigation of human trafficking falls within their mandate; it is therefore difficult to determine the success of investigations. Below are some of the comments made by the participants regarding the availability of specialised units,

groups, or members who are assigned to conduct human trafficking investigations: *"Yes, the unit is called Organised Crime Unit. The crime of human trafficking is investigated by this unit. The investigations conducted by this unit are normally successful since it employs informers who supply information. Through this information suspects are traced and arrested"* (Participant 1).

"Yes, Organised Crime Unit. Investigations against human trafficking are often successful through the engagement of informers, CPF [Community Police Forum] meetings, and neighbourhood watch forums for the purpose of such crime awareness campaign[s]" (Participant 2).

"Yes, there are units. Human trafficking investigations are successful, because there are quite a huge number of offenders who were being sentenced. I witnessed one offender sentenced to life imprisonment. The sentence was heavy and served as deterrence" (Participant 3).

"Not really. The investigations are not always successful just like any other crime. It is because the community is not well aware of human trafficking; not only the community but also the general police at the station are not aware. For this crime to be investigated successfully, informers are needed who will provide information leading to the tracing of the culprit" (Participant 5).

"We do not have any unit in our station which deals directly with human trafficking" (Participant 7).

The above comments by the majority of the participants indicate the existence of a specialised unit assigned to investigate the crime of human trafficking. This is in fact a representation of the likelihood of successful criminal investigation of human trafficking. It must be noted that the process to establish the Hawks was embarked upon in 2008 in order to enhance the capacity of the SAPS to prevent, combat, and investigate national priority offences relating to organised crime, violent crime, economic crime, and corruption (Mofokeng & Olutola, 2014). Human trafficking is categorised as organised crime, which means that the Hawks have a constitutional and legislative mandate to prevent, combat, and investigate human trafficking.

When asked about the challenges that the police encounter when investigating human trafficking, it emerged that there are indeed challenges, which range from lack of interpreters when dealing with foreign nationals (which often hinders the investigation progress), corruption by government officials, to community ignorance or public apathy. Below are some of the comments relating to this finding:

"The only challenge that we have is that we do not have members who are trained enough in the DPCI" (Participant 11).

"The challenge that we have is that safe houses don't always want to accept human trafficking victims, especially the ones from the sex trade" (Participant 12).

"The challenge is that we deal with prosecutors who in general just have no interest in dealing with cases of human trafficking" (Participant 13).

"Our challenge is when a victim is not cooperative; this way a perpetrator will not be arrested" (Participant 15).

The foregoing comments imply that the police face multiple challenges in the process of investigating human trafficking. This is despite clear guidelines as stipulated in the PACOTIP of 2013. For instance, section 44(10)(a) makes provision for the National Commissioner of the SAPS to develop training courses that incorporate social context

training on national instructions and directives. Section 44(1) also makes provision for the Director General of the DOJ&CD to issue directives regarding the measures to be taken in instances where foreign victims of trafficking are not conversant with any of the official languages of the Republic (DOJ&CD, 2013). These challenges pose a high risk in terms of successful criminal investigation of human trafficking. Interestingly, these challenges are not unique to the SAPS. Farrell et al. (2012) identified the following challenges encountered in the United States of America (USA) when investigating human trafficking: securing the evidence necessary to arrest suspects and bring cases forward to prosecution, securing victims or witnesses who would provide reliable and credible testimony at grand jury hearings or trials, and reluctance on the part of prosecutors to prosecute human trafficking cases.

Emerging Theme 4: Role Players Involved in Combating Human Trafficking

Basic principles of crime prevention, such as the inclusion of a broad community of stakeholders, the empowerment of vulnerable persons, and the reduction of risk factors, are intrinsic to the definition of prevention developed in the Trafficking in Persons Protocol (ILO, 2009). In an attempt to establish which role players from the broad community of stakeholders are involved in combating human trafficking, the participants were asked to mention organisations and state departments that are involved. Below are some of the comments by participants in response to this question:

"Department of Home Affairs. The Home Affairs normally are also able to identify human trafficking and notify the police. Traffic and Metro Police departments also cooperate and exchange information with the police to combat such crime. Last the military also cooperated with the police" (Participant 1).

"Department of Home Affairs, Department of Foreign Affairs, Department of Land Affairs" (Participant 2).

"Department of Social Development, Home Affairs, Crime Intelligence, Red Cross, United Nations" (Participant 3).

"United Nations, Home Affairs, and Social Development" (Participant 4).

"Department of Human Settlement, Home Affairs, [the] military, and Social Development" (Participant 5).

"Department of Social Development and Department of Women and Children" (Participant 7).

"Department of Home Affairs in situations where the victims are from outside the country, the Department of Health treats victims and checks the abuse of drugs, the Hawks and Crime Intelligence" (Participant 8).

"Social workers who counsel victims, POWA [People Opposing Woman Abuse], which deals with woman and children who became victims of human trafficking" (Participant 9).

"Home Affairs verifies the identity and status of citizens and other persons in South Africa, Department of Social Development ensures the provision of social protection, FCS [Family Violence, Child Protection and Sexual Offences] investigates cases against victims of violence and sexual offences, NGOs help with statements, interviews, and placement of victims" (Participant 11).

"Department of Home Affairs, Department of Social Development, churches and social work-

ers, Justice Department" (Participant 12).

"Social Development, international humanitarian organisations, community leaders, Department of Labour" (Participant 14).

"State Department, Social Service, Home Affairs, International Relations and Cooperation, Justice Department, law enforcement agencies" (Participant 15).

The above comments indicate that the majority of participants were of the view that state departments play a role in combating human trafficking. In the main, they believed that only two departments are involved, namely the DHA and DSD. Only three of the participants mentioned the DOJ&CD, which is in fact the key role player behind the implementation of South Africa's domestic legislation on human trafficking. This finding is contrary to Article 6(3) of the UN's Trafficking in Persons Protocol, which states that each state party shall consider implementing measures to provide for the physical, psychological, and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with NGOs, other relevant organisations, and other elements of civil society (UN, 2000).

This is also inconsistent with Chapter 5 of the PACOTIP, which deals with the accreditation of organisations that provide services to trafficking victims (DOJ&CD, 2013) and gives effect to the Trafficking in Persons Protocol. Lack of knowledge of the importance of civil society organisations' involvement is in itself a challenge to successful investigations, and by implication, prosecution of human trafficking cases. Civil society participation is a crucial component of any comprehensive approach to combating trafficking as members of society must support the fight against trafficking on various levels and engage in a wide range of activities (ILO, 2009).

Discussion

It is a well-known fact that human trafficking occurs in many countries across the world, including the African continent, which is why it forms part of world organisations' agendas, such as the UN. The UN encourages its member states to be actively involved in the combating of human trafficking through the promulgation of legislative measures, among others. South Africa is not immune to the human trafficking phenomenon and is a member state to the UN. The South African government is actively involved in combating human trafficking, and its involvement can be witnessed in the promulgation of the PACOTIP and the publication of the Prevention and Combating of Trafficking of Persons National Policy Framework in order to give effect to international law instruments such as the UN Trafficking in Persons Protocol.

The aim of this study was to explore the prospects and challenges of the criminal investigation of human trafficking within the area of study to determine what is done correctly and what could be improved by suggesting ways to increase the prosecution rate. The findings are premised on four emerging themes that are intrinsically part of any human trafficking discussion, namely knowledge and understanding of the concept of human trafficking itself, identification of human trafficking activities, investigation of human trafficking, and the role players involved in efforts to combat human trafficking. Knowledge and understanding of the basic technical concepts

in any work environment are key to the successful achievement of predetermined organisational goals and objectives. Knowledge is considered as information such as, *inter alia*, documents and reports available within and outside an organisation, combined with experience, interpretation, and the ability to use the information to act. It includes truths, beliefs, perspectives, concepts, judgement, expectations, methodologies, and know-how (Fombad, 2008:31).

One of the findings of this study is that there are police officials who are unable to distinguish between the concept of human trafficking and related concepts such as prostitution. As alluded to earlier in this paper, this is a challenge to successful investigations and, ultimately, prosecution of the human trafficking crime. The identification of human trafficking precedes investigation activity. It is only logical to investigate what is existing. Farrell et al. (2012:73) define human trafficking identification as the way in which cases of human trafficking come to the attention of law enforcement and are classified properly as a crime of human trafficking as opposed to other crimes that may have similar elements, such as prostitution. In relation to the identification of human trafficking, this study found that police officials entrusted with the responsibility of combating human trafficking in the Tshwane policing area possess knowledge of multiple methods of identifying human trafficking, which are proactive and reactive in nature. However, what remains a concern is the practical implementation of such methods. Perhaps this calls for research into factors that impede practical application of human trafficking methods.

Nevertheless, from the responses it would appear that the police rely heavily on informers to identify human trafficking. This method is reactive in nature but can yield positive results. It is therefore important to involve communities at all levels through civil society organisations (see discussion below on the role players involved in combating human trafficking). While Mofokeng (2020:1661) argues that the successful implementation of knowledge management initiatives in the SAPS still poses a challenge, it must be acknowledged that knowledge of methods of identification of human trafficking is a prospect for successful investigation and ultimately successful prosecution. Once a case of human trafficking has been identified either through proactive or reactive methodology, it then becomes logical that the investigative phase can be embarked upon. Initial actions in investigation are taken at this stage and are crucial to the ultimate success of prosecutions (Bales & Lize, 2007:187). Criminal investigations are not easy undertakings and it is for this reason that Mofokeng (2020:1661) posits that individuals assigned to conduct investigative activities must collectively possess professional proficiency for the tasks required.

As is clear from the findings of this study, a specialised unit that investigates cases of human trafficking in South Africa exists. However, investigators are often faced with challenges when investigating human trafficking, which, according to Farrell et al. (2012:105), may result in either cases not moving forward to prosecution or perhaps being prosecuted on less serious charges. In order to increase the prosecution rate, Bales and Lize (2007:187) suggest that victims and witnesses of human trafficking, upon whose testimony the prosecution depends, must be treated with care during investigations. Investigators may also consider working closely with prosecutors to secure corroborating testimony from trafficking victims and witnesses. The challenges

faced by investigators of human trafficking are not unique to investigators in the Tshwane policing area or in South Africa. Farrell et al. (2012:105) identified three challenges during in-depth interviews with local law enforcement agents in the USA, namely (1) the difficulty in securing and corroborating evidence from victims who are often reluctant to cooperate, (2) the credibility of victims is often challenged, which hampers investigations, and (3) reluctance on the part of prosecutors to prosecute human trafficking cases, which has contributed to institutional resistance on the part of law enforcement to investigate these cases.

Lastly, this study found that those entrusted with the responsibility of investigating human trafficking are of the view that only state departments are role players in combating human trafficking. According to Bales and Lize (2007:188), human trafficking investigation requires cooperation among many agencies. Investigators may consider working closely with prosecutors to secure corroborating testimony from trafficking victims and witnesses and consult with specialist NGOs that provide services and advocacy to trafficked persons. Other agencies, such as those dealing with labour, can assist law enforcers in the process of investigating and prosecuting. The efforts of society to curb crime through community policing should never be underrated in the fight against crimes such as human trafficking, and society's partnership with police should be gradually strengthened for positive results. Nkosi (2018:66) argues that NGOs should be fully recognised, provided with resources by the government, and treated as an integral part of the system that combats human trafficking. The importance of the involvement of communities and NGOs in combating human trafficking cannot be overemphasised. This is because a stable partnership between the criminal justice system, individuals, and other relevant stakeholders could be a solution to crime problems such as human trafficking (Siegel & Worrall, 2014). The foregoing backdrop and the findings in respect of this theme are a representation of a challenge that could see fewer successful prosecutions of human traffickers.

Limitations

This study relied on the judgement and experience of the researchers in determining an adequate sample as supported by the nature of the research method, which is qualitative in nature. Four clusters were selected with the intention of conducting in-depth interviews at one station per cluster. These stations included Sunnyside, Head Office, the Hawks, and Crime Intelligence. Access to identified members of the SAPS proved to be a challenge with the Crime Intelligence station, notwithstanding the permission acquired from the Divisional Commissioner of Research in the SAPS. Several attempts were made to conduct interviews, including rescheduling appointments to suitable time slots. Crime Intelligence is considered one of the crucial units to combat human trafficking in South Africa. As such, this study could have benefitted from including Crime Intelligence officials' perspectives in line with prospects and challenges of the investigation of human trafficking in the Tshwane policing area of Gauteng. This is seen as an opportunity to conduct further research that focuses only on Crime Intelligence perspectives on human trafficking.

Conclusion and Recommendations

The prevalence of human trafficking around the world is an undeniable crime against humanity that requires political will by authorities. The findings of this study brought forth what could be considered correct practice and, ultimately, successful prosecution, as well as potential stumbling blocks for successful investigation of human trafficking. The mere fact that there exists a specialised unit to investigate the crime of human trafficking and the knowledge of methods of identification of human trafficking by those entrusted with the responsibility of investigating the crime of human trafficking are prospects for successful investigation and prosecution. However, the inability to draw a distinction between operational and technical concepts relating to human trafficking, challenges identified by the participants in this study emanating from lack of training, lack of cooperation by victims of human trafficking and relevant role players such as prosecutors, and lack of knowledge about the importance of civil society organisations' involvement could only render efforts to combat human trafficking a futile exercise. It is against this backdrop that this study makes the following recommendations:

This study takes cognisance of the claim that the training of criminal justice practitioners has been carried out within individual programmes and projects, which has created a solid knowledge base within various institutions and departments in the past few years (DOJ&CD 2019:47). This claim is made without any form of evidence, which makes one wonder why the participants of this study identified lack of training as a challenge that could see many cases of human trafficking bungled. The DOJ&CD further commits to institutionalising training on trafficking in persons for all criminal justice actors, and addressing the need to enhance specialised knowledge and skills by introducing trafficking in persons as a topic in the existing curricula of all relevant stakeholders. It is also necessary to institutionalise multi-disciplinary training utilising adequate training methods in order to strengthen cooperation among key players. This commitment signifies awareness of the importance of training in not only theoretical but also in practical dimensions of combating human trafficking.

Given that it took the DOJ&CD six years to finally develop and publish the National Policy Framework on the Prevention and Combating of Trafficking in Persons, it is strongly recommended that the process of institutionalising training be expedited. According to the DOJ&CD (2019:32), the anti-trafficking national response in South Africa is organised through multi-disciplinary bodies at national and provincial level involving governmental agencies, civil society, and international organisations, of which most have been established. It is rather questionable that the participants in this study did not know of any civil society group involvement. It is therefore recommended that a national drive to introduce all civil society groups involved at the operational level be embarked upon as a matter of urgency.

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