

A comparative evaluation of human trafficking in Mauritius, South Africa and the UK

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ABSTRACT

It is imperative that every country who is a state party to the Palermo Protocol legislates an anti-trafficking law purposely designed for the jurisdiction's specific circumstances, in order to prosecute offenders, protect victims and to disseminate information on the crime. The objective is to promote initiatives in each country aimed at grasping the local government, civil society and companies so as to attempt an adequate address of human trafficking issues, which also involves recruiting and transportation for sexual exploitation or slavery. In this fight against human trafficking, the countries are supported by various anti-trafficking actors including the UN agencies, other governments and civil society organizations. International perspectives on the crime of human trafficking have developed and improved the provisions of the Palermo Protocol. The Protocol, as established in 2000, took a crime-based approach towards trafficking, and considered the offence only from a law-enforcement perspective. This has changed in recent years, with an ever greater focus on victims of human rights, mostly because of the contribution of regional instruments. The purpose of this article is to provide some elements to evaluate the efforts to prevent and combat trafficking and to protect, assist and provide redress to victims in Mauritius, South Africa and the United Kingdom (UK). As hardly any information of human trafficking is available on Mauritius, this jurisdiction will be the focal point of the article.

Keywords: Human trafficking, Mauritius, South Africa and UK.

1. INTRODUCTION

The main aim of this article is to examine the adequacy of the national legal framework dealing with human trafficking and to make a comparative analysis of the existing international, regional and domestic legal approaches in Mauritius, South Africa and the UK. Mauritius, having ratified the Palermo Protocol, was obliged to pass legislation which deals to combat all forms of trafficking in persons. Anti-trafficking legislation of South Africa and the UK, as a comparative basis, has revealed that in both countries and as well as in Mauritius many previous legislations targeted slavery but with the growing trend of illegal migration, sexual exploitation, forced labour, child labour and human trafficking as an organised crime; the complexity of the problem increased drastically representing one of the greatest challenges for the countries.

2. Combating human trafficking in Mauritius

The TIP Report 2018 said that the Government of Mauritius demonstrated increasing efforts compared to the previous reporting period, even though there are many factors that contribute to the trafficking infrastructure. Recommendations related to the 3 Ps (protection, prevention and prosecution), were focused on evaluating the adequacy and effectiveness of the legal framework in place which deals with human trafficking and migrant smuggling. In the Human Rights Report on Trafficking in Persons, Especially Women and Children (2011), some of the main causes leading to the commercial and sexual exploitation of children in Mauritius were identified to be poverty, broken families, domestic violence, unemployment, school dropout levels, drug addiction, rape, engagement of mothers in prostitution, as well as sexual abuse and incest – mostly by fathers and other close relations; and the Government recognized the increasing number of children involved in sex industry.

It is further reported (CIA, World Factbook, 2017) that Mauritius is identified as a source country for trafficking in persons domestically and to other states. This can be witnessed in the UK, Belgium, and Canada where Mauritian adults have been identified as labour trafficking victims, while Mauritian women from Rodrigues Island are also subjected to domestic servitude in Mauritius; Malagasy women transit Mauritius en route to the Middle East for jobs as domestic servants and subsequently are subjected to forced labour; Cambodian men are victims of forced labour on foreign fishing vessels in Mauritius territorial waters; other migrant workers from East and South Asia and Madagascar are also subject to forced labour in Mauritius' manufacturing and construction sectors.

Though trafficking laws were implemented in Mauritius, their limited purposes, shortcomings and ineffective implementation may have exacerbated the problem. In fact, Mauritius was named by the TIP Report 2017 as having slightly increased anti- trafficking law enforcement efforts but still does not fully meet the minimum standards for the elimination of this serious crime problem facing the modern world. Combating human trafficking has become an increasingly important political priority for the Mauritian Government and at the national level, greater efforts and resources are being devoted to combating this problem, and there is also widespread agreement in the international community on the need for a multilateral response, as reflected in the UN Protocols on trafficking and smuggling signed in Palermo, Italy, in 2000.

Mauritius forms part of the fifteen Member States of the Southern African Development Community (SADC), and participated in the Sub-regional Conference on the Ratification and Implementation of the new ILO Protocol on Forced Labour, Lusaka, Zambia 17-18th November, 2015 to eradicate forced labour and combatting human trafficking, and to identify further efforts that need to be undertaken in order to achieve measurable progress in the implementation of obligations under the ILO Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No.105).

A study by the UNODC (US Department of State, 2008) on trafficking in persons identified Central and South Eastern Europe, the Commonwealth of Independent States, Western Africa, and Southeast Asia as the most commonly reported regions of origin for human trafficking. Western Europe, North America, Western Asia and Turkey are among the countries classified as the destination regions. Mauritius forms part of this region which comprises countries such as Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mozambique, Rwanda, Somalia, Uganda, Tanzania, Zambia, and Zimbabwe. These countries experience intraregional as well as transnational trafficking. In this context, internal trafficking has been described as “endemic” and affects mainly women and children, and to a lesser extent men (Lehti and Aromaa; 2007). In Africa itself there are sub-regional differences in trafficking in persons comprising of Western, Eastern, Central, Northern and Southern Africa. According to the FBI Report 2004, Western and Central Africa have received the most attention as a major source and destination among these sub-regions. The report also identifies Southern Africa as serving predominantly as a destination sub-region, whereas Northern Africa is an origin and transit area for persons from Sub-Saharan Africa on their way to Western Europe.

Ranked second in Africa for resilience, Mauritius is said to be addressing organised crime sufficiently well. The Ibrahim Index of African Governance ranks Mauritius as the best governed country in Africa, and the only one to meet the requirements for ‘full democracy’. This is central in the fight against organised crime, allowing for an independent judicial system, freedom of the press and an active role for civil society organisations.

Mauritius has taken great steps to combat illicit flows and criminal actors, ratifying all international treaties related to organised crime, providing support to victims and witnesses, and passing strong laws against organised crime. Although Mauritius does not score poorly in any category, experts nevertheless note possible areas of improvement for all indicators. These include tackling corruption, increasing funding in areas such as organised crime prevention, and having a clear national strategy against organised crime.

In Mauritius, the Combatting of Trafficking in Persons Act was enacted in 2009, and its main purpose is to give effect to the United Nations Protocol, which Mauritius acceded to on 24 September 2003, in order to prevent, suppress and punish trafficking in persons, especially women and children. In order to comprehensively address the issues of human trafficking, the Mauritian Government set up an Inter-Ministerial Committee (November 2015) to probe into the matter of trafficking in persons, and meetings with all stakeholders to better understand the obstacles and challenges which is being faced and subsequently prepare an action plan having its main objectives to put in place measures to combat trafficking in persons. First of all, an assessment is made by the Inter-Ministerial Committee responsible for coordination of the national response under the chair of the Attorney-General, to identify the related trafficking in persons problem in Mauritius which will determine what measures to include in the National Action Plan. Following this exercise, a monitoring mechanism will be set up for a periodical review exercise of the Action Plan.

The SADC Regional Political Cooperation (RPC) Programme has four key results areas among which Result Area 4 includes to raise awareness, cooperation and action against trafficking in persons, especially women and children, in the SADC region. In line with the programme, Mauritius focuses on strengthening the measures aimed at fighting human trafficking, including addressing its root causes and exploitation of women and girls. Moreover, following the ratification of the Maritime Labour Convention in May 2014, the Ministry of Ocean Economy, Marine Resources, Fisheries, Shipping and Outer Islands is working on a Maritime Labour Convention Bill. To have a proper control over the ‘recruitment licence’, a technical Committee has been set up at the Ministry of

Labour, Industrial Relations, Employment and Training to assess and review the policies and procedures for the granting and monitoring of recruitment licences and licensees. Furthermore, the Mauritian Government has established a body to coordinate government efforts to combat trafficking in persons and the worst forms of child labour, and in this connection to provide adequate resources to enforce laws against human trafficking through the investigation, prosecution and, if found guilty, conviction of trafficking offenders, including in cases involving forced labour or commercial sexual exploitation.

In 2015, the Human Rights Council recommended that Mauritius reconsider ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families ((ICRMW). Being given that Mauritius has limited resources and that the island is geographically small; it will not be possible to allow unlimited numbers of migrant workers with their families to enter Mauritius. These aspects were considered and the ratification of the Convention was not envisaged (HRC, 2015).

According to Britton and Dean (2014, 325), most states focus on prosecution and law enforcement migration responses to trafficking, while regional and international protocols focus on prevention. Part of this may be the result of available policy instruments, since many countries are formalizing or adapting their existing laws on migration and law enforcement to fit their trafficking concerns. But the international consensus is that law enforcement or migration and prosecution approaches are not the most effective way to combat trafficking.

There is a shifting from the preventative approach that centres on human rights and economic development to a prosecution approach. It has been observed that most states in Southern Africa may have opted for the path of least resistance, and may be defaulting to a type of policy choice that is familiar, replicable, and easily audited. It is easier to keep track of the number of traffickers arrested and jailed than to alleviate the underlying causes of poverty or change societal attitudes about gender and human rights which are the very things that prevent trafficking in human beings (Britton and Dean, 2014: 325).

It is contended that governments also have an easier time legislating laws and sentencing guidelines, than dealing with the root causes of preventing trafficking in persons. For example, some of the main root causes which demands priority and attention are poverty, gender inequality, and social norms. Departing from these issues is not the most effective approach to combat trafficking, as it is reactionary and deals with the crime after it has happened rather than before it occurs (Britton and Dean, 2014: 325). Focusing on policies that aim at strengthening women's rights and combating gender discrimination would be more successful in countering human trafficking than policies combating illegal immigration, transnational crime, and prostitution. (Popova, 2006: 71).

In 2013, Mauritius was ranked 123rd among 188 countries per the 'Country Ranking List: 3P Index for 2013,' and its Protection score was 2 in relation to the Protection Evaluation, which is measured between 'Score 1 – 5.' The worldwide average score of the protection policy in 2013 was 2.74, which is lower than the moderate level of policy efforts which is 3. That is to say, since the beginning of the 3P evaluation in 2004, Mauritius is among other countries which have demonstrated low commitments towards victim protection (Cho, 2015: 92). Many countries' efforts to protect victims of human trafficking per the policy are extremely limited as compared to prosecution and prevention of human trafficking, which indicates that victims' protection is much neglected. The worldwide average score was 3.41 for prosecution and 3.42 for prevention in 2013 (Cho, 2014).

Following the deficit in protection efforts coupled by the general slow progress and recent regression in victim protection, it is evident that many governments simply treat human trafficking as a violation

of immigration law or national security, rather than a violation of human rights, thus having little interest in prioritizing victim protection in anti-trafficking objectives.

According to the TIP Report 2018, the Mauritian Government identified in 2017 only five trafficking victims, whereby three among them as child sex trafficking and the other two for adult labour trafficking, as compared to 2016 where 11 victims were identified. The Mauritian Government is maintaining efforts to identify and protect victims of sex and labour trafficking, but the availability of services provided to those victims are not enough. Immediate protection for potential or identified victims of trafficking must be provided in order to keep them safe. Protection also takes into account the immediate needs of the victims, from psychological help and legal assistance to basic necessities, such as food and clothing. Bilateral cooperation has often been strong in returning victims across borders and the service of quality has been improving over the years. However, as many victims are not identified, they also remain unprotected. In the end, victim protection and assistance are left to the discretion of the state.

2. Combating human trafficking in South Africa

In South Africa and many other African countries, the end of warfare is the main cause of prevalence in human trafficking and gender-based violence; and these post-conflict countries faces disruption in social structures, poverty and discriminatory gender systems which poses a threat to human security thus challenging the rule of law and societal peace. These war conflicts in the quests to gain independence from colonial and apartheid powers have left the countries with protracted civil sequels, legacy of war and racial and gender inequality. (Britton and Dean, 2014).

After liberation in most countries, these contexts create an enabling environment for human trafficking. Seemingly, the African region is increasingly being utilized as a source of trafficking of human beings, sex trafficking; facilitating the trafficking networks as a transit hub, and also as a destination for those being trafficked. South African citizens are also duped or coerced into the trafficking of drugs by syndicates comprising of South African and Nigerian nationals, and end up in international prisons in countries as far afield as Thailand, Brazil, India, Nepal, China, Mozambique and Mauritius (Van der Watt, 2018: 8).

Thai and Chinese women remained the largest group of identified foreign victims. Women and girls from Brazil, Eastern Europe, Asia, and neighbouring African countries are recruited for work in South Africa, where some are subjected to sex trafficking, domestic servitude, or forced labour in the service sector, or transported to Europe for similar purposes. An NGO in the Western Cape province reported an increased number of Nigerian sex trafficking victims, many coerced through voodoo rituals, and more Nigerians in domestic servitude. Central African women are reportedly subjected to forced labour in hair salons. Foreign and South African LGBTI persons are subjected to sex trafficking. Foreign male forced labour victims have been identified aboard fishing vessels in South Africa's territorial waters; NGOs estimated 10 to 15 victims of labour trafficking disembark each month in Cape Town. Young men and boys from neighbouring countries migrate to South Africa for farm work; some are subjected to forced labour, and subsequently arrested and deported as illegal immigrants. Forced labour is reportedly used in fruit and vegetable farms across South Africa and vineyards in Western Cape province. Pakistanis and Bangladeshis are subjected to bonded labour in businesses owned by their co-nationals. Official complicity— including by police— in trafficking crimes remained a serious concern. Some well-known brothels previously identified as locations of sex trafficking continued to operate with officials' tacit approval.

In 2013, the Prevention and Combating of Trafficking in Persons Act was promulgated. This Act criminalizes money laundering and criminal gang activities; it also combats the involvement in certain racketeering activities and offences that relate to the proceeds of such unlawful activities, which include the assistance of another in benefiting from the proceeds of unlawful activities. For purposes of trafficking this would consist of offences such as rape, kidnapping, indecent assault, and the statutory offences of sections 14 and 20 of the Sexual Offences Act of 1957 (Mollema, 2013: 436).

South Africa has not committed itself to adopting any further anti-slavery and counter-trafficking conventions; even if it has the highest number of asylum seekers in the world. The country's commitment (Chenwi, 2010) to curb human trafficking in the region has primarily taken the form of adopting several international and regional human-rights instruments with provisions under which activities associated with trafficking may be prosecuted. Ratification (Mollema, 2013: 388) of these treaties is a formal expression by the South African government at the international plane of its commitment to be bound by the treaties' rights and obligations, as well as their domestic implementation.

Victims of human trafficking are reluctant to report cases under the legislative regime in place, there are disincentives as they may be prosecuted for prostitution or other crimes. Additionally, South Africa's current witness protection program fails to provide complete support and protection for victims and, thus, may also deter human trafficking victims from stepping forward. In line to this lacuna, South Africa passed the Witness Protection Act 112 of 1998, which created the Office of Witness Protection and established protocol to be followed with respect to the protection of witnesses. According to Martens (2008), there are a number of holes in this piece of legislation, including a failure to place a limit on how long the witness protection program may run, a failure to discuss what happens after testimony is given by a witness, and any explanation of whether there is a structure in place to take care of witnesses for the long term. According to Mollema (2013: 485), South Africa has a weak witness protection programme. Victims of trafficking have barely made use of witness protection programme or leave the programme after entering it, which means that victims are less likely to come forward and testify against their sexual exploiters. Many victims are deterred from agreeing to give oral evidence for fear of facing their traffickers in court, unsympathetic cross-examination by the defence counsel, and reprisals from their abusers.

South Africa is a country where demand for cheap labour and commercial sex is high, and it is no wonder that the black-market business of trafficking in persons has flourished. According to the UNESCO's 2007 report, the root causes that have propelled human trafficking are extreme poverty, poor education, and a lack of employment opportunities as combinations that have push forward vulnerable people into the hands of traffickers.

The South African Law Reform Commission (SALRC, 2008) conducted an investigation which revealed that South Africa is in fact a country of origin, transit and destination for victims of trafficking and the trade is mainly focused, but not limited, to women and children. There have been sporadic reports of the trafficking of South Africans to other parts of the world (TIPS Report, 2008). South African women and children are trafficked internally for purposes of commercial sexual exploitation, domestic work and other forms of labour. It is important to note that foreigners who have been trafficked to South Africa may be re-trafficked within the borders of South Africa. The victims are innocent and unsuspecting individuals who are then subjected to a number of traumatic ordeals which become deadly. Trafficking activities are either intercity or cross-border and victim's rights are violated without care by the perpetrators who in some instances are known to the victim.

The IOM campaign for South Africa emphasized that the research should focus in assessing the vulnerabilities of individuals between the ages of fifteen and eighteen and determine specific vulnerabilities of those that leave school and the link between childhood sexual abuse and the “susceptibility of being trafficked into commercial sexual exploitation” because of childhood abuse must also be examined. During 2014, the Department of Home affairs increased efforts to combat and prevent child trafficking by implementing new visa legislation requiring all minors to travel, in addition to their passport, with an unabridged birth certificate indicating the particulars of both parents when entering and leaving the borders of South Africa. This was, however, revised during 2015 due to tourism-related issues. Unabridged birth certificates are not a requirement for entry or exit of foreign children any longer and parental consent affidavits will suffice. The Department is also showing efforts in curbing documentation and identity fraud and is focused on issuing all South Africans with proper ID cards, aiming to make it impossible for traffickers to swop the pictures on the ID card as is currently the case with the green ID books.

As regards young women and girls for sexual exploitation (Lutya, 2012: 19), South Africa’s protective measures to respond to human trafficking consisted mainly of identification, reporting and referral, where designated official, who can be a social or community worker, will determine whether a child is a victim of human trafficking. Assistance and protection of trafficking victims is catered for by Article 6 of the Palermo Protocol. Article 6(1) places an obligation on states to protect the privacy and identity of trafficking victims, and to further give effect to this obligation by making all legal proceedings relating to their trafficking confidential. Whereas Article 6(2) states that states parties must ensure that their domestic, legal or administrative systems contain measures that provide information to victims regarding court and administrative proceedings as well as assist victims to air their views and concerns with regards to criminal proceedings.

The Trafficking Act 2013 creates the principal offence of trafficking in persons in compliance with this standard. For the first time South African law comprehensively criminalises all types of human trafficking, irrespective of the age or gender of the victim as stipulated in section 4(1) Trafficking Act 2013. This section also prohibits human trafficking committed within or across the borders of the Republic of South Africa by ‘any person’, and not only organised criminal groups. Furthermore, as per section 34 (2), the Act does not require trans-nationality or the involvement of organised criminal groups in any of the trafficking offences, thereby complying with the requirements of the Organised Crime Convention.

Kruger (2016: 67) states that per Article 5.2 of the Protocol, it is required that State Parties criminalise not only the principal crime of human trafficking, but also conduct that constitutes ‘involvement in human trafficking’. In this context, Chapter 2 of the Trafficking Act 2013 explicitly criminalises involvement in human trafficking, namely attempts to commit human trafficking and any related offence, and participation therein. Furthermore, sections 10 (1) (a) and 10 (1)(b) enforces the law and penalize conduct inciting or directing others to commit such crimes and conduct amounting to conspiracy. Inchoate crimes are recognised as substantive crimes in South African (Snyman, 2014:275; Burchell 2013, 463-535), and the inclusion of these offences relating to involvement in human-trafficking crimes is unnecessary, because in South Africa the law prohibits not only completed crimes, but also certain preceding forms of conduct directed at the commission of a crime, consisting of attempt, conspiracy and incitement to commit a crime (Kruger 2016, 67).

The implementation of the Trafficking Act 2013 is a positive step for South Africa in combatting human trafficking in a holistic and coordinated manner. It is anticipated that South Africa will see more cases of human trafficking identified, reported and prosecuted. The enactment and

implementation of this comprehensive legislation will facilitate an environment where structures are created to collect data on trafficking in persons, establish the extent of the problem, and evaluate whether measures to combat trafficking is effective. The stringent penalty provisions bring the Trafficking Act 2013 clearly in line with the required international standards pertaining to the imposing of appropriate deterrent sentences. South Africa has, therefore, made significant efforts to deal with human trafficking in compliance with the minimum standards as prescribed in the Palermo Protocol.

3. Combatting human trafficking in the UK

The UK abolished trading in slaves more than 200 years ago by the Slave Trade Act 1807; but slavery still persists today (Turner, 2015: 298). Trafficking in persons has attracted extensive international attention for over two decades now, and it is also referred to by the broader moniker as modern slavery which is a reprehensible violation of human rights (Arulrajah, 2018). The National Crime Agency (2016), estimates between 10 and 13,000 people are believed to be exploited annually; however, the Government acknowledged when passing the Modern Slavery Act 2015 that far fewer are actually aided due to failings across the UK strategy. Development of new policies and legislation prone to work within a more centralized framework than that used in the past had to be implemented, and the UK, due to the transnational criminal activities and the impact it had affected the decisions of the UK's policy makers, thus forcing them to operate more transnationally (Daffron, 2011). This has caused a slow evolution over the past two decades leading the UK to synthesize two different views on how to fight human trafficking. Firstly, human trafficking was approached as a violation of human rights, where after recognizing that trafficking in persons was criminal in nature changes to policies reflecting this lead to more efforts addressing the criminal nature and its relationship to organized crime which is an economic activity differing completely from street gangs (Lunde, 2004: 8).

The TIP Report of 2009 placed the UK in the category of Tier 1, implying that it is among the countries which are fully complying with the minimum standards of the United States' Trafficking Victims Protection Act. Furthermore, the 2009 TIP Report described the UK to be a significant destination and to a lesser extent a transit country where women, children and men are trafficked for the purpose of commercial sexual exploitation and forced labour. Those being trafficked come primarily from Eastern Europe, Africa, the Balkans, and China, Vietnam, and Malaysia belong to the Asian part of the globe. The trafficked victims are forced to work in agriculture, construction, food processing, domestic servitude, and food services. Most of the women trafficked for sexual exploitation came from Lithuania, Nigeria, and Moldova. The CQ Press Researcher on human trafficking and slavery (2008), states that the UK monitors the influx of children into the country from abroad, and this helps to provide them with better protection against exploitation (Al Aleeli, 2015: 120). The UK participated in the European Convention on Human Rights in 1940; this provided the impetus for the Council of Europe in 1949, these types of national and increasingly international programs has defined the moral direction of the UK during this century. In 1998, the UK solidified its determination to ensure the proper protection of human rights by passing the Human Rights Act and provided a legal framework for its implementation. Major changes departing from the human rights based aspects and focusing on the criminal nature of human trafficking was another step taken by the UK in the early 2000, but still very little legislation or practices were in place to combat an increasingly more complex problem of human trafficking (Daffron, 2011: 27).

The UK Action Plan on Tackling Human Trafficking (2007) defined trafficking as "the movement of a person by coercion or deception into the situation of exploitation". This definition was formulated to

deal with all forms of trafficking, having as objectives to draw together all the current work undertaken by government and various agencies, to identify gaps in the existing work and take them up for further consideration, to increase transparency and accountability of officials towards their objectives, and finally to provide a platform for the launch of a holistic approach to tackle human trafficking. The main actions taken by UK per the Action Plan (2007) to combat trafficking in persons were to curb the demand for human trafficking, thus preventing its occurrence, as prevention can become a reality if the authorities increase the understanding of the problem, and when issues that are on the supply side of human trafficking are addressed properly. Legislations such as the Sexual Offences Act 2003 and the Asylum and Immigration Act 2004 when promulgated, gave a strong enforcement response against the perpetrators of trafficking, thus sending a strong signal to all those who are implicitly or explicitly involved in this criminal activity. These statutory laws have provisions that aim at creating a hostile legal environment for traffickers in the UK (Al Aleeli, 2015: 121). In funding the Poppy Project which provides support for women trafficked into the UK, the Government has helped in providing protection and assistance to adult victims which is central to all anti-trafficking efforts. This project which is run by Eaves, a charity for vulnerable women, specializes in trafficking and prostitution exiting provides safe accommodation and a range of other services to adult women trafficked into the UK for prostitution. This improves the identification and referral procedure, enhancing available support, and assisting in the reintegration and resettlement of victims.

On 7 October 2013, the National Crime Agency (NCA), which is a non-ministerial government department, replaced the Serious Organised Crime Agency in the UK as the national law enforcement agency. The NCA includes the Child Exploitation and Online Protection Centre as an individual command, and parts of the National Policing Improvement Agency. The NCA can also investigate any crime; it is the UK's lead agency against organised crime; human trafficking, weapon and drug trafficking; cybercrime; and economic crime that goes across regional and international borders. It is also responsible for the UK Border Agency (UKBA) now the UK Border Force; relating to border policing (Gravett, 2015: 4).

The issue of combatting human trafficking is problematic because of conflicting theoretical perspectives and policy approaches to the 3-P paradigm (prevention, protection, and prosecution) (Sharapov, 2017: 91). Previous British legislation targeted slavery but very little legislation or practices were in place to combat the increasingly more complex problem of human trafficking (Singh, 2016: 70). The UK Government implemented the "Action Plan on Tackling Human Trafficking 2007" (Home Office, 2007) in handling the responsibility to the UK Human Trafficking Centre (UKHTC). This unit is responsible for conducting research, developing improved training packages, promoting good practice and improving knowledge and understanding of the way criminal enterprises associated with human trafficking operate.

Through its multi-agency work group, the UKHTC carries targeted awareness campaigns among trafficking victims, the public and law enforcement officials, as well as other professional bodies. The UKHTC also contributes in the collation of data, information and intelligence on all forms of trafficking (UK Home Office, 2007:143). Efforts by the UK Government against human trafficking have much evolved, and have embraced both national and international cooperation as being needed to successfully combat human trafficking (Daffron, 2012: 40). Combating trafficking in person's demands that the root causes of human trafficking be addressed, and as the UK is involved in European affairs and the free movement facilitates migration, international cooperation is necessary to dismantle the structural inequalities existing in countries of origin which often render certain individuals and groups of individuals more vulnerable to human trafficking.

The UK is also affected by organised crime as regards human trafficking and these offences are interlinked. Before the promulgation of the Modern Slavery Act in 2015, the crime of human trafficking was previously addressed through fragmented legislation. It is imperative that in order for domestic anti-trafficking legislation to be efficient, certain international prescriptions need to be adhered to, and therefore the UK has a comprehensive definition of trafficking in persons, which is in line with the standard set by the Palermo Protocol.

Responding to combating the exploitation of individuals, the UK has recently seen the introduction of a penal law that is intended to bundle together existing legal provisions in order to better address crimes so far insufficiently persecuted, more specifically “modern slavery” offences. The Modern Slavery Act 2015 represents an attempt to address those problems. This Act is the first of its kind to specifically address slavery and trafficking in the 21st century. The new legislation significantly enhances support and protection for victims, gives law enforcement the tools they need to target current-day slave drivers, ensures perpetrators can be severely punished, and includes a world-leading provision to encourage businesses to take action to ensure their end-to-end supply chains are slave-free. In 2016, Theresa May, Home Secretary and then UK Prime Minister, emphasized the combating of modern slavery much as she made it a prominent political objective. According to Machura (2019: 201), the identification of situations as modern slavery appears related to strong moral disapproval, resulting in preferences for harsher punishment. After all, modern slavery challenges the foundations of a liberal society.

4. General analysis

As the research shows, even if Mauritius, South Africa and the UK did not have comprehensive counter-trafficking legislation in force before the promulgation of their legislation to combat trafficking in persons; traffickers have been convicted in terms of the current transitional trafficking provisions. Thus, even without comprehensive counter-trafficking legislation, existing common law crimes and statutory offences remain a significant tool to prosecute criminal conduct committed during the trafficking process (Mnisi, 2008; Kassan, 2007). Following the passing of the related combating of trafficking in persons’ legislations and the coming into force in the three different countries, the statutory extended provisions indeed opened up additional opportunities to prosecute trafficking in persons more intensively. Still, without duplicating charges, the prosecution should, in addition to trafficking offences, charge trafficking agents with all other relevant offences to ensure that human trafficking is met with the full force of the law.

Exploiting the human condition as it happens is regarded as the worst significant international crime issue facing the society (Lunde, 2004: 20). Being among the quickest-growing illegal enterprise throughout the globe; it is linked to arms trafficking as the second largest global criminal industry, drug dealings and mainly involves sexual exploitation of women and children and people smuggling (Washington State Office of the Attorney General, 2010). Other current forms of human trafficking are workers being coerced into debt bondage, forced labour, enslavement and human organs trade. The crime makes billions of dollars in earnings for traffickers, who keep the profits well-hidden and also involves organised criminal activities worldwide through atrocious exploitation of human beings (US Dept of State TIPS Report 2015).

This scourge, dubbed 'trafficking of human beings,' is now the chosen occupation among both small-scale businessmen and broader gangs of criminals. Mauritius, South Africa and the United Kingdom are all countries where counter-trafficking policies and initiatives have been inadequate to curb their growth (Shelley, 2010: 57). Perpetrators too often escape from their crimes, and in some countries

where they thrive, there is no law that criminalizes their odious practices. Where legislation exists, local enforcement authority has not given priority to international collaboration to combat the issue of trafficking in persons inadequately therefore, the security for victims remained inappropriate.

According to Kruger (2012, 325) human trafficking must be interpreted as a proceeding instead of just being an illegal act, and law enforcement officers as well as prosecution officials must lay emphasis on this approach to secure convictions and fight against trafficking efficiently and effectively. What Kruger (2012) confirmed was identified by Bales (2005) when he said that trafficking in human beings forms apart of related offences such as breach of immigration statutory provisions, forging of documents, government personnel being corrupt, laundering, and tax evasion. Victims may be subjected to other types of exploitation and violations such as being forced or coerced, act under compulsion, raped, sexually assaulted, aggravated assault and even murder. As the research shows, even if Mauritius, South Africa and the UK did not have appropriate anti-trafficking legislation in force before the promulgation of their legislation to combat trafficking in persons; however, a number of cases have been prosecuted and perpetrators convicted under existing legislations which had legal provisions to enforce the law. This is to confirm that, during the absence of anti-trafficking legislation, common law which prevailed associated with the criminal code and existing statutory provisions helped to investigate and bring offenders to court in relation to trafficking offences (Mnisi, 2008; Kassan, 2007). Following the passing of the related combatting of trafficking in person's legislations and their coming into force in the three different countries, however, the legally enforceable enhanced laws have reopened new opportunities for more rigorous prosecution of trafficking in persons. Moreover, without replicating offences to charge accused parties, prosecutors must on indictment charge perpetrators with all other cases established during enquiry that relates to offences committed in the process of trafficking, thus ensuring a proper enforcement of trafficking in human beings laws.

According to the UNHR Fact Sheet No.36 (2014); what relates to "human trafficking" as recognized globally is a recent state of affairs which in the late 1990's made States realize that trafficking should not be considered with other associated process alongside with the offence such as facilitating illegal movement in migration. Since then, it has gradually been related to transnational criminal organised activities operating illegally (Lunde, 2004:18) which became a matter of urgency necessitating both local and global systems in controlling criminal activities and legal instruments enforcement (Albrecht, 2015, 66). The usual legal interpretation and understanding of what constitutes the exploitation of human condition were some of the early challenges of fighting against trafficking in person.

Human trafficking definition per the Protocol (2000) has since been included in several other policy instruments and legally enforced into national laws (UNHR, Fact Sheet No. 36, 2014: 2); Albrecht (2015: 66) clarified how substantial progress has been made in recognizing trafficking in persons not just as a legal enforcement emergence which is also related to organized criminal activity, but helps in understanding trafficking in persons as a severely violating the rights of individuals. In relation to this view, trafficking in human beings is also regarded as an important issue that concerns the security of victims and access to justice. The United Kingdom, South Africa and Mauritius have implemented anti-trafficking legislation that is largely geared towards preventing human beings from being viewed as products of labor and exchange. Such countries, in accordance with the Protocol, emphasize human dignity and the concept of equality and, through anti-trafficking policy, seek to preserve personal freedom, thereby preventing victims from being forced into prostitution or labor, and to continue to be kept in inhumane conditions of work or prostitution and, eventually, to prevent them from leaving

these conditions in which they are trapped. Trafficking of human beings involves certain forms of exploitation, it includes forced labor and forced marriage in some countries; these illegal activities are now officially part of a terminological system called 'modern slavery' (Zimmerman, 2017, 1). The mobility of migrants in quest for work taking place inside and around national boundaries and the socioeconomic convergence strategies has enabled millions of people throughout the globe including Mauritius to be among vulnerable trafficked victims; and this proliferation which is becoming a global issue make us realize that there is increasing awareness about migrant workers being exploited (TIPS Report 2018).

Conclusion

It was seen in this research that Mauritius, South Africa and the United Kingdom are affected by human trafficking and migrant smuggling; analyzed at global and national level; it would indicate that there is still a great lack of accurate and credible information on the issue. (Loubser, 2009:78). All three countries have enacted appropriate and effective legislation to deal with these crimes which are also transnational and organised crimes in nature. Loubser (2009: 78) concluded in her research, that there is no concrete data confirming the numbers disclosed about trafficking of persons victims are reliable. This was in relation to South Africa where to the contrary of what is being reported by TIP, trafficking of human beings in reality operates as a fact that tends to happen in small limited scale than people seem to imagine. Nevertheless, the debate on human beings being trafficked is a long way out of this real life. The human trafficking debate remains prevailing by the above-mentioned pessimistic problem estimates. It is also a conversation that is strongly influenced by feelings and personal beliefs. Modern slavery has an impact on health problem as exploiting the human condition is at the root of trafficking, which entails numerous types of abuse, such as long hours of work, poor wages, debt bondage, physical imprisonment, health risk factors, use of violence and intimidation (Zimmerman, 2017, 3). The UK, South Africa and Mauritius have similar trafficking in person's pattern whereby individuals are being coerced and trafficked for domestic servitude, work in textile and other manufacturing factories, agriculture and plantation, commercial fishing, mining, forced into sexual activities and trafficked as brides (TIPS Report, 2018). Being recruited by irregular means or on illegal migration status, those workers are threatened, coerced and because of poor language skills they are prevented from interpreting and figure out the terms in their contract of employment, engagement in job training and importantly putting them into total confusion as to where to seek help when being exploited (Schenker, 2010:53). The ILO, (2017) reported that trafficking in persons particularly reveals itself in gendered way as mainly women and girls are the most vulnerable victims being sexually exploited and coerced into domestic work servitude and forced marriage (Kiss, 2015). To the contrary males tend to be more susceptible and are trafficked in multiple armed conflicts or as 'sea slavery' where they are recruited for commercial fishing, a Southeast Asian common form of forced labour (Flynn, 2015).

After identifying all the means by which traffickers operates, sending perpetrators to court and securing a conviction is a fundamental element for best practice to combat the exploitation and trafficking in persons. It persists to be a topic of serious concern, as the conviction rate on charges of trafficking in human beings remains insignificant (TIPS Report 2018). Since the compliance with global policies is a key part of a successful domestic judicial system, states must develop and comply with international judicial standards in alignment with their national legislative responses. This is pivotal for the securing of criminal as this particular offence has unique features and intricacy (Kruger, 2016: 82). It is imperative that all states members, including Mauritius, South Africa and the UK,

bring their counter-trafficking legal frameworks in line with these international minimum standards which acts as a yardstick against which domestic counter-trafficking responses can be measured. This article has contributed to the existing body of knowledge by assessing the compliance of all the selected jurisdictions' anti-trafficking legislations with the identified international prosecutorial standards. In the following paragraphs, recommendations will be provided before a final conclusion is reached.

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