



**REPUBLIC OF NAMIBIA**

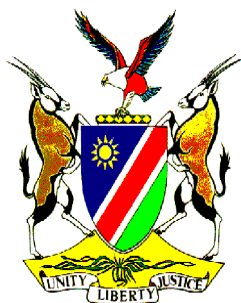
**Ministry of Gender Equality and Child Welfare**  
**In collaboration with the Ministry of Agriculture, Water & Forestry**

**A BASELINE ASSESSMENT OF  
HUMAN TRAFFICKING IN NAMIBIA**  
**A Nationally Representative Qualitative Assessment**



*Our goal is Gender Equality*

**June 2009**



**MGECW**

**A BASELINE ASSESSMENT OF  
HUMAN TRAFFICKING IN NAMIBIA  
A Nationally Representative Qualitative Assessment**

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## **ABBREVIATIONS AND ACRONYMS**

ACC	Anti-Corruption Commission (Namibia)
AIDS	Acquired Immune Deficiency Syndrome
ATTO	Anti-Trafficking Technical Assistance Task Order
CBO	Community-based Organisation
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CID	Crime Investigation Department
CRC	(United Nations) Convention on the Rights of the Child
CSEC	Commercial Sexual Exploitation of Children
CEDAW	Committee on the Elimination of Discrimination against Women
ECOWAS	Economic Community of West African States
EGAT	Economic Growth and Trade
FAO	Food and Agricultural Organisation
FBO	Faith-based Organisation
FIFA	Federation of International Football Associations
FGD	Focus Group Discussion
GRN	Government of the Republic of Namibia
HIV	Human Immuno-deficiency Virus
ILO	International Labour Organisation
INGO	International Non-Governmental Organisation
IOM	International Organisation for Migration

IPPR	Institute for Public Policy Research
LAC	Legal Assistance Centre
MAWF	Ministry of Agriculture, Water and Forestry
MGECW	Ministry of Gender Equality and Child Welfare
MoHSS	Ministry of Health and Social Services
MoJ	Ministry of Justice
MoLSW	Ministry of Labour and Social Welfare
MoSS	Ministry of Safety and Security
NAMPOL	Namibian Police
NASOMA	National Social Marketing Programme
NBC	Namibia Broadcasting Corporation
NC	National Council (Namibia)
NGO	Non-Governmental Organisation
NID	Namibia Institute for Democracy
OVC	Orphans and Vulnerable Children
POCA	Prevention of Organised Crime Act 29 of 2004
PTSD	Post-Traumatic Stress Disorder
SADC	Southern African Development Community
SANTAC	Southern Africa Regional Network Against Trafficking and Abuse of Children
SARPCCO	Southern African Regional Police Chiefs Cooperation Organisation
ST	Stand Together
TECL	Towards the Elimination of the Worst Forms of Child Labour

TIP	Trafficking in Persons
TOT	Training of trainers
UN	United Nations
UNAM	University of Namibia
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
WCPU	Women and Child Protection Unit
WID	Women in Development



## EXECUTIVE SUMMARY

### Background

Trafficking in Persons is a significant human rights and development issue worldwide that affects men, women and children, and Namibia is no exception. To this effect, Namibia ratified the United Nations Convention against Transnational Organised Crime and the additional Protocol to Prevent Suppress and Punish Trafficking in Humans, especially women and children, in 2003. The Prevention of Organised Crime (POCA) Act no.29 of 2004 which criminalises Trafficking in Persons, was enacted.

Furthermore, in the US Department of State (2008) Trafficking in Persons (TIP) Report, Namibia was designated a “Special Case.” A ‘Special Case’ designation denotes that there is simply not enough reliable information on the country’s trafficking circumstances, but that the existence of a significant human trafficking problem is suspected, even though the scope and magnitude remain unsubstantiated by sufficient reliable reporting. Specifically, the TIP report states:

- Limited reporting suggests that Namibia may be a source and destination country for trafficked children; however, the magnitude of this problem is unknown. It is suspected that the largest percentages of trafficking victims are children engaged in prostitution...There is evidence that a small number of Namibian children are trafficked within the country for domestic servitude, as well as forced agricultural labor, cattle herding and, possibly, vending. There have been a few reported cases of Zambian and Angolan children trafficked to Namibia for domestic servitude, agricultural labor, and livestock herding.<sup>1</sup>
- To improve the effectiveness of its fight against human trafficking, the Government of Namibia should consider two initial steps: develop a baseline understanding of the problem, which could include reviewing existing reports and engaging stakeholders; and designate a focal point within the government to coordinate dialogue and action by relevant government entities. As further information is developed, public awareness-raising and training of relevant law enforcement and social services officials could facilitate the identification and assistance of victims, and help determine the extent of the problem.<sup>2</sup>

In response to the lack of knowledge about the scope and magnitude of trafficking in Namibia, an assessment of Trafficking in Persons in Namibia was initiated by the Ministry of Gender Equality and Child Welfare (MGEWCW) in collaboration with the

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<sup>1</sup> Department of State, Trafficking in Persons Report: June 2008, SPECIAL CASES: NAMIBIA, pp 274-275, available on-line at [www.state.gov/g/tip](http://www.state.gov/g/tip).

<sup>2</sup> *Ibid.*

Ministry of Agriculture, Water and Forestry (MAWF) with the support of USAID (Namibia). The team of experts - comprising one international expert, one regional expert and two Namibian experts - was assembled to conduct this assessment. The team was assisted in the field by two staff members of the MGECSW and one from MAWF. Also, the purpose of this assessment was to (a) collect available information on the scope of trafficking in persons in targeted areas of Namibia, (b) review counter-trafficking initiatives by government and civil society and, (c) outline gaps and make recommendations concerning future programming and research needs. Prior to undertaking stakeholder and key informant interviews, the team conducted a literature review of pertinent materials on trafficking in persons in Namibia and the region, which it supplemented throughout the course of its field work. The interviews took place between April 8 and 28, 2009.

## **II. Literature Review**

The literature review was carried out to amass and analyse existing information available on human trafficking in Namibia, such as policy documents, newspaper articles, academic-, NGO- and government reports. This review was supplemented throughout the fieldwork phase of the assessment with new sources of information as they became known or were referred to by respondents. Trafficking information in this literature review was also put into a regional context.<sup>3</sup> Media practitioners, academic- and policy sources were analysed. The review provided a discussion of the incidence and prevalence of human trafficking as described in official government statements and, in reports and articles presented by civil society.

An analysis of the literature and policy documents on human trafficking in Namibia led to the following conclusions: First, there was evidence to suggest that trafficking of persons did occur both transnationally and within Namibia. Second, the absence of definitional clarity hindered attempts to draw conclusions around the incidence and prevalence of human trafficking. Third, there has been an evolution in official statements given by the government around the existence of human trafficking in Namibia. Since 2007 there has been heightened recognition that human trafficking may be occurring in Namibia, although all statements made by the government on this topic were qualified with phrases related to unsubstantiated evidence and the absence of official reporting. Fourth, the absence of official reporting is related to the absence of legislation directly criminalising human trafficking and, the absence of official statistics.

## **III. Interview Methodology**

Interviews were conducted with government officials, NGOs, civil society, traditional authorities and leaders and the private sector, as well as key informants such as truck drivers and community members. Interviews in Windhoek also included representatives of international organisations, the University of Namibia, and the media. Stakeholders included experts in a wide range of fields including human rights, child labor, law-

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<sup>3</sup> Zosa de Sas Kropiwnicki was the primary author of this document, with input and contributions from the other team members.

enforcement, migration, border control, community activities, and gender issues. More than 100 individuals were interviewed either individually or in focus groups, using a semi-structured format and a set of guiding questions.

The four-person assessment team divided into two sub-teams to travel to sites in the northern and southern parts of the country. The sites were selected by both the government and the team members, based on findings of other studies and investigations. Interviews were conducted in eight of the 13 regions in Namibia. Specifically, the sites were: Khomas Region - Windhoek; Ohangwena Region – Oshikango border post; Oshikoto Region - Ondangwa; Caprivi Region – Katima Mulilo, Ngoma and Wenela border posts; Kavango Region - Rundu, Rundu/Calai and Katwitwi border posts; Karas Region - Keetmanshoop, Karasburg, Ariamsvlei and Noordoewer border posts; Erongo Region – Swakopmund and Walvis Bay; and Omaheke Region – Gobabis and Buitepos/Trans-Kalahari border post.

The interviews covered four basic areas: (1) general knowledge of the respondent about human trafficking; (2) prevention initiatives; (3) prosecution, policing and the legal framework; and, (4) protection and victim assistance. The interviews employed the definition of trafficking outlined in the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime* (Palermo Protocol).

## **IV. Assessment Findings**

### **A. Incidence**

A small number of cases of human trafficking were identified. However, it is possible that there might be more cases. The difficulties in ascertaining the exact standing of possible cases stemmed from two general factors: (1) limited time for follow-up investigation where the available facts were inadequate; and, (2) conflation of terminology and understanding of trafficking, smuggling and illegal migration. One of the major difficulties in assessing potential trafficking cases is the lack of definitional clarity about trafficking on the part of both lay- and professional personnel.

There were some potential attempted trafficking scenarios, but intent and outcome were unclear (e.g. interception at border precluded full knowledge of intended outcome of movement of person). Finally, in some cases, contradictory information about the existence of human trafficking would be given by individuals within the same organisations or departments, or the resolution of suspected cases was unknown.

However, some cases of human trafficking were found, including both labour exploitation and sexual exploitation. Examples included: (1) a Zambian national trafficking Zambian boys into Namibia for farm work exploitation; (2) in Walvis Bay, a mother using her teenage daughter from the north for sexual exploitation through forced prostitution. The latter case was turned over to the local authorities for action and response.

Additional cases of suspected or possible trafficking were also found. These were defined as fact patterns that indicated that while trafficking was one possible scenario that would explain or be consistent with the facts, other scenarios could not be excluded as an explanation. Examples include trucks being stopped at border posts and individuals being found hidden in the trucks. However, no reliable information was available on the ultimate purpose for which the individuals were being moved. This fact pattern could support a myriad of findings – trafficking that was intercepted or human smuggling or a case of illegal migration. As such, it could only be classified as a case of possible or suspected trafficking.

## **B. Understanding of the Problem**

There was no clear, consistent understanding of human trafficking, since many respondents confused it with other, potentially related crimes. This conflation of concepts occurred throughout the country and was identified as one of the most pressing issues in terms of the need for training, awareness-raising and information dissemination. However, knowledge varied significantly. Trafficking was better understood within the Women and Child Protection Units (WCPU) and among social workers than by many other stakeholders. Invariably those who gave the most accurate description of trafficking and its dynamics had attended specific training on the issue.

## **C. Legal Framework**

Many respondents were completely unaware of any existing legal framework to deal with human trafficking, though some were cognizant of laws such as the Labour Act, or the Rape Act, which might be applicable to a particular case of trafficking. Even those familiar with existing legal framework often felt it was inadequate to address the problem, as a result of problems such as the Prevention of Organised Crime Act (POCA) (1) which had not been implemented during the assessment timeframe, (2) a specific component that differentiates child-trafficking from trafficking in adults had been omitted, (3) no prevention initiatives were stipulated, and (4) a lack of any protection and assistance components for victims of trafficking. Other legislation that might apply, such as the Child Care and Protection Bill, was noted as still being non-operational, since it is currently being revised.

## **D. Victim Services**

There is a lack of adequate facilities and trained personnel to provide services to victims. Currently, there are huge areas within the country that simply do not have any shelters, but where use is made of other facilities such as hospitals, for *ad hoc* accommodation of victims. The WCPUs are currently staffed by a small number of professionals who are specifically tasked to handle sensitive, extremely time-consuming and emotionally exhausting cases on a daily basis.

## **E. Overall Risk Factors**

A variety of factors increase the risks of trafficking occurring, including societal beliefs which tolerate violence against women, children and the marginalised; the widespread unemployment, education and marketable skills; limited controls and security at borders and ports; and a shortage of trained personnel to identify and deal with trafficking cases. Regional issues that might lead to greater exploitation and trafficking risks include Zimbabwe's deteriorating political situation, socio-economic differences between specific countries in the SADC region, and the 2010 FIFA World Cup in South Africa.

## **V. Recommendations – The Way Forward**

The assessment found that trafficking of persons occurs both transnationally and within Namibia, as evidenced by cases of trafficking found during the fieldwork. Owing to the transnational nature of trafficking, a coordinated approach to both policing and social services should reach beyond the borders of Namibia to include its immediate contiguous neighbours as well as the Southern African Development Community (SADC) region, generally.<sup>4</sup> At the regional level, the trafficking of persons emerged as an issue warranting attention around the following issues: violence against women and children; worst forms of child labour and the 2010 FIFA World Cup. Representatives from Namibia participated in these events, and Namibia was referred to in follow-up reports and action plans which sought to combat human trafficking in the Southern African region.

### **A. Prevention**

Prevention campaigns are crucial to any coordinated response to trafficking, including awareness-raising and information dissemination in order to alert individuals - both children and adults - to the dangers and dynamics of trafficking. Media and information campaigns can reach communities, border posts, transport sites and tourist spots. Another aspect of prevention is government involvement in specific initiatives for particularly vulnerable populations, such as poverty alleviation and income generation projects.

### **B. Legal Framework**

The legal framework through which trafficking is addressed must be improved. First and foremost, Namibia requires a law uniquely and specifically addressing trafficking in persons. Such a law should criminalise human trafficking for any purpose and by any person. It should distinguish between the elements of the crime of trafficking in children and that of trafficking in adults. It should include components on not only prosecution, but also victim protection and prevention initiatives.

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<sup>4</sup> SADC encompasses Angola, Botswana, the Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, The Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

### **C. Protection of Victims**

Protection of victims must also be put at the forefront of any plan of action on trafficking. Effective programmes for identifying victims, assisting with accommodation needs, counseling needs, rehabilitation needs, and the reintegration of victims into their community, as well as long-term follow-up on these cases, are paramount. There must also be a clear referral protocol in place to ensure that victims are linked systematically to service providers and a seamless provision of services are rendered. The special needs of foreign victims should also be considered, particularly in terms of a full assessment of safety considerations in the event of the victims having to be returned to their country of origin, to preclude re-victimisation and even re-trafficking.

### **D. Training**

Training which focuses exclusively on trafficking was the singular most frequently requested need by all respondents contacted. Such training requests focused on practical, hands-on information and skills. Specifically, training on issues of identification of victims, victim assistance, the legal framework, and international cooperation in dealing with trafficking matters were repeatedly cited. Focused training should be provided for not only high-level government and NGO officials to assist in their construction of policy but – and equally important – also to the front-line professionals who are or may be confronted with potential trafficking cases on a daily basis, including such stakeholders as the police/WCPU, immigration, and customs officers. Prosecutors, the judiciary and social workers should have adequate specialised training. Finally, training should be provided for the private sector, especially in the tourism industry, to identify and refer cases of trafficking.

### **E. Research**

An - depth qualitative study might be needed to better understand trafficking patterns or risk factors or gaps in counter-trafficking efforts. Such research should focus on particular needs, problem areas, target groups or parts of the country where additional information is needed to design and effectively target new programmes. To determine the exact number of cases of human trafficking in the country, quantitative research at the national level is needed, since this Study could only assess the scope and nature of human trafficking and could not provide the exact number of cases because of the methodology utilised.

## **VI. Conclusion**

This assessment analysed existing information on human trafficking in Namibia, reviewed the efforts of the government and civil society to address it, identified gaps in the system for dealing with trafficking, and offers recommendations to government and other key stakeholders on the way forward. Key recommendations include drafting, enactment and implementation of legislation specifically addressing human trafficking, a wide range of professional training, enhanced prevention initiatives and victim assistance. Many cases of suspected or possible trafficking could not be either verified or disproven, since much of the information gathered during the interviews was anecdotal, based on hearsay, or too nebulous. Without greater insight into trafficking on the part of stakeholders around the country, attempts to identify cases of trafficking and address them, would be greatly hindered. It is hoped that this initial baseline assessment would act as a catalyst for the development of programmes to better serve the needs of the individual victims and potential victims of trafficking, the communities that strive to eradicate trafficking, and the government responsible for establishing the legal framework within which such case are prosecuted.

# CHAPTER 1

## INTRODUCTION

### 2.1. Background

Human trafficking is often referred to as modern-day slavery. The causes of trafficking spring from an array of sources: violence against women and children; concealment of incest and rape; discrimination and devaluation of women and children, greed, poverty, political instability, armed conflict, and even natural disasters.<sup>5</sup> Human trafficking is also globally one of the most lucrative businesses today, estimated to generate as much as US\$32 billion, annually, if both the sale of individuals and the value of their exploited labour or services are taken into account. The money generated by sex trafficking alone is conservatively estimated at \$7 billion per year, although Interpol has given a higher estimate of \$19 billion annually. In 2005, the International Labour Organisation (ILO) issued a report that estimates profits resulting from sex trafficking to be \$217.8 billion a year or \$23,000 per victim.<sup>6</sup>

Persons are trafficked for a myriad of reasons: sexual exploitation; forced labour, slavery or practices similar to slavery and servitude; forced marriages; illegal adoptions; or the removal (and selling) of organs or other body parts. Victims of trafficking experience a wide and diverse array of health problems, both physical and psychological, including: infectious diseases such as HIV/AIDS; non-infectious diseases such as cancer and malnutrition; reproductive health impairment; substance abuse; post-traumatic stress disorder (PTSD); depression, and; suicidal ideations. Reliable statistics are sparse due, in part, to the secretive nature of trafficking in persons and a lack of awareness of the crime itself.

A wide range of estimates exists on the scope and magnitude of modern-day slavery. The ILO estimates there are 12.3 million people in forced labour, bonded labour, forced child labour, and sexual servitude at any given time. Other estimates in this regard range from 4 million to 27 million.<sup>7</sup>

Annually, according to U.S. Government-sponsored research completed in 2006, approximately 800,000 people are trafficked across national borders. Approximately 80 percent of transnational victims are women and girls and up to 50 percent are minors. The majority of transnational victims are females trafficked into commercial sexual

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<sup>5</sup> Molo Songololo, *Trafficking in Children for Purposes of Sexual Exploitation – South Africa*, at 38 (PDF version) (2000) at 27; Innocenti Research Centre, *TRAFFICKING IN HUMAN BEINGS, ESPECIALLY WOMEN AND CHILDREN, IN AFRICA*, at 5-6 (PDF version) UNICEF, 2003 at 5-7; Snyman, R. Victims of Human Trafficking, at 282, in *Victimology in South Africa*, Davis, L. and Snyman, R (eds) (2005) at 283; Thanh-Dam Throng and Maria Belen Angeles, *Searching for Best Practices to Counter Human Trafficking in Africa: A Focus on Women and Children*, at 2, (PDF version) UNESCO (2005) at 32.

<sup>6</sup> Department of State, *Trafficking in Persons Report: June 2008*, Introduction: Scope and Nature of Modern-Day Slavery, p 34, available on-line at [www.state.gov/g/tip](http://www.state.gov/g/tip).

<sup>7</sup> *Id.*, at 7.



exploitation. These numbers do not include the millions of female and male victims around the world who are trafficked within their own national borders - the majority for forced or bonded labour.<sup>8</sup>

In the US Department of State 2008 Trafficking of Persons (TIP) Report, Namibia was designated a “Special Case.” A Special Case designation denotes that there is simply not enough reliable information on the country’s trafficking circumstances, but the existence of a significant human trafficking problem is suspected, though the scope and magnitude remains unsubstantiated by sufficient, reliable reporting. Specifically, the TIP Report states:

Limited reporting suggests that Namibia may be a source and destination country for trafficked children; however, the magnitude of this problem is unknown. It is suspected that the largest percentages of trafficking victims are children engaged in prostitution ... there is evidence that a small number of Namibian children are trafficked within the country for domestic servitude, as well as forced agricultural labour, cattle herding, and possibly vending. There have been a few reported cases of Zambian and Angolan children trafficked to Namibia for domestic servitude, agricultural labour and livestock herding.<sup>9</sup>

To improve the effectiveness of its fight against human trafficking, the Government of Namibia should consider two initial steps: develop a baseline understanding of the problem, which could include reviewing existing reports and engaging stakeholders; and designate a focal point within the government to coordinate dialogue and action by relevant government entities. As further information is developed, public awareness-raising and training of relevant law enforcement and social services officials, could facilitate the identification and assistance of victims, and help determine the extent of the problem.<sup>10</sup>

Consequently, the Ministry of Gender Equality and Child Welfare (MGE CW) has realised that human trafficking - especially of women and children - is a global problem, and that Namibians are no exception. The situation of Namibia regarding human trafficking, was unknown. There were no national data, and it is for this reason that the MGE CW, in collaboration with the Ministry of Agriculture, Water and Forestry (MAWF), has undertaken a qualitative rapid assessment Study on human trafficking from 07 - 20 April 2009.

Against this background, in May 2008, the MGE CW requested assistance from USAID/Namibia to conduct a baseline assessment of trafficking in persons (TIP) in

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<sup>8</sup> *Id.*

<sup>9</sup> Department of State, Trafficking in Persons Report: June 2008, SPECIAL CASES: NAMIBIA, pp 274-275, available on-line at [www.state.gov/g/tip](http://www.state.gov/g/tip).

<sup>10</sup> *Id.*

Namibia. To facilitate this assessment, the USAID Office of Women in Development's (EGAT/WID) Anti-Trafficking Technical Assistance Task Order, managed by Chemonics International Inc. and in consultation with MGE CW, assembled an assessment team. The team consisted of the following members: an international expert on human trafficking, Susan Kreston; a regional expert, Zosa de Sas Kropiwnicki; and two Namibian experts, Merab Kiremire and Michael Conteh. Providing assistance to the team in the field were representatives from the MGE CW, Penoshinge Shililifa and Loide Nekundi, and Apollus Hamulungu from the MAWF.

## **2.2. Objective of the Baseline Assessment**

This baseline assessment is one of the Government of the Republic of Namibia's (GRN) responses to the lack of knowledge about the scope and magnitude of trafficking in Namibia. Thus, the objectives of this assessment were to:

- evaluate the existence, nature and impact of the problem within a Namibian context
- assemble available information on the scope of human trafficking in Namibia
- review counter-trafficking initiatives by government and civil society and efforts to address it
- outline gaps in information
- recommend further research needed to fill gaps
- recommend next steps to be taken by government

## CHAPTER 2

### LITERATURE REVIEW

#### 3.1. Human Trafficking in Namibia

In 2009 an assessment of trafficking in persons in Namibia was initiated by the Ministry of Gender Equality and Child Welfare, with the approval of Cabinet<sup>11</sup> and with financial support from USAID/Namibia. This was undertaken in collaboration with the Ministry of Agriculture, Water and Forestry. During this process several stakeholders and key informant interviews were conducted. The first activity to be undertaken by the assessment team was the literature review. This review was also expanded throughout the fieldwork in order to include new sources.

In order to fulfill the objectives of the assessment, media practitioners, academics and policy sources were analysed in this review. In terms of the first objective, this review will provide a discussion of the incidence and prevalence of human trafficking as described in official government statements, and in reports and articles presented by civil society. This analysis will be thematically structured around direct references to human trafficking, direct and indirect references to human trafficking in the literature on labour exploitation, and direct and indirect references to human trafficking in the literature on sexual exploitation. This will be followed by an analysis of regional sources that refer to the incidence and prevalence of human trafficking in Namibia. In terms of the second objective, this review will provide an analysis of the legislative and policy frameworks that pertain to the investigation and prosecution of perpetrators, witness protection, international cooperation and prevention strategies. This review will conclude with a brief discussion and recommendation of further research needs.

#### 3.2. Definition of Concepts

This review will employ the internationally accepted definition of trafficking in line with international conventions against child trafficking, as outlined in *The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime* (Palermo Protocol). The Palermo Protocol states:

(a) “**Trafficking in persons**” shall mean 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 the giving or receiving of payments or benefits to achieve the consent of a person, having control over another person, for the purpose of exploitation. (Article 3)

This definition contains three elements:

1. Acts (*recruitment, transportation, transfer, ...*)
2. Means used in committing such acts (*by means of threat or use of force or other forms of coercion...*)
3. Purpose (*for the purpose of exploitation [which] shall include, at a minimum, the exploitation of the prostitution of others...*)

The subsequent paragraph of Article 3 of the Palermo Protocol provides that:

*(b) The **consent** of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used*

In the Palermo Protocol, consent is irrelevant if it is obtained by means of coercion or deceit<sup>12</sup>, including abuses of power without physical force. This applies to cases when individuals consent initially (e.g. to migrate or work) but are then subject to exploitation. If there is no realistic possibility of free and fully informed consent being given or refused, it amounts to trafficking<sup>13</sup>.

The question of consent is irrelevant in the case of a child, as outlined in Article 3 (c) of the Palermo Protocol:

*(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this Article*

In accordance with the Convention on the Rights of the Child (CRC), the Palermo Protocol defines a “child” as *any person under eighteen years of age* (Article 3 (d)).

The exploitative outcome need not be fulfilled for it to constitute a case of trafficking, if the intent is discovered. According to the Palermo Protocol, exploitation may include:

- Sexual exploitation (including the exploitation of prostitution of others or and other forms of sexual exploitation – such as pornography and forced marriages);
- Forced labour or services;<sup>14</sup>
- Slavery<sup>15</sup> or practices similar to slavery, servitude or; and

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<sup>12</sup> Deception can relate to the nature of the services to be performed as well as the conditions under which the person will be forced to perform such services.

<sup>13</sup> This applies also to those persons who entered prostitution voluntarily and were later subjected to work under coercive or slavery-like conditions in the sex market by any means set forth in article 3 of the Palermo Protocol.

<sup>14</sup> Defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (Article 2 (1) *ILO Convention No. 29 Concerning Forced Labour*)

- The removal of organs.<sup>16</sup>

In Article 3, border crossing is specifically not included as a constituting element of ‘trafficking in human beings’ as trafficking may occur within countries for the purposes of exploitation.

In summary,, child trafficking therefore, involves the following components: the recruitment and movement of persons under the age of 18, internally or across borders by an individual who has an intention to exploit. The child’s consent is irrelevant when determining whether it is a case of trafficking, and coercion or deception need not be present. Adult trafficking on the other hand involves movement by a third party with an intention to exploit, using coercion, deception or the abuse of authority.

### **3.3. Incidence and Prevalence: Human Trafficking**

#### **3.3.1. Official Position**

Official statements provided by government representatives concerning the incidence and prevalence of trafficking in persons in Namibia have evolved over time. Following an IOM report on human trafficking in Southern Africa, the Deputy Chairperson of the National Council told the media that the fact that Namibia is not mentioned in the Report is not an indicator of the incidence of trafficking, but a reflection on the limited information available: “Child trafficking is also happening here; all we need is to carry out a survey to determine how and where exactly”.<sup>17</sup> In contrast, a Namibian police spokesperson stated that there is no evidence of human trafficking, although this may be related to the clandestine nature of this crime: “If it is being practiced, it is very secret”.<sup>18</sup>

In the Ministry of Gender Equality and Child Welfare’s country report on the African Union Solemn Declaration on Gender Equality in Africa in 2006, the statement was more definitive: “trafficking of women and girls in Namibia does not exist. However, at least one case has been reported which involved the transportation of a young Namibian woman to South Africa for forced prostitution”.<sup>19</sup>

This official position was reiterated almost verbatim in Namibia’s report to the Committee on the Elimination of Discrimination against Women (CEDAW), which

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<sup>15</sup> Defined as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (*Slavery Convention*, 1927)

<sup>16</sup> The Palermo Protocol does not specifically mention the recruitment of children for hazardous work or illegal adoption. However, in accordance with other binding international legal instruments, States should take action to stop any person under 18 from being employed in hazardous work and from being adopted in violation of the applicable international law on adoption (respectively, the *ILO Convention No. 182 On the Prohibition and immediate Action for the Elimination of the Worst Forms of Child Labour* and *The Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption*).

<sup>17</sup> Cited in New Era, “Human Trafficking” (2005-04-19)

<sup>18</sup> Ibid

<sup>19</sup> Ministry of Gender Equality and Child Welfare, “Namibia’s country report on the African Union Solemn Declaration on Gender Equality in Africa”. Directorate: Gender Equality and International Affairs. Windhoek.

stated “Although there is no evidence that trafficking is a widespread phenomenon in Namibia, there has been at least one case involving the transport of young Namibian women to South Africa for the purposes of sexual exploitation”.<sup>20</sup> In its list of questions with regard to the consideration of the periodic report, the pre-session working group (37<sup>th</sup> session) asked, “Does the government intend to carry out a study in order to assess the prevalence of trafficking in women and girls in the country?”.<sup>21</sup>

In November 2007 the SADC Parliamentary Forum in Windhoek, also issued an interim statement on the bi-national oversight mission on strengthening the implementation of cross-border HIV/AIDS interventions by Members of Parliament from Angola and Namibia.<sup>22</sup> A delegation of three MPs from Angola and three MPs from Namibia visited border regions. In Namibia the delegation visited the Ohangwena and Omusati regions and met with the Governor of the Regions, regional ministries of Health and Social services and health practitioners. The trafficking of women and children was a central issue on the delegation’s agenda, since two of its key objectives were to investigate:

(1) “The question of the increasing mobility of women as traders, labourers, sex workers and victims of trafficking, a phenomenon referred to as the ‘gendering’ or the ‘feminization’ of migration;

(2) The issue of child trafficking along the Angola-Namibian borders”.<sup>23</sup> The delegation was informed about the incidence of internal and cross-border human trafficking for the purpose of labour exploitation in this area:

“The delegation was informed of cases of trafficking of children and women across borders as well as within borders...Children and women were reportedly trafficked and ended up serving as domestic workers and labourers on farms both around border areas and distant localities. As a result they often lacked access to basic necessities such as education, health-care and citizenship (as a result of birth registration)”.<sup>24</sup>

On the basis of this finding, the bi-national oversight mission condemned human trafficking and committed itself to take action:

“Mindful of the obligation of States to protect all children, the delegation vehemently condemned all aspects of trafficking or smuggling of humans, and

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<sup>20</sup>Second and third period report of Namibia to the Committee on the Elimination of Discrimination against Women. CEDAW/C/NAM 2-3 (2006), p. 41

<sup>21</sup>Committee on the Elimination of Discrimination against Women, Pre-session working group. Thirty-seventh session. 15 January – 2 February 2007. “List of issues and questions with regard to the consideration of the periodic reports: Namibia” point 14.

<sup>22</sup> SADC Parliamentary Forum in Windhoek, “Interim statement on the bi-national oversight mission on strengthening the implementation of cross-border HIV/AIDS interventions by members of parliament from Angola and Namibia”, 18-25 November 2007

<sup>23</sup> Ibid, p. 3

<sup>24</sup> Ibid, p.5

underlined the need for both countries to fight the phenomenon...the members of parliament made an unwavering commitment to follow up on this matter”.<sup>25</sup>

The delegation recommended the following: “Both countries should strengthen efforts towards curbing of trans-boundary child trafficking and child labour, including information, education and communication strategies along border communities”.<sup>26</sup> The Report also highlighted the ‘flourishing’ commercial sex trade in border areas involving long-distance truck drivers and other SADC citizens.

In 2007 Zanobia Beatrix Barry from the Office of the Prosecutor General, in the Ministry of Justice in Namibia, published a Paper that described at length the “challenges in the investigation, prosecution and trial of transnational, organised crime in Namibia”.<sup>27</sup> Such crime includes the trafficking of persons and the trafficking of narcotic substances. In terms of the former, she stated “at the moment cases of this nature are largely not documented, investigated and prosecuted in our country, although there is a possibility that they do exist”.<sup>28</sup> She referred to unconfirmed cases that have appeared in the press. This includes a case of two Namibian adolescent girls who were kidnapped on their way home from school by a truck crew who smuggled them to South Africa, where they were then sexually abused. One managed to escape and contact the police<sup>29</sup>. Barry stated that this case is being dealt with by South African authorities but has not been confirmed by the investigative authorities in Namibia and has not been confirmed as a case of trafficking.<sup>30</sup> While evidence of criminal abuse is present, no evidence of exploitation appears in the case as described by Barry. Furthermore, she referred to newspaper articles which appeared in the year 2000, about unqualified young girls being offered jobs in the United Kingdom. Apparently, their families attributed their subsequent disappearance to trafficking. Barry highlights some risk factors that increase the likelihood of Namibia being a source country:

“Factors such as poverty, lack of educational opportunities, lack of employment opportunities, large supply of potential persons to be trafficked, and hopes for a better future elsewhere create fertile ground for human traffickers and youngsters (male and female) can easily be lured away because of their vulnerable positions”.<sup>31</sup>

Barry also suggests that Namibia is a transit country given that safe houses and victim support agencies in South Africa have reported that victims were trafficked through

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<sup>25</sup> Ibid., p.5

<sup>26</sup> Ibid., p.6

<sup>27</sup> Zonobia Beatrix Barry (2007), “Challenges in the investigation, prosecution and trial of transnational organized crime in Namibia”. Office of the Prosecutor General, Ministry of Justice, Namibia. Resource Material series no.73. United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders. ISSB 0256-5471 (2007), vol. 73, pp. 77-85

<sup>28</sup> Ibid, p. 78

<sup>29</sup> Reporter, the Namibian 30 November 2000

<sup>30</sup> Zenobia Beatrix Barry (2007), “Challenges in the investigation”, p. 78.

<sup>31</sup> Ibid, p. 78

Namibia en route to Angola and Zambia for the purposes of sexual exploitation.<sup>32</sup> Although these cases were unconfirmed, Barry stated that the ethnic and cultural diversity of Namibia facilitates the trafficking of children through its border points because “anyone can look like a Namibian and customs and immigration officers do not know what to look for”.<sup>33</sup> This is aggravated by the “strong possibility” that government officials are corrupt and that handwritten birth certificates required to obtain identity documents and passports can still be forged. In addition to the possibility that Namibia is a source and transit country for victims of trafficking, Barry also highlights its potential role as a destination country: “Namibia can also not be ruled out as a country of destination; it is just that law enforcement agencies are not skilled and trained to detect human trafficking victims within the country”.<sup>34</sup> She referred to high levels of sexual exploitation among street children (approx. 1,000 in Windhoek) by sex tourists and ‘white people’, and the death of two prostitutes, as claimed in unconfirmed news reports in 2005.<sup>35</sup>

In 2008, a Working Group meeting on ‘Trafficking in Human Beings’ was held in Windhoek.<sup>36</sup> This was a platform initiated by Interpol to ensure a greater degree of coordination and information-exchange among law enforcement officials, in the fight against human trafficking. The Deputy Inspector General for Administration at the Namibian Police, Major General James Tjivikua was reported to have described trafficking as a “major concern for the region”. He referred to trafficking for forced labour into the agricultural sector or manufacturing industries, trafficking in human organs and sexual services. A newspaper report also noted the effect of the upcoming 2010 FIFA World Cup as a concern raised in this workshop. Police officers were concerned about “the security impact of the 2010 FIFA World Cup in South Africa and the African Cup of Nations in Angola would have on the SADC region”.<sup>37</sup> The potential effects of this sporting event on child trafficking in the Southern African region, will be discussed infra.

The Minister of Safety and Security (Dr. Nicky Iyambo) made a statement to the High Level Segment of the 52<sup>nd</sup> Session of the Commission on Narcotic Drugs in Vienna, Austria on 11 March 2009.<sup>38</sup> This statement focuses on drug trafficking, but refers to the role of women and girls as couriers in these illegal practices. This is related to challenges faced in border control. Requests were made for an integrated approach and international “financial, technical and material support to complement our efforts to empower our law enforcement capacity”.<sup>39</sup> It was said that Namibia intends to introduce a resolution on Promoting International Cooperation in Combating Illegal Illicit Trafficking in Drugs,

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<sup>32</sup> Ibid, p.78

<sup>33</sup> Ibid, p. 78

<sup>34</sup> Ibid, p. 79

<sup>35</sup> Ibid, p. 79

<sup>36</sup> John Ekongo, “Human Trafficking a Headache for Police”, 24 Sept. 2008

<http://allafrica.com/stories/200809240219.html>

<sup>37</sup> New Era, 12.12.2007

<sup>38</sup> Statement by Hon. Dr Nicky Iyambo, Ministry of Safety and Security (Republic of Namibia) to the High Level Segment of the 52<sup>nd</sup> Session of the Commission on Narcotic Drugs. 11 March 2009. Vienna, Austria.

<sup>39</sup> Ibid



especially the use of women and girls as couriers”. Although not explicitly laid out, this statement suggests that there may be some overlap or connection between the trafficking of narcotic drugs, and the trafficking of persons.

In 2009 a number of articles have referred to this USAID-Chemonics assessment commissioned by the Ministry of Gender Equality and Child Welfare, as proof of the government’s commitment to combating human trafficking in Namibia<sup>40</sup>. This baseline assessment is in line with the recommendations of the 2008 US Trafficking in Persons Report, which stated that greater understanding was necessary to inform public awareness raising, training of relevant law enforcement and social service officials in victim identification and assistance. Key government stakeholders involved in this exercise include Offices, Ministries and Agencies: the Office of the Prime Minister, the National Planning Commission, the Ministries of Gender Equality and Child Welfare; Agriculture; Water and Forestry; Safety and Security; Education; Youth National Services; Sport and Culture; Home Affairs and Immigration; Finance; Justice; Environment and Tourism; Labour and Social Welfare; Information Communication and Technology; Defense; Regional and Local Government; Housing and Rural Development; Trade and Industry; Health and Social Services; Land and Resettlement; and Foreign Affairs, the Office of the Ombudsman, the National Council, the National Assembly, the Khomas Regional Council and the National Youth Council

In a newspaper article, this assessment was associated with the SADC project proposal on capacity-building for its member states in the ratification and implementation of the United Nations Conventions against Transnational Organized Crime and the additional protocol to prevent, suppress and punish trafficking in humans, especially women and children. It is held that Namibia, Botswana, Malawi and Swaziland will be piloted in the first phase of the project, which would then possibly be extended to an additional four countries.<sup>41</sup>

### **3.3.2. The Position of Civil Society**

In 2003 an IOM report entitled ‘Seduction, Sale and Slavery’ on trafficking of women and children in southern Africa listed Botswana, Namibia, Tanzania, Zambia and Zimbabwe as transit and sometimes source countries.<sup>42</sup> UNICEF’s (2003) Report on trafficking in human beings in Africa did not find any primary data on Namibia as a destination, transit or source country, but in its literature review reference was made to

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<sup>40</sup> Wezi Tjaronda, ECPAT International, 12 February 2009, “Government plans to research local human trafficking”. Internet source.

<sup>41</sup> Ibid

<sup>42</sup> Martens, J, Pieczkowski, M and Van Vuuren-Smyth, B. (2003), “Seduction, Sale and Slavery: Trafficking in women and children for sexual exploitation in Southern Africa”. International Organisation for Migration (IOM), Regional Office for Southern Africa. Pretoria: South Africa

Namibia as a country of origin, from which children and women are trafficked to South Africa.<sup>43</sup>

A fact sheet on trafficking prepared by Terre des Hommes described Namibia as a country of origin for trafficking in women and children to South Africa.<sup>44</sup> It also referred to the existence of internal trafficking in Namibia. On the basis of secondary literature it concludes that “there is little evidence that trafficking for prostitution is widespread in Namibia; however, at least one case has been reported, which involves the transport of young Namibian women to South Africa for forced prostitution”. It referred to a newspaper article in Africa News that described the call by legislators to protect children who were trafficked for prostitution by their parents and grandparents at a farm in the Aris area on the outskirts of Windhoek.<sup>45</sup> It also described the commercial sexual relationships that young girls engage in with married men, the prevalence of prostitution in Oshikango, and the role of truck drivers in commercial sex with young Namibian girls.

The most recent US Trafficking in Persons Report (2008) describes Namibia as a Special Case in that there is a suspected but “unsubstantiated” human trafficking problem fraught with “unreliable reporting”.<sup>46</sup> Despite these limited reports, it suggests that Namibia is a source and destination country for the trafficking of persons, of whom the majority are children trafficked into prostitution. Although the extent is not known, a “small number” of children are trafficked within the country for domestic servitude, forced agricultural labour, cattle herding and vending. In addition, it refers to a “few reported cases” of Zambian and Angolan children who have been trafficked into Namibia for domestic servitude, agricultural labour and livestock herding. The key risk factor identified in this report is the high HIV and AIDS prevalence rate in Namibia, which has created a population of orphans and vulnerable children at risk of being exploited and trafficked. The Report also provides the example of 17 Filipino workers at a local garment factory who complained about their working conditions, their confinement to their work premises and confiscation of their passports. This case is currently being investigated by the labour inspectorate, who has orders not to deport the workers until the complaint is finalised. Despite these examples, no cases of human trafficking have been prosecuted in Namibia under Namibia’s Labour Act of 2007 and the Prevention of Organised Crime Act of 2004, which has yet to be implemented (see policy section)<sup>47</sup>. The TIP report was referred to in numerous newspaper articles. For instance, an article in the Namibia Economist was entitled “Cases of human trafficking suspected but no proof”.<sup>48</sup>

Although there have been no prosecutions or convictions, ‘suspected cases’ of trafficking have appeared in the press and in NGO reports. In 2006, an *Informante* News Story

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<sup>43</sup> United Nations Children’s Fund (2003), “Trafficking in human beings, especially women and children in Africa”. UNICEF Innocenti Research Centre, Innocenti Insight, Florence

<sup>44</sup> Terre des Hommes. Child Trafficking Digital Library.

[http://www.childtrafficking.com/Docs/the\\_protection\\_project%20\\_namibia\\_0109.doc](http://www.childtrafficking.com/Docs/the_protection_project%20_namibia_0109.doc)

<sup>45</sup> “Namibia: MP says minors are sold as sex slaves”. Africa News, 21 November 2002

<sup>46</sup> US Embassy in Namibia, Trafficking in Persons Report 2008: Narrative on Namibia, “Namibia Special Case”. [http://windhoek.usembassy.gov/june\\_4\\_2008.html](http://windhoek.usembassy.gov/june_4_2008.html)

<sup>47</sup> Ibid

<sup>48</sup> Namibia Economist, “Cases of Human Trafficking Suspected but no proof”, 5 June 2008

reported that the British Home Office in London found 10 prostitutes from Namibia among 188 prostitutes aged 14-25 from Asia, Africa and Eastern Europe, working in brothels, massage parlours and private homes. Apparently they were sold for £3,000 each.<sup>49</sup> In 2008, what was described as the ‘first’ suspected human trafficking case appeared in the press.<sup>50</sup> This was also included in the SANTAC Gazette (2008) as a ‘suspected’ case of trafficking in Namibia<sup>51</sup>. The case involved a 33-year old Somali woman who was travelling with two children aged 4- and 6 years, on counterfeit Irish documents. She was arrested at Hosea Kutako International Airport in Windhoek on 2 December 2008. She described herself as the mother of the two children and a “possible victim of international human trafficking syndicate”. She stated that she had left the DRC for Europe to escape conflict. She was arrested with a Tanzanian couple, whom she allegedly paid US\$13,000 to arrange travel documents for her. As the Tanzanian couple was not considered traffickers, they were fined and deported to Tanzania. The Somali woman has hired a private lawyer. The article was concluded with the following questions posted by a SANTAC activist: “Are the two children Eli’s [the Somali woman] siblings? Was she ‘escorting’ those children? Who is paying lawyers in Windhoek?” The case as outlined in the SANTAC Gazette does not contain any reference to movement with an intention to exploit, nor does it mention any coercion or deception, but is still referred to as a ‘suspected human trafficking case’.

On the basis of the Central Intelligence Agency’s World Fact book July 2008 update, the *Zambian Watchdog* listed Namibia as a destination country for children trafficked from Angola and through Zambia for agricultural labour.<sup>52</sup>

The recently released Bureau of Democracy, Human Rights and Labour’s 2008 Human Rights Report for Namibia stated that “there were no reports that persons were trafficked to, from or within the country”.<sup>53</sup> Despite the absence of official reports, it refers to the TIP finding that Zambian and Angolan children were trafficked into Namibia for labour exploitation. It also refers to a newspaper article in the *Irish Times* on 3 December 2008 in which it was reported that a trafficking ring had been “disrupted and dismantled” in Operation Pentameter 2 by the Serious Organised Crime Agency in partnership with An Garda Síochána, Dyfed Powys Police and UK Border Agency. Seven trafficking victims from Brazil, Nigeria and Namibia were found.<sup>54</sup> According to another reporter, if the eight people who were arrested in this raid are found guilty they will face sentences of life imprisonment under the recently enacted Criminal Justice (Human Trafficking) Act

<sup>49</sup>*Informante News*, 12 October 2006. Windhoek

<sup>50</sup>Denver Isaacs, 2008: 3; *The Namibian National News*, 12 December 2003

<sup>51</sup>SANTAC Gazette, Issue 4, Jul-Dec 2008

<sup>52</sup>The *Zambian Watchdog*, “Zambia Source of human trafficking – CIA”.

<http://www.zambianwatchdog.com>

<sup>53</sup>Bureau of Democracy, Human Rights and Labor, (25 February 2009), 2008 Human Rights Report: Namibia. 2008 Country Reports on Human Rights Practices.

<http://www.state.gov/g/drl/rls/hrrpt/2008/af/119016.htm>

<sup>54</sup>M2 Presswire, UK Government: International Human Trafficking Prostitution Ring Smashed, 1994-2008, M2 Communications

2008 in Ireland. However, she states that for the Namibian woman and the other six women found in this raid “what’s in store for them is less clear”.<sup>55</sup> This 2008 Human Rights Report also referred to the case of the Somali woman and her children who were found with Irish passports at Hosea Kutako International Airport, as it appeared in *The Namibian* on 5 December 2008. It concluded that these reports are too vague to stand as proof of incidence or prevalence: “No further information was available, and it was unclear whether the newspapers were referring to the same or different cases”.<sup>56</sup>

According to the most recent UNODC (2009) “Global Report on Trafficking in Persons”, “there have been no (official) reports of people being trafficked to, from or within the country”.<sup>57</sup> It states that this is not necessarily an accurate reflection of the incidence of human trafficking in Namibia, but points more to the absence of legislation and officially reported cases on this issue: “Because of the absence of a specific provision on human trafficking, no prosecutions or convictions were recorded for trafficking in persons during the reported period”.<sup>58</sup>

### **3.3.3. Child trafficking and the ‘Worst Forms of Child Labour’**

Trafficking also emerged directly and indirectly in reports and conferences on the worst forms of child labour in Namibia. In a report on the ‘worst forms of child labour’, Debie LeBeau (2004) makes no direct reference to human trafficking; however, her report does open up questions regarding the existence of trafficking in Namibia.<sup>59</sup> This report describes children as young as 8 years who engage in both transactional sex for food, accommodation and material benefits, and those who receive a payment in cash. This is often related to the ‘sugar daddy’ syndrome, which alludes to girl children engaged in sexual “relationships” with adult men. In addition to being prostituted, she stated that children in Namibia are subjected to other ‘worst forms of labour,’ including forced child work in commercial farming areas, illegal work-related activities, handling tools and machines as part of farming, domestic work or beer-selling and charcoal production. ‘Force’ emerges in her report in relation children being required to work for farm owners or domestic employers alongside their parents, as an employment or housing requirement.<sup>60</sup> Risk factors underlying this form of exploitation are associated with “dependence on housing coupled with poverty (due to low wages) and employer dominance over employees”<sup>61</sup>. In terms of movement coupled with labour or ‘work’, LeBeau refers to the prevalent practice in Namibia whereby children are sent to work at their relatives’ homes:

“It is quite common in Namibia for poor families in the rural areas to send one or two of their children to relatives in the urban areas so that these children can ‘help

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<sup>55</sup> Siobhan Tanner, “To catch a trafficker”, 11 December 2008. <http://www.ruhama.ie/>

<sup>56</sup> Ibid.

<sup>57</sup> UNODC, Global Report on Trafficking in Persons, February 2009, p. 126

<sup>58</sup> Ibid

<sup>59</sup> Debie LeBeau, Dawia Bosch, Debbie Budlender and Annalize Fourie (2004), “Towards the Elimination of the Worst Forms of Child Labour”. University of Namibia and ILO. Pollination Publishers: Pretoria.

<sup>60</sup> Ibid., xi

<sup>61</sup> Ibid., xi

out’ around the house of the relative (for example, an aunt of the child). These relatives may not feel that these children should be paid because they do not see their relatives as ‘employees’, even if they do more of the domestic chores than other family members”.<sup>62</sup>

This she describes under the heading of ‘work’ rather than ‘exploitation,’ though the latter, when coupled with movement, would constitute trafficking under international conventions. She also notes that illegal immigrant children are subject to exploitation; however, since it is not clear whether the person who transported or assisted in their migration into Namibia, is the person who ultimately subjected them to labour exploitation, it is difficult to determine whether this is a case of trafficking:

“Illegal immigrants are also exploited in the domestic working environment because if they attempt to seek legal redress, they may find themselves deported. Young foreign girls doing domestic work earn little or no money because the employer knows that the children are illegal immigrants, usually from Angola or other neighbouring countries, and/or working illegally in Namibia and thus will not complain to the authorities when ill-treated”.<sup>63</sup>

The ILO supported a broader programme in the Southern African Customs Union (SACU), which included South Africa, Botswana, Lesotho, Namibia and Swaziland (BLNS countries). This included a three- streamed programme Towards the Elimination of the worst forms of Child Labour (TECL). Since a comprehensive time-bound strategy for child labour had not yet been developed, the TECL programme sought to “lay the foundations for concerted action” by contributing to knowledge on this issue and by drafting a country plan. This approach was informed by a stakeholder workshop in October 2004, which identified six worst forms of child labour, including children used by adults in the commission of crime, trafficking of children, children involved in the production of charcoal as a form of hazardous work, commercial sexual exploitation of children, bonded labour, children collecting and carrying wood and water over long distances. The March 2006 implementation plan stated that there is a possibility that trafficking occurs in Namibia:

“This potentially covers both in-country and cross-border trafficking of children, and stakeholders indicated that it is believed to occur in Namibia, related to domestic work, commercial agriculture and possibly CSEC. However, it is not known how prevalent it is”.<sup>64</sup>

The Paper also refers to the movement of children by relatives for the purpose of work, but does not define this as trafficking, despite evidence of exploitation in accordance with

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<sup>62</sup> Ibid., ix

<sup>63</sup> Ibid., ix

<sup>64</sup> Implementation Plan of the Programme Towards the Elimination of the Worst Forms of Child Labour in Namibia, 2004-2007. TECL Programme Paper No. 11. ILO and the Ministry of Labour and Social Welfare. Programme Advisory Committee on Child Labour. March 2006, p.6

LeBeau's Study.<sup>65</sup> It also refers to the exploitation of illegal immigrants, but because this is not linked to their movement by a person who intends to exploit them, it is difficult to determine whether these cases constitute trafficking. Nevertheless, it does highlight the vulnerability of child migrants from Angola who are not able to speak local languages, do not know about possible sources of protection and/or do not come forward to complain about their exploitation for fear of their deportation. It adds that these reports have not been verified nor documented: "No documented information exists to confirm the extent of this".<sup>66</sup> This implementation plan also refers to the possibility of cases of bonded labour involving boys from San communities who are "required by farmers" to look after cattle.<sup>67</sup> If this "requirement" involves movement into another community, it constitutes trafficking.

One of the outcomes of this TECL programme (Project Stream1) was a report by Elizabeth Terry (2007) on child trafficking linked to child labour and commercial sexual exploitation of children<sup>68</sup>. This report is constituted by a literature- and policy review and qualitative field work conducted in 11 regions, specifically targeting the sites of Walvis Bay, Oshikango, Oshakati, Outjo, Otjiwarongo, Mariental, Luderitz, Okakarara, Gobabis, Rundu, Katima Mulilo and Windhoek. Interviews were conducted with 63 adult key informants and 22 children engaged in child labour or who were victims of trafficking. In addition, 32 focus group discussions were held with children.<sup>69</sup>

This report found that children were being sexually exploited in two forms: transactional or exchange sex, where sex is exchanged for food, clothes and/or household support, or in exchange for money. The former was more prevalent and higher than expected, as children worked in shebeens, bars and hotel rooms. No evidence of sex tourism was found. In addition, the report found that children engaged in the following forms of work, and are ranked according to extent: domestic house work, domestic work outside of the house, prostitution, agricultural work on communal farms, running informal business, work at school, other labour, selling goods, agricultural work on commercial farms, charcoal production and volunteer work. This was considered to be 'normal' work by 60% of the children, although nine cases of exploitative domestic labour, and one case of trafficking for domestic work was found. In 23 focus group discussions with 289 children, reference was made to 88 children, whom the respondents thought had been trafficked. In interviews with 24 children who were subject to exploitation, three cases of trafficking were described by children in their life stories.

Terry notes that five other cases which were initially thought to be cases of trafficking were later reclassified as incidents of 'migration into exploitative forms of child labour',

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<sup>65</sup> Ibid., p.4

<sup>66</sup> Ibid, p.5

<sup>67</sup> Ibid, p.7

<sup>68</sup> Elizabeth Terry (2007), "Child trafficking linked to child labour and commercial sexual exploitation of children in Namibia: A child labour-related rapid assessment study". TECL International Office (ILO). Design and Development Services (Pty) Ltd. In association with the Ministry of Labour and Social Welfare, Programme Advisory Committee on Child Labour

<sup>69</sup> Ibid., p.13-18

because the children were not held in ‘slave-like’ conditions.<sup>70</sup> The three cases which were identified as trafficking include the following:

- A 12 year old Zambian girl whose employer from Namibia approached her parents in Angola and promised them that they would send her to school and look after her as an adopted child. The girl agreed and stated that “nobody forced me to come” because she wanted to continue her studies. Upon arrival in Zambia she was forced to engage in domestic work in the home of the person who approached her parents. This includes fetching water, child-minding and washing clothes. She was not sent to school as promised. She feels that she cannot leave because her employer will not permit her to leave, she is dependent on her employer for clothing, and because she feels she has nowhere to go.
- A 13 year old boy was promised by his mother’s employer that he would be taken to see his mother. Instead he was made to work as a livestock worker on a commercial farm in the Outjo-area. He does not attend school, gets paid less than promised, and sometimes does not receive payment which goes directly to his mother. He would like to live with his aunt.
- A 13-year-old boy who was staying with his aunt, was removed by his parents in order to work. They made him work as a livestock worker on a commercial farm in the Outjo Area. His parents collect his salary and have informed his boss that he is not allowed to leave until they permit him to do so. He would like to return to his aunt’s care.<sup>71</sup>

There was also anecdotal evidence that Angolan and Zambian children are trafficked into Namibia for livestock and child-minding work, and that Namibian children have been trafficked within Namibia for exploitation in domestic service, agriculture (note: there were more cases of exploitation on communal- than commercial farms), charcoal production, road construction, vending and prostitution. Internal trafficking was said to take place in the Ohangwena, Oshana, Kunene, Otjozondjupa and Caprivi Regions, and from the Kavango Region to the Kunene- and Otjozondjupa Regions. Key informants stated that no trafficking takes place within the Karas Region. Two-thirds of the stakeholders felt that child trafficking exists in Namibia, 20% stated that they did not know and 13% felt that it did not exist. No stakeholders could cite the official definition of trafficking, or knew about Namibian laws and policies.<sup>72</sup> Terry concludes that “concrete cases and anecdotal evidence indicate that some child trafficking (cross-border and internal) exists in Namibia, which is considered as one of the worst forms of child labour”.<sup>73</sup>

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<sup>70</sup> Ibid., p. 82

<sup>71</sup> Ibid, p.83

<sup>72</sup> Ibid., p. 39-61

<sup>73</sup> Ibid., p. 91

These conclusions are reiterated in a follow-up discussion document by Terry, with the additional comment that there is no evidence to suggest that this occurs on an organised level: “in spite of this, at the moment there is no evidence of any formal or informal networks in Namibia that traffic in children”.<sup>74</sup> This discussion document does, however, make some important definitional distinctions around what Terry defines as exploitation, and, *inter alia*, trafficking. Exploitation in this case is defined as “work in slavery-like conditions (thus indicating that the child does not have control over whether to work) or the child being subjected to commercial sexual exploitation”.<sup>75</sup> This deviates from the standard Palermo definition which includes a broader definition of exploitation. As Terry argues:

“Cases where a child is exploited in the broader sense (such as hazardous work, forced to miss school, working hours) are not considered as child trafficking, even if this work is linked to movement of the child. This relates rather to migration-related and exploitative forms of child labour, which is also an area needing priority attention”.<sup>76</sup>

Terry fails to insert the requirement that an intention to exploit the child is necessary if the child is moved for the purposes of exploitation.

The Ministry of Labour and Social Welfare and the ILO’s TECL programme, recently published a document entitled “Action Programme on the Elimination of Child Labour” (2008) for Namibia for the 2008 - 2012 period<sup>77</sup>. Chapter 8 refers to trafficking of children and the findings of Terry’s research as commissioned under Stream 1. However, the definition that is used in this document is broader than the very restrictive definition used by Terry. As mentioned above, Terry focuses on ‘slavery-like conditions’ as a prerequisite when determining whether a case constitutes trafficking. However, it is important to note that the definition provided in the terminology page of this document, is slightly broader than the restrictive definition adopted by Terry. It states, “This exploitation must amount to one of the worst forms of child labour, such as commercial sexual exploitation, or forced labour practices, or practices similar to slavery”.<sup>78</sup> It defines worst forms of child labour in relation to Article 32 of the Convention on the Rights of the Child as “...economic exploitation [and] any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development”.<sup>79</sup>

This reference to worst forms of child labour is broader than the definition provided by Terry above. The definition of terms in the TECL report also clarifies Terry’s reference to ‘migration-related and exploitative forms of child labour’ by referring to the intention

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<sup>74</sup> Elizabeth Terry, (2007) “Discussion document on child labour in Namibia”. ILO and Ministry of Labour and Social Welfare. Windhoek, Namibia

<sup>75</sup> Ibid., p. 55

<sup>76</sup> Ibid., p. 55

<sup>77</sup> Ministry of Labour and Social Welfare and ILO’s TECL programme (2008) “Action Programme on the Elimination of Child Labour. Namibia, 2008-2012”. TECL Publication No. 96. Windhoek: Namibia

<sup>78</sup> Ibid., p. 5

<sup>79</sup> Ibid., p.5



to exploit as a requirement of trafficking: “When the movement of a child was not intended to result in exploitative labour but the child, nevertheless, becomes involved in child labour this does not amount to child trafficking. It may still be regarded as a migration-related form of exploitation and one of the worst forms of child labour”.<sup>80</sup>

Furthermore, Chapter 8 of the TECL document provides an even broader definition of child trafficking namely: “Child trafficking refers to removing a child from his or her home for the purpose of exploiting the child. In the context of child labour, the form of exploitation is work-related. It may involve CSEC or could be work in agriculture or domestic service. The child *often* works under slavery-like conditions, enjoying little freedom and receiving extremely poor pay or no pay. ...”<sup>81</sup> By stating that slavery may occur or is likely to occur, ‘slavery’ is not set as a definitional criterion for trafficking, which rests instead on movement with the intention to exploit. From this discussion it is evident that definitional clarity is required before attempts are made to identify or train others to identify victims of trafficking and, similarly, draw conclusions around the incidence and prevalence of this practice.

#### **3.3.4. Child trafficking and sexual exploitation**

Trafficking has been referred to or alluded to in reports on sexual exploitation on women and children. Border sites and coastal communities have emerged as key sites of adult- and child prostitution. For instance, research conducted by the Institute for Public Policy Research (IPPR) found a thriving prostitution industry in Walvis Bay. The Report focused on adult prostitution (aged 18 - 30 years) amongst fishermen and truck drivers.<sup>82</sup> This report did not find any cases of human trafficking.

In their Report entitled, “Whose body is it? Commercial sex work and the law in Namibia”, The LAC (2002) stated that there is no evidence to suggest that trafficking in persons is prevalent in Namibia, but that the existence of one known case might point to a future problem that should be accounted for from a policy perspective:

“Although there is no evidence that trafficking for the purposes of prostitution is a widespread problem in respect of Namibia, there has been at least one case involving the transport of young Namibian women to South Africa for the purposes of sexual exploitation. Because this is a problem which may develop in future, it should be kept in mind while formulating policy on sex work”.<sup>83</sup>

The Report also states that sex tourism may become an “unwelcome future development”. The report, which is based on quantitative and qualitative research with 148 prostitutes and 2 clients, combined with 315 telephone calls with randomly selected

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<sup>80</sup> Ibid., p. 5

<sup>81</sup> Ibid., p. 85

<sup>82</sup> Keudler, Christiaan and Debie LeBeau (2006), “Ships, trucks and clubs: The dynamics of HIV-risk behaviour in Walvis Bay: Briefing Paper, No. 36. Institute for Public Policy Research

<sup>83</sup> Legal Assistance Centre, (2002) “Whose body is it? Commercial sex work and the law in Namibia”. Austrian Development Cooperation, through the North-South Institute

members of the public, focused predominantly on prostitutes who had drifted into the industry or were introduced into it by someone else. Although they describe the violence that the prostitutes face at the hands of their clients, police and taxi drivers, they did not find or describe any physical force or overt deception in the introduction or initiation phase, but rather “influence by other people or by example”<sup>84</sup>: “Some drifted into sex work out of necessity. Some were introduced to it by other sex workers or by their friends, who are likely to be sex workers themselves.” Only 1.6% described prostitution as being their own idea, 45.6% were introduced by a friend, 23.7% were introduced by other prostitutes and 8.3% by family members. Even if this introduction involved some form of deception or coercion, as there is no evident movement by someone with an intention to exploit, this report does not deal with trafficking of persons.

Another Report published by the LAC (2008), refers to research undertaken in 2006 by Susan LaFont with 62 girls and women at Stand Together (ST), a faith-based organisation in a Katutura-based township<sup>85</sup> on the outskirts of Windhoek.<sup>86</sup> A priest cited in her Report referred to the rising incidence of trafficking of persons for sexual exploitation: “Although trafficking of sex workers has not been reported as a serious problem in Namibia, Father X believes that it is increasing. He reported that he had knowledge of women being taken to China, Germany and Iceland to engage in sex work”.<sup>87</sup> LaFont also interviewed a woman who travelled to Iceland with a fisherman who was working temporarily in Namibia. Upon arrival she was subject to sexual exploitation:

“She explained that she had gone there as his girlfriend, but then had been forced to work in strip clubs and to ‘turn tricks’. Her ‘boyfriend’ kept the money she earned and it was not until she attempted suicide that she was allowed to return to Namibia. She said that she had met two other Namibian women in Iceland who had similar experienced”.<sup>88</sup>

Since this case involves movement, deception and exploitation, it does constitute a case of human trafficking for sexual purposes. For the most part, her respondents worked independently or in groups with other prostitutes. As in the 2002 LAC Report, LaFont’s findings suggest that “traditional pimps do not appear to play a large role in Namibian sex work”.<sup>89</sup> Nevertheless, the adult prostitutes whom she interviewed stated that younger children are encouraged to engage in prostitution by their parents or relatives. This was affirmed by one of her young respondents who lived at home while engaging in prostitution:

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<sup>84</sup> LAC (2002), “Whose body is it?”, p. 105

<sup>85</sup> For additional information about prostitution in Katutura, Namibia, please see Carolina Hjorth (2005), “Prostitution, HIV/AIDS and human rights: a case study of sex workers in the township of Katutura, Namibia”. Centre for the Study of Human Rights: Goteborg University

<sup>86</sup> Susan LaFont (2008), “Help Wanted: Sex Workers in Katutura, Namibia”. Monograph No. 2. Gender, research and advocacy project. Legal Assistance Centre. Windhoek. Namibia

<sup>87</sup> Ibid, p. 10-11

<sup>88</sup> Ibid, p.20

<sup>89</sup> LAC, “Whose body is it?”, p.97.

“The one girl who did not work on the streets explained that she lived with her grandmother and it was the grandmother who brought men into their home to have sex with her granddaughter. The grandmother kept most of the money that the men paid for the girl’s sexual services”.<sup>90</sup>

For children, therefore, parents and relatives may replace pimps, in the traditional sense. LaFont also remarked on the rise of foreign clients, but stated that this could be attributed to the proximity of her research site in relation to Windhoek, a starting point for tourists.<sup>91</sup>

The Programme Towards the Elimination of the Worst Forms of Child Labour (TECL) Implementation Plan for Namibia highlighted the commercial sexual exploitation of children (CSEC) as an issue raised by stakeholders in a conference in October 2004. Stakeholders described three forms of commercial sexual exploitation: transactional sex by children for the purpose of survival; prostitution at truck stops, on streets, in bars and brothels; and forced/arranged marriages. At the time of this Report, 2006, there was little verifiable information about the incidence and prevalence of CSEC: “anecdotal evidence suggests that CSEC in Namibia occurs, but is rarely reported”.<sup>92</sup> It refers to evidence that suggests that CSEC occurs in Windhoek, coastal towns such as Walvis Bay, Luderitz and Swakopmund, and on main transportation routes. It highlights the role played by parents in forcing children to engage in prostitution, and associates this with risk factors related to children’s interpersonal responsibilities in poverty-stricken households, the impact of HIV and AIDS on household livelihood, and the vulnerabilities associated with coming from a San ethnic background:

“Some of the children involved have informed social workers that their parents forced them into sex work to help support the family, and of HIV positive mothers who introduced their daughters into commercial sex work in their stead. There are also reports that San children have increasingly been victimised in this way at border posts in Rundu-Capri”.<sup>93</sup>

A baseline survey conducted by National Social Marketing Programme (NASOMA) with funding from the United Nations Children’s Fund (UNICEF) in 2008 investigated the issue of sexual exploitation and trafficking of women and children at the Oshikango border post.<sup>94</sup> This survey involved 151 respondents including 141 prostitutes and 10 key informants. The baseline assessment found that 25 out of 141 of the prostitutes were under the age of 18. All respondents pointed to the prevalence of prostitution in this area; however, apart from anecdotal evidence, no estimates or statistics of the number of trafficked women and children through the Oshikango border post or internally were provided. Furthermore, the Report found that “there are no evidence of any networks that

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<sup>90</sup>LaFont (2008), “Help Wanted”, p. 13

<sup>91</sup>Ibid, p.9

<sup>92</sup>TECL Programme, “Implementation Plan”, p.g. 6

<sup>93</sup>Ibid

<sup>94</sup>Immaculate Sechoge, (2008). “Baseline survey: investigating sexual exploitation and trafficking of women and children at the Oshikango border post”. NaSoMa with funding from UNICEF

traffic women and children, as a result it is difficult to identify the profiles of traffickers”<sup>95</sup>. The Report raised concerns about the assistance available to victims of trafficking and exploitation since foreign women and children are treated as illegal immigrants if they do not have documents; there are no shelters and no efforts were being made to increase public awareness or train service providers and law enforcement officials.

### **3.4. Namibia in the Southern African Regional Context**

At the regional level, the trafficking of persons emerged as an issue warranting attention in conferences and campaigns around the following issues: violence against women and children; worst forms of child labour and the 2010 FIFA World Cup. Representatives from Namibia participated in these events and Namibia was referred to in follow-up reports and action plans that sought to combat human trafficking in the southern African region.

#### ***3.4.1. Violence against Women and Children***

Representatives from Namibia have participated in regional events on combating violence against women and children. In 2002, Terre des Hommes and its partners in Mozambique, Namibia, South Africa, Zambia and Zimbabwe launched a campaign against child-abuse, exploitation and trafficking.<sup>96</sup> In March 2004, police chiefs from Namibia participated in a meeting in Maputo, Mozambique organised by the Southern African Regional Police Chiefs Cooperation Organisation, around the theme “Violence against Women and Children”. One of the outcomes of this meeting was a commitment by police chiefs from member States of the Southern African Development Community to take strong action against trafficking in children and organs in the region.<sup>97</sup> The SADC includes Angola, Botswana, the Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.<sup>98</sup>

A recent Gazette produced by SANTAC (2008), stated that delegates from Namibia participated in the second Regional Conference on “Sharing Lessons learned and developing ways forward” in Maputo on 9 October 2008. This followed the SADC Summit in Johannesburg on 7 August 2008, in which 11 of 15 states adopted the SADC Protocol on Gender and Development. This was the outcome of a process initiated by the 2005 Audit of the SADC Declaration on Gender and Development, and its addendum on Prevention and Eradication Gender-Based Violence. Article 11 states that SADC shall adopt laws, policies and programmes to ensure “protection from economic exploitation,

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<sup>95</sup> Ibid., p. 50

<sup>96</sup> Heike Spielmans, “Launch of the Regional Southern Africa Campaign against Child Abuse” South Africa Regional Campaign against Child Abuse, Maputo, Mozambique, 16 June 2002. cited in Terre des Hommes Digital Library: [http://www.childtrafficking.com/Docs/the\\_protection\\_project%20\\_namibia\\_0109.doc](http://www.childtrafficking.com/Docs/the_protection_project%20_namibia_0109.doc)

<sup>97</sup> Reporter, “Mozambique: Police Chiefs against Trafficking in Human Beings”, Africa News. 20 March 2004.

<sup>98</sup> “Globalization fueling crime in Southern Africa”, Agence France Presse, 4 September 2003

trafficking and all forms of violence, including sexual abuse...”<sup>99</sup> The Gazette also describes the role of SANTAC and Plan International in raising the issue of trafficking at the Conference on African Ministers of Social Welfare which took place from 27 - 31 October 2008.<sup>100</sup>

### **3.4.2. Worst Forms of Child Labour**

In October 2003 the African Regional Labour Administration Centre conducted a workshop on child labour in the agricultural sector, which was attended by participants from Egypt, Ethiopia, Kenya, Malawi, Namibia, Nigeria, South Africa, Tanzania, Uganda and Zimbabwe.<sup>101</sup> In January 2008, Namibia endorsed the national plan of action to tackle child labour and eliminate the worst forms of child labour. This was endorsed by the Namibian Ministry of Labour and then submitted to the Namibian Cabinet for consideration. At a national conference on child labour, regional representatives such as the Director of the International Labour Organisation (ILO) applauded the government’s commitment to this issue. This conference also discussed the TECL regional report on child trafficking in the sub-region, which recommends a single strategy for the SADC involving international agencies, the SADC Secretariat and the establishment (or delegation to) of a particular SADC structure to address the issue of child-trafficking. It suggested that the plan of action formulated by the Economic Community of West African States (ECOWAS) be used as a model for a Southern African response. It emphasised that cross-border law enforcement should be improved through the establishment of a forum which has the mandate to harmonise SADC member States’ domestic laws on human trafficking.<sup>102</sup>

### **3.4.3. The 2010 FIFA World Cup**

One of the current issues of concern throughout Southern Africa in relation to trafficking, is the FIFA World Cup, which will be held in South Africa in 2010. *Molo Songololo*, a South African NGO seeking to protect children from abuse, exploitation and trafficking, recently completed a rapid assessment on the effects of the FIFA World Cup<sup>103</sup>. The assessment identified a number of factors that may lead to greater exploitation and trafficking risks for children. First, reports about past sporting events in Greece, Germany and Canada suggest that although there may be no direct causal evidence of a linkage between the event and an increase in human trafficking, given the difficulty of attributing causality, there is evidence to suggest a correlation. These reports recommend awareness-raising, enforcement, and victim identification/assistance training as a preventative measure. Second, the assessment suggests that this event may exacerbate existing gaps in the child protection system in impoverished and outlying areas, particularly when there is

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<sup>99</sup> SANTAC Gazette, Issue 4. Jul-Dec 2008

<sup>100</sup> Ibid

<sup>101</sup> “Regional workshop on combating worst forms of child labor concludes”, Xinhua General News Service, 17 October 2003 Cited in Terre des Hommes Digital Library  
[http://www.childtrafficking.com/Docs/the\\_protection\\_project%20\\_namibia\\_0109.doc](http://www.childtrafficking.com/Docs/the_protection_project%20_namibia_0109.doc)

<sup>102</sup> Southern Africa, Child Labour Link, April 2008

<sup>103</sup> *Molo Songololo* (2008) “Rapid Assessment of Impact of 2010 FIFA World Cup on Child Abuse, Exploitation and Trafficking”, completed by Southern Hemisphere Consultants

a large influx of people, short-term increase in demand for sexual and labour services, rise in organised crime, relaxed visa and border control, rural-urban migration and countless poverty-stricken children seeking to work and survive.

Added to this, are risk factors associated with the World Cup, including an increase in alcohol consumption, the closure of schools (for 5 weeks during the World Cup), an increase in unattended and unaccompanied children close to city-area venues and relaxed visa and border controls for players and fans. In terms of borders, *Molo Songololo* lists Namibia as one of the “danger zones for children.”<sup>104</sup>

The Rapid Assessment (2008) provides a Table of regional trends in trafficking, as outlined by the 2008 Trafficking in Person Report. In this Table, Namibia is described as a source and destination country for victims of trafficking. Although there is limited reporting on this issue, it states that the majority of victims are children, particularly those orphaned due to HIV and AIDS. It states that victims are trafficked into and from Namibia for the purpose of prostitution, domestic servitude, agricultural labour, cattle herding and vending.<sup>105</sup>

This Assessment recommends the following preventative action: the development of an integrated and comprehensive child protection strategy; the integration of a child-safety plan into FIFA World Cup Security plans; a clear legal framework; public awareness-campaigns directed at the general public and children in particular; the development of victim support networks; education of travellers, tourists, fans and the public sector; the targeting of ‘at risk’ children in prevention activities and training of border officials<sup>106</sup>. Targeting of borders is reiterated in its “hands off our children” draft campaign, which recommends that efforts should be made to raise awareness at ports-of-entry (including Namibia) to identify children crossing South African borders by “enhancing the ability of border officials to identify victims of child-trafficking and deal effectively with cases of child-trafficking”.<sup>107</sup>

In light of the upcoming 2010 FIFA World Cup, the Women and Law in Southern Africa Research and Education Trust, recently disseminated a “Red Light 2010 Campaign Strategy” (11/15/2008), which aims to “ensure that the World Cup event does not increase women and girl’s vulnerability to trafficking in Southern Africa”. This Trust, with the assistance of Oxfam Great Britain, currently operates in the following seven countries in Southern Africa - Botswana, Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe. Its proposal calls for partnerships to expand their reach in the Southern African countries, at both a regional and national level. No specific mention is made of Namibia, but as reference is made to the countries bordering South Africa more generally, this must imply Namibia too.<sup>108</sup>

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<sup>104</sup>*Molo Songololo* (2009) “Hands off our children: campaign to prevent trafficking, abuse and exploitation of children during 2010”

<sup>105</sup>*Molo Songololo* (2008) “Rapid Assessment”

<sup>106</sup>*Ibid*

<sup>107</sup>*Molo Songololo* (2009), “Hands off our children”

<sup>108</sup>Women and Law in Southern Africa Research and Education Trust, “Red Light 2010 Campaign Strategy”, 11/15/2008

Over the 2007-2009 period a number of regional conferences have been held and campaigns initiated around the child-trafficking risks associated with the 2010 FIFA World Cup. Representatives from Namibia attended many of these conferences. In 2007, Save the Children Norway's regional counter child-trafficking programme, based in Mozambique, ran a workshop in Gauteng, South Africa, in partnership with Child Helpline International. One of the key themes of this workshop was the 2010 World Cup. A representative from 'The Bridge' in Namibia attended this workshop. A second conference was held by Child Helpline International and Save the Children Zimbabwe in 2008.<sup>109</sup> The mapping report focused on the role that Child Helpline could play in countering child-trafficking in the SADC region, particularly in light of the 2010 World Cup. The section on Namibia described a plethora of actors who "have not dealt with cases of child-trafficking thus far, but could play a vital role in raising awareness among students, teachers and the community".<sup>110</sup> It was held that these actors could serve as a reference point for trafficked women and children. Reference was also made to work that NGOs are currently undertaking that could assist in the prevention of child-trafficking including outreach work, counselling, referral, awareness-raising through puppetry, drama and weekly radio broadcasts, income-generating activities and life-skills activities for children. It also refers to two reports on child-trafficking which were commissioned by UNICEF in two towns bordering Angola and South Africa.<sup>111</sup>

### 3.5. Policy and Legal Frameworks

#### 3.5.1. International Conventions and Protocols

Convention and protocols	Namibia's ratification
Convention for the Suppression of the Trafficking in Persons and the Exploitation of the Prostitution of Others (1949)	Namibia did not sign nor ratify
Convention on the Rights of the Child (1989)	Ratified in 1990
African Charter on the Rights and Welfare of the Child (1990)	Ratified in 1999
The Hague Convention on the Civil Aspects of International Child Abduction (1996)	?
ILO Convention (C. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)	Ratified and came into force in November 2000
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Ratified in 2002

<sup>109</sup> Save the Children Zimbabwe and Child Helpline International (2008), "The role of Child Helpline in Child Trafficking: Mapping Report for the SADC Region"

<sup>110</sup> These non-governmental organisations include National Crisis Telephone Counselling and Windhoek-based Face-to-face counselling, National Childline Program, Uitani Childline Radio, National Training Programme, North Central Outreach Centre and VCT, Kavango Outreach Centre and VCT, Tusano Post-Test Club

<sup>111</sup> These reports were not located or included in this literature review.

(2000)	
Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the Convention against Transnational Organized Crime (2000)	Ratified in 2003
Stockholm Declaration and Agenda for Action (1996)	Adopted

### **3.5.2. Legislation**

In a Paper on the challenges of law enforcement with regards to transnational organised crime in Namibia, Zenobia Beatrix Barry outlined in detail the current legal regime with regard to prosecution, witness protection safeguards, the investigation process and international cooperation.<sup>112</sup> A number of different crimes associated with different phases of the trafficking process can be prosecuted including, fraud, forgery, uttering of a forged document, illegal immigration, corruption, kidnapping, abduction, assault with intent to cause bodily harm, rape, sexual assault, extortion, offences under Labour Law, theft, unlawful carnal intercourse with a child of a certain age, enticing or soliciting another person for immoral purposes, keeping a brothel, procuring a female to become a prostitute or inmate of a brothel etc.<sup>113</sup> The legislation pertaining to these crimes is outlined below:

#### **The Constitution:**

- Article 15 protects children against economic exploitation;
- Article 9: provides all citizens with protection from slavery, servitude and forced labour; and
- Article 95: the State is obligated to ensure the protection and welfare of all people, even in the face of abuse and exploitation.

#### **The Prevention of Organised Crime Act (no. 29 of 2004):**

- Among measures to combat organised crime, money laundering, criminal gang activities, racketeering etc., this Act prohibits the smuggling of migrants and trafficking in persons.
- Definition of trafficking in persons: “means the recruitment, 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 the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation and includes any attempt, participation or organising of these actions. Exploitation includes, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or

<sup>112</sup> Zenobia Beatrix Barry, (2007), “Challenges in the investigation”

<sup>113</sup> Zenobia Beatrix Barry, (2007), “Challenges in the investigation”, p.79



services, slavery or practices similar to slavery, servitude or the removal of organs;...”

- Part 2 - Other Offences (Sub Section 15-16): “Any person who participates in or who aids and abets the trafficking in persons, as contemplated in Annex II of the Convention, in Namibia or across the border to and from foreign countries commits an offence and is liable to a fine not exceeding N\$1,000 000 or to imprisonment for a period not exceeding 50 years”.
- Part 16: Aiding and abetting the smuggling of migrants to obtain directly or indirectly financial or other benefit will receive a fine not exceeding N\$500,000 or imprisonment not exceeding 25 years.

This Act does not outline the protection and support of trafficking victims, as recommended in Article 24 and 25 of the UN Convention against Transnational Organised Crime and Articles 6 - 8 of the Trafficking Protocol.<sup>114</sup> Furthermore, it does not distinguish between the trafficking of adults and children as set out in the Palermo Protocol, which removes the ‘deception or coercion’ component of trafficking. According to the recent TECL report (2008), “there is still a need to clarify the definition of child-trafficking in accordance with international conventions and protocols, making the point that children can be trafficked without deception, coercion or use of force”.<sup>115</sup> The authors add “...deception or force is not needed for the removal of a child to qualify as trafficking, since many children tend to trust and depend on adults. Their cooperation can often be won without lies and threats.”<sup>116</sup> This report also refers to the LAC (2007) recommendations that Namibia should follow the South African Law Commission’s suggestions that child victims of trafficking should be granted refugee status and be treated as victims in need of care and protection; and that this should be applied extra-territorially so that Namibian citizens or residents should be seen as guilty if they commit the crime inside or outside of Namibia. The TECL Report outlines the following action steps to address the legislation and policy gaps pertaining to child-trafficking:

- Develop a national framework on human trafficking, including child-trafficking;
- Include a child-centred definition within the Prevention of Organised Crime Act of 2004;
- Amend laws and bills on children to include the elimination of child-trafficking (e.g. Child Care and Protection Bill);
- Amend legislation and policies pertaining to the unaccompanied movement of children across borders; and
- Discuss the legislation at the SADC level to facilitate a unified approach to prevention.<sup>117</sup>

In April 2009 the LAC - on behalf of the MGECW, with financial assistance from UNICEF - embarked on a round of regional consultations related to the revision of the

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<sup>114</sup> Zenobia Beatrix Barry, (2007) “Challenges in the investigation..”, p. 81

<sup>115</sup> Ministry of Labour and Social Welfare and ILO’s TECL Programme (2008) “Action Programme on the Elimination of Child Labour. Namibia, 2008-2012”. TECL Publication No. 96. Windhoek: Namibia

<sup>116</sup> Ibid., p. 85

<sup>117</sup> Ibid., p. 87

Child Care and Protection Bill, which will be tabled in parliament in November 2009. One of the issues the LAC will raise for public debate is the inclusion of a section on child-trafficking in the proposed Child Care and Protection Act.<sup>118</sup> It was recommended that trafficking (for purposes such as prostitution or other forms of sexual exploitation, forced labour or services, prohibited child labour or other economic exploitation, slavery or practices similar to slavery, including debt bondage or forced marriage, servitude and the removal of body parts) be made a crime under this Act for the primary traffickers, as well as those who assist or facilitate traffickers, or supply information to potential traffickers. Assistance, including the return of children to their home countries, should also be provided for under this Act. Furthermore, in terms of prevention, the LAC recommends that the Act criminalise the removal of children from a parent or caregiver; and criminalise the movement of children out of Namibia without the consent of both parents or permission from a Magistrate's Court, if parents are unavailable or unreasonably withholding consent. It would also like special reporting requirements to be considered for children who are living apart from their family members for longer than 30 days.

### **Labour Exploitation:**

*The Labour Act (No 11 of 2007) states the following:*

- Article 3: no child under 14 can work; Children aged 14 - 16 years can work only if it conforms to certain stipulations. For instance, they cannot work between 20h00 and 07h00. Children aged 14 – 18 years are also subject to certain conditions.
- Article 4 prohibits forced labour: “any work or service performed or rendered involuntarily by an individual under threat of any penalty, punishment or other harm to be imposed or inflicted on”. This also includes work performed by an employee's child.

In 2008, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) posed individual direct requests to the Namibian government concerning the Worst Forms of Child Labour Convention, 1999 (C. 182), which Namibia ratified in 2000. One such question was for further information about legislation pertaining to trafficking: “The Committee notes the Government's information that the sale and trafficking of children is a criminal offence. It requests the Government to indicate the legal provision that makes the sale and trafficking of children a criminal offence”.<sup>119</sup>

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<sup>118</sup> LAC (2009), “Draft Child Care and Protection Act – Issues for Public Debate: Child Trafficking”. Draft fact sheet.

<sup>119</sup> CEACR, Individual Direct Request concerning the Worst Forms of Child Labour Convention, 1999 (C. 182). Namibia (ratified: 2000), Submitted: 2008

### **‘Immoral Practices’:**

- The Combating of Immoral Practices Act (no.21 of 1980): Prostitution is not criminalised but certain practices are prohibited including indecent dress, keeping a brothel, soliciting in a public place, procuring a female for unlawful carnal intercourse, and detaining a female against her will in a brothel. It is an offence to knowingly live wholly or in part on earnings of prostitution. This Act refers to women only.
- The Combating of Immoral Practices Amendment Act (no 7 of 2000), Section 14: It is illegal to have sex with a child under 16 years of age if three years older than the child
- Combating of Rape Act (no. 8 of 2000): rape includes a sexual act with a person under the age of 15 by a perpetrator who is 3 years older even if the sexual act was consensual or took place as paid sex.
- The Children’s Act (no. 33 of 1960 – under review): a child in need of care can be removed and placed in a children’s home or foster care. This includes a child “who frequents the company of any immoral or vicious person, or is otherwise living in circumstances calculated to cause or condone to his (sic) seduction, corruption or prostitution”.

The 2008 CEACR Individual Direct Requests also raise concerns pertaining to the above legislation. First, Section 3(a) of the Immorality Act only pertains to parents or guardians who offer or procure a child for prostitution: “Although these legislative measures prohibit parents or guardians from offering or procuring a child for prostitution, they do not prohibit the offering or procuring by persons other than parents or guardians and they do not prohibit the use of a child for prostitution”. Secondly, the Act is gendered in that it only applies to females engaged or procured for prostitution which does not comply with the Convention which “requires a prohibition in respect of both boys and girls”. Thirdly, the stipulation that the offender is someone three years older than a child for the production of pornographic material in Section 14 of the Combating of Immoral Practices Act 1980 as amended in 2000, is too limiting as “the Convention applies to any child under the age of 18 years irrespective of the age of the offender”. Lastly, the legislation does not prohibit the use of children for illicit activities such as the production and trafficking of drugs.<sup>120</sup>

### **3.5.3. Government Interventions**

#### **Investigation of the offence:**

Section 2 of the Police Act 19/1990 grants the powers of investigation to the Namibian police under the Inspector General of the Police as appointed by the President. The Namibian Police have a Crime Investigation Division, which has criminal, administrative and specialised units pertaining to drug enforcement, crime information, commercial crime, serious crime investigation and the protection of women and children. The police

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<sup>120</sup> CEACR, Individual Direct Request concerning the Worst Forms of Child Labour Convention, 1999 (C. 182). Namibia (ratification: 2000), Submitted: 2008

are mandated to use different investigative techniques, including undercover operations, use of informers, interception of telecommunications, electronic surveillance and search and seizure of property. The Anti-Corruption Act of 2003 also established an Anti-Corruption Commission with investigative powers.<sup>121</sup>

Barry outlined some of the problems faced in investigating offences related to human trafficking. First, not only are border posts understaffed, but the capacity of law enforcement officials in this field is limited:

“Law enforcement officers are not skilled or trained to even detect the presence of human trafficking or trafficking victims within our jurisdiction. Currently no investigations or prosecutions are being conducted in respect of human trafficking and its ancillary offences. There is a dire need to train law enforcement officers...”<sup>122</sup>

It is important to note the training that the UNODC Regional Office in Southern Africa started in September 2007.<sup>123</sup> A total of 102 police officers from The Namibian Police’s Women and Child Protection Unit and 25 Ministry of Health social workers have also received specialised training in providing services to victims of sexual abuse.<sup>124</sup>

Secondly, law enforcement officials have poor technical and material capacity in that they lack technology required for electronic surveillance equipment and they have limited financial and material resources to investigate cases. Thirdly, Barry highlights the existence of corrupt customs and immigration officials, which contribute to “porous borders”.<sup>125</sup>

Lastly, transnational crime groups are extremely organised, and it is difficult to trace and apprehend their ringleaders.<sup>126</sup>

In 2008, at a Working Group meeting on Trafficking in Human Beings in Windhoek, as initiated by Interpol, to ensure a greater degree of coordination and information exchange among law enforcement officials in the fight against human trafficking,<sup>127</sup> the Deputy Inspector-General for Administration at the Namibian Police, Major-General James Tjivikua, criticised legislation currently being used in the region as “outdated” and sentences “ridiculously low”.<sup>128</sup> He stated:

“The fragmented legislation presently being utilized in the countries of the region is firstly antiquated, having been promulgated before this new phenomenon, and

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<sup>121</sup>Zenobia Beatrix Barry, (2007) “Challenges in the investigation..”, p. 80

<sup>122</sup>Ibid., p.81

<sup>123</sup>Ibid., p. 81

<sup>124</sup>Trafficking in Persons Report (2008)

<sup>125</sup>Ibid., p.77

<sup>126</sup>Ibid, p.81

<sup>127</sup>John Ekongo, “Human Trafficking a Headache for Police”, 24 Sept. 2008

<http://allafrica.com/stories/200809240219.html>

<sup>128</sup>Ibid

secondly the sentences are ridiculously low for such crimes widely viewed as modern-day slavery. The chances for the trafficker to be apprehended are low due to the nature of the crime, resulting in this crime being classified as high profit and low risk for arrest”.<sup>129</sup>

## **Victim protection**

Although there is no formal witness protection programme for victims of trafficking in Namibia, there are some safeguards for victims who agree to cooperate as witnesses. These are outlined in the following legislation:

- Section 153 of the Criminal Procedure Act 51 of 1997: while the witness is testifying, the media may be excluded from the court proceedings, and certain identifying information prohibited from publication.
- Article 12(1) (a) of the Namibian Constitution: On the grounds of ‘moral, public order and national security’, the press or public can be excluded from a court or tribunal hearing. Witnesses can be relocated and receive physical protection on an informal case-by-case basis.
- Section 158A in the Criminal Procedure Amendment Act 24 of 2003: Vulnerable witnesses are defined as those who are under the age of 18; victims of a sexual or indecent crime; victims of violence by a close family member, spouse or partner in a permanent relationship; or “who as a result of mental or physical disability, the possibility of intimidation by the accused or any other person, or by any other reason will suffer undue stress while giving evidence, or who as a result of such a disability, background, possibility or other reason will be unable to give full and proper evidence”. Special provisions may be made for such victims, such as giving a testimony behind a screen or in another room connected to the courtroom *via* a one-way mirror or closed circuit TV.<sup>130</sup>
- Section 166(4) of the Amendment Act 24/2003: “...the cross-examination of any witness under the age of thirteen years shall take place only through the presiding officer or judicial officer, who shall either restate the question put to such witness or, in his discretion, simplify or rephrase such questions”. This is undertaken to accommodate the developmental stages of a child.
- Co-accused or suspected persons may also turn state witness in exchange for indemnity for prosecution.

On the grounds of this legislation, the 2008 TIP Report commends Namibia for providing “protection to victims” who agree to testify against perpetrators and “a comprehensive asylum policy under which trafficking victims could seek relief from deportation to countries where they faced retribution or hardship”.<sup>131</sup> Furthermore, the TIP report highlights a referral agreement that the Namibian Police’s Women and Child Protection

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<sup>129</sup> Ibid

<sup>130</sup> Zenobia Beatrix Barry (2007), “Challenges in investigation”, p. 79-80

<sup>131</sup> Trafficking in Persons Report 2008, “Narrative on Namibia”

Unit has implemented with a local NGO, who will provide counselling to victims of trauma resulting from trafficking.<sup>132</sup>

### **International co-operation**

In Namibia there is a formal framework for mutual legal assistance and international cooperation, laid out in the International Co-operation in Criminal Matters Act 9 of 2000. This legislation facilitates the following:

- Transnational provision of evidence;
- Transnational execution of sentences;
- Confiscation and transfer of proceeds of crime between Namibia and foreign States.
- Mutual legal assistance or extradition, when accompanied by bilateral or multilateral agreements (Section 27 and 33): Namibia has made four requests for legal assistance to Latvia, Poland, South Africa and the United Kingdom, and has received and processed three requests from Angola, Botswana and South Africa.<sup>133</sup>

Namibia is also a signatory to the SADC Protocol on Mutual Legal Assistance on Criminal Matters and the SARPPCO<sup>134</sup> Agreement in respect of Co-operation and Mutual Assistance in the Field of Crime Combating. This enables investigation, search and seizure by a police officer in another member State, with national police assistance.<sup>135</sup> The SADC Secretariat has also recently (February 2009) proposed a project on capacity- building around the implementation of the United Nations Convention against Transnational Organised Crime and its additional protocol to prevent, suppress and punish trafficking in humans – especially women and children<sup>136</sup>. Namibia, Botswana, Malawi and Swaziland will be piloted in the first phase, which may be extended to other countries.

Furthermore, mutual assistance is facilitated by informal agreements not enforceable by law such as the SARPPCO Response to Trafficking in Persons. This includes the establishment of joint task teams and transnational partnerships with intelligence services, departments of immigration and Interpol. In 2002 member countries were asked to submit information and reports to the SARPPCO Secretariat for the Sub-Regional Interpol Bureau, but this was not undertaken.<sup>137</sup>

### **Prevention**

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<sup>132</sup> Ibid

<sup>133</sup> Zenobia Beatrix Barry (2007), “Challenges in investigation”, p. 82

<sup>134</sup> Southern African Regional Police Chief Council Organisation

<sup>135</sup> Zenobia Beatrix Barry (2007), “Challenges in investigation”, p. 82

<sup>136</sup> Wezi Tjaronda (12 February 2009), “Government plans to research local human trafficking”

<sup>137</sup> Ibid, p.82

In terms of activities around the prevention of child-trafficking, the 2008 TIP Report highlighted the following initiatives<sup>138</sup>:

- The Ministry of Labour partnering with the Namibia Agricultural Union and the Namibia Farm Workers Union to conduct awareness-raising against child labour.
- Labour inspectors being trained on identifying worst forms of labour
- The national conference on child labour in January 2008
- The initiatives in this area of the Ministry of Gender Equality and Child Welfare and the Ministry of Health and Social Services.

In Namibia's Country Report on the African Union Declaration on Gender Equality, Action 4 as proposed by the Ministry of Gender Equality and Child Welfare, includes that within two years it shall incorporate the initiation of "public campaigns against gender-based violence as well as the problem of trafficking in women and girls".<sup>139</sup>

The TECL Report outlines actions related to awareness-raising, information dissemination and training on child-trafficking using the mass media, schools and churches; the creation of community-based reporting and referral mechanisms; and the provision of technical assistance to immigration and customs officials, labour inspectors, social workers and police officers to identify and investigate cases of human trafficking.<sup>140</sup>

### **3.6. Conclusion**

An analysis of the literature and policy documents on human trafficking in Namibia leads to the following conclusions:

First, a number of examples and case studies provide evidence to suggest that trafficking of persons does occur transnationally and within Namibia. However, since this evidence is not verifiable and is often anecdotal and based on hearsay, it is difficult to conclude with certainty that they constitute more than 'suspected' cases of trafficking.

Secondly, the absence of definitional clarity hinders attempts to draw conclusions around the incidence and prevalence of human trafficking, because different studies which use different definitions in their methodology and analysis, often provide contradictory conclusions. Such confusion not only undermines attempts to identify cases of trafficking but also minimises the power of evidence that could be used in advocacy, policy-making and interventions around counter-trafficking.

Thirdly, there has been an evolution in official statements around the existence of human trafficking. Since 2007 there has been heightened recognition that it may be occurring,

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<sup>138</sup> Trafficking in Persons Report, 2008

<sup>139</sup> Ministry of Gender Equality and Child Welfare (2006) "Namibia's Country Report on the African Union Declaration on Gender..."

<sup>140</sup> Ministry of Labour and Social Welfare and ILO's TECL Programme (2008) "Action Programme on the Elimination of Child Labour. Namibia, 2008-2012". TECL Publication No. 96. Windhoek: Namibia., p. 87

although all statements are qualified with phrases related to unsubstantiated evidence and the absence of official reporting.

Fourthly, the absence of official reporting is related to the absence of legislation directly criminalising human trafficking. The existing legislation on transnational crime which outlaws it directly, is not yet enforced, and is not comprehensive enough to cover victims' rights, the different needs of adults and children, and the plethora of interventions which are required beyond investigation, including identification measures, assistance, referral, reintegration of victims, follow-up and general prevention.

Lastly, the Namibian Government, together with INGOs, NGOs and other civil society actors, has an important role to play in preventing and combating human trafficking at a regional and national level. However, in order to do so, more in-depth qualitative research is necessary to understand the extent and magnitude of the trafficking of adults and children in Namibia.



## CHAPTER 4

### RESEARCH METHODOLOGY

#### 4.1 Research Design and Sampling

Interviews were conducted with government officials, NGOs, civil society, traditional authorities and leaders, and the private sector, as well as key informants such as truck drivers and community members, at large. Interviews in Windhoek also included representatives of international organisations, United Nations (UN) Agencies, development partners, the University of Namibia (UNAM) and the media. Stakeholders included experts in a wide range of fields including human rights, child labour, law enforcement, migration, border control, community activities and gender issues. More than 100 individuals were interviewed either individually or in focus groups, using a semi-structured format and a set of guiding questions.

The four-person assessment team was divided into two sub-teams to travel to sites in the northern and southern parts of the country. These sites were selected by both the government and the team members, based on findings of other studies and investigations. Interviews were conducted in eight of the 13 regions in Namibia. The sites visited are Khomas Region (Windhoek); Ohangwena Region (Oshikango, the border post); Oshikoto Region (Ondangwa); Caprivi Region (Katima Mulilo, Ngoma, Wenela and the border-posts); Kavango Region (Rundu, Calai and Katwitwi border-posts); Karas Region (Keetmanshoop, Karasburg, Ariamsvlei- and Noordoewer border-posts); Erongo Region (Swakopmund and Walvis Bay); and Omaheke Region (Gobabis and Buitepos/Trans-Kalahari border post).

The interviews covered four basic areas: (1) general knowledge of the respondent about human trafficking; (2) prevention initiatives; (3) prosecution, policing and the legal framework; and (4) protection and victim-assistance. The interviews employed an internationally accepted definition of trafficking, in line with the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime* (Palermo Protocol). The aforesaid definition states:

(a) “**Trafficking in persons**” shall mean 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 the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. (Article 3)

The definition contains three elements:

1. Acts (*recruitment, transportation, transfer, ...*)
2. Means used to commit those acts (*by means of the threat or use of force or other forms of coercion...*)
3. Purposes (*for the purpose of exploitation [which] shall include, at a minimum, the exploitation of the prostitution of others...*)

The subsequent paragraph of article 3 of the Palermo Protocol provides that:

*(b) The **consent** of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.*

In the Palermo Protocol, consent is irrelevant if it is obtained by means of coercion, deceit<sup>141</sup>, including abuses of power without physical force. This applies to cases when individuals consent initially (e.g. to migrate or work) but are then subject to exploitation. If there is no realistic possibility of free and fully informed consent being given or refused, it amounts to trafficking<sup>142</sup>. The question of consent is irrelevant in the case of a child, as outlined in Article 3 (c) of the Palermo Protocol:

*(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article*

In accordance with the Convention on the Rights of the Child (CRC), the Palermo Protocol defines a “child” as *any person under eighteen years of age* (article 3 (d)).

The exploitative outcome need not be fulfilled for it to constitute a case of trafficking, if the intent is discovered. According to the Palermo Protocol, exploitation may include:

- Sexual exploitation (including the exploitation of prostitution of others or and other forms of sexual exploitation – such as pornography and forced marriages)
- Forced labour or services<sup>143</sup>
- Slavery<sup>144</sup> or practices similar to slavery, servitude or
- The removal of organs<sup>145</sup>.

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<sup>141</sup> Deception can relate to the nature of the services to be performed as well as the conditions under which the person will be forced to perform such services.

<sup>142</sup> This applies also to those persons who entered prostitution voluntarily and were later subjected to work under coercive or slavery-like conditions by any means set forth in Article 3 of the Palermo Protocol.

<sup>143</sup> Defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (Article 2 (1) *ILO Convention No. 29 Concerning Forced Labour*)

<sup>144</sup> Defined as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (*Slavery Convention, 1927*)

<sup>145</sup> The Palermo Protocol does not specifically mention the recruitment of children for hazardous work or illegal adoption. However, in accordance with other binding international legal instruments, States should

In Article 3, border crossing is not included as a constituting element of ‘trafficking in human beings’ because trafficking may occur within countries for the purposes of exploitation.

## **4.2 Research Instrument**

For the purpose of the research, the following research instruments were employed:

- Key stakeholders interviews
- Individual interviews
- Focus Group Discussions (FGDs)
- Observations
- Semi-structured interview questionnaire. However, particular questions and terms were constantly adapted to fit respondents from various institutions.<sup>146</sup>

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take action to stop any person under 18 from being employed in hazardous work and from being adopted in violation of the applicable international law on adoption (respectively, the *ILO Convention 182*, on *The Prohibition and immediate Action for the Elimination of the Worst Forms of Child Labour* and the *Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption*).

<sup>146</sup> Refer to list of institutions cited for interviews

## **CHAPTER 5**

### **RESEARCH FINDINGS**

#### **5.1. Interview Findings – The North**

##### ***5.1.1. General Knowledge of Trafficking***

The term trafficking was a new concept for many people, and it was better known among the Woman and Child Protection Unit (WCPU) officials and social workers than by the other stakeholders interviewed. Officials of the WCPU and social workers were able to define the concept in line with the internationally accepted definitions, and demonstrated a sound understanding of the concept and the practices. There was, however, a wide variance in knowledge, even within Ministries and other institutions, e.g. some immigration officials had an excellent knowledge of the elements, dynamics and practices employed in victim identification and assistance of trafficking, while others had never heard of the term. Invariably, those who gave the most accurate description of trafficking and its dynamics had participated in specific training on the issue.

While some people have not heard of the term trafficking before this assessment, when the term was explained to them, it became apparent that they are aware of trafficking practices, especially in Asia and other parts of the world, but not locally in Namibia. The community was noted as a valuable source of information on trafficking locally, by both the police and other respondents. Through community meetings the police sensitise the community to report any strange happenings in their local jurisdiction, and the community has been very cooperative in reporting crime generally, as noted by the police. The MGECW social workers also undertake community outreach programmes to sensitise communities on various issues, trafficking being one of them. Most respondents cited workshops, the media (e.g. CNN, newspapers), NAMPOL, the Ministry of Home Affairs and Immigration, and MGECW as sources for information on trafficking. As one respondent stated:

“All that I know about trafficking, I heard through the media”

Only one respondent in the northern interviews mentioned receiving information from an on-line Internet source, such as Google.

The lack of knowledge on trafficking, and confusion regarding what constitutes trafficking in persons, is underscored by the conflation of trafficking, smuggling, and migration (whether legal or illegal) in the Namibian context.<sup>147</sup> The failure to distinguish between these concepts, and the consequences for trafficking victims, were summarised as follows:

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<sup>147</sup> Smuggling must be illegal movement of persons across an international border and involves a violation of State sovereignty, whereas trafficking may be domestic or international, and is a human rights violation against the individual victim. Migration is simply the movement of people from one location to another, and may be either legal or illegal.

*“If a suspected victim of trafficking is found in Namibia without legal documentation, such a person is arrested and charged under the Immigration Act as an illegal immigrant.”*

Most respondents noted that due to the economic situation and the high level of unemployment, victims are promised jobs or (better) education, which is referred to as “greener pasture” syndrome. This scenario was cited as being used in the case of movement of people to Angola, which is currently seen as have a thriving economy. Family members may also facilitate the movement of their children due to poverty, or through traffickers deceiving them and exploiting their hopes to improve the lives of their children.

Most respondents described Namibia as a country of origin, transit and destination for victims. However, some asserted Namibia is predominantly a transit nation since it is strategically located immediately adjacent to South Africa, a country of destination for the entire region, while others felt it is exclusively a country of destination.

The vast majority of respondents in the north stated that women and children - both boys and girls - are the most vulnerable and at risk of being trafficked. As one respondent puts it: “they are considered to be the weaker ones in society”. Orphans and vulnerable children (OVC) and child-headed households were seen to be particularly at risk since their vulnerability can be exploited by anybody. The San community was repeatedly mentioned specifically as being among those most severely exploited and even trafficked internally for farm labour.

### **5.1.2. Prevention Initiatives**

There were mixed responses on whether the government acknowledges trafficking as a problem in the country. For some respondents, the fact that the assessment is being conducted is an indicator that government recognises human trafficking as a problem, and is trying to respond to this crime. However, the vast majority felt otherwise as summed up by the responses of three respondents:

*“I don’t think government acknowledges TIP as a problem as there is denial on their part to accept it is happening in the country”*

Another respondent noted that by

*“the fact that there are no cases reported, government does not see human trafficking as a priority”*

The last response points to the complexities of dealing with human trafficking. This is because when trafficking does occur, many benefit immensely from the practice, be it financially or through the exploitation of cheap labour, particularly child labour in terms of cattle-herding or domestic service. The difficulty of educating and embedding the

potential dangers of trafficking within the at-risk communities was brilliantly summed up by one respondent who noted that the greener pasture syndrome, i.e. the belief that life somewhere else is better for socio-economic reasons, is a powerful lure. As he stated, when explaining the contrasting views of those who try to educate on the dangers of trafficking and migration and those most vulnerable and at-risk of falling prey to trafficking:

*“You see danger, I see bread”.*

When it came to awareness of any government plan of action on human trafficking, most respondents were in the dark on this issue. As one respondent stated:

*“Even if it is there I am not aware (of it) since nothing is happening”*

Respondents were generally unaware of any plan of action, though some assumed that there must be a plan of action if something is a national concern. When asked which governmental ministries or agencies were involved, or should be involved, in anti-trafficking activities and policy matters, the following ministries were consistently mentioned:

- Ministry Gender Equality and Child Welfare
- Ministry of Labour and Social Welfare
- Ministry of Agriculture Water and Forestry
- Ministry of Safety and Security
- Ministry of Home Affairs and Immigration
- Ministry of Environment and Tourism
- Ministry of Justice
- Parliamentary Women’s Caucus
- The Law Reform Commission
- Office of the Prosecutor-General
- Office of the Ombudsman
- NGOs working with prostitutes and child protection issues, such as the Legal Aid Centre (LAC), PACT Namibia, etc.

Limitations that were perceived as impeding the government’s ability to deal with this crime included border posts being inadequately staffed and equipped. The problems here were described both in terms of chronic understaffing, as well as the small number of personnel being realistically unable to deal with high volumes of either people or trucks crossing the borders. Furthermore, the porous nature of the borders were also alluded to, because in many parts of the north the borders are unpatrolled owing to the breadth of the northern border. The lack of trained immigration officers to deal with issues of trafficking, as well as the lack of awareness of human trafficking generally in the community, was noted. The fact that there are no photos on border passes which allow individuals to travel across the border without a passport, making it possible to sell the passes with little fear of detection, was seen as another problem. The lack of infrastructure at some border posts was also seen as a difficulty. Also mentioned was the lack of proper technical support, such as scanning equipment, which is necessary to

monitor the flow of human beings and cargo. The lack of basic technology, such as telephones and computers, was also commented on.

Many felt that the 2010 FIFA World Cup in South Africa will be a very big problem for Namibia, given the numbers of people expected to arrive in South Africa, and the fact that Namibia might be used as a training ground for some of the visiting teams. The implications for trafficking were, in many cases, viewed as the down-side to a fundamentally positive event. As noted by one governmental respondent,

*“development is always welcome, but it is also followed by problems”*

Not all respondents were pessimistic, since some saw no problems nor had any fears pertaining to negative consequences resulting from the World Cup.

*“it would just be normal ... people moving across the border to South Africa, and some would even get employment and maybe would not return to their county of origin”*

Unfortunately, this rose-coloured view of 2010 is exactly what many fear would make people vulnerable to being trafficked. NAMPOL, sharing concerns over 2010, has taken initial steps in preparation for 2010, one of which is recruiting more officers to increase the numbers of the police, and coordinating interventions at the regional level through the Southern African Regional Police Chiefs Cooperation Organisation (SARPPCO), and Interpol at the global level.

Questions concerning the role of the media in preventing trafficking as well as educating people on the subject, were met with mixed responses. Some opined that the media were not always helpful, and in some instances actually counterproductive to anti-trafficking efforts, since it might be the source of fraudulent “help wanted” advertisements which might lead to the recruitment of potential trafficking victims. However, many community members felt that the media could be used as a tool to educate, and could complement government efforts in anti-trafficking campaigns. Predominantly, there was agreement that the media could be a significant partner in government initiatives on human trafficking in Namibia

When asked about anti-trafficking campaigns carried out during the last year, the vast majority of respondents stated that they had not seen nor heard of any awareness-raising campaigns on trafficking. A small number had, however, seen the anti-trafficking pamphlets distributed by the MGECCW, while some respondents in the Kavango region had posters on human trafficking from the IOM, which they received through the LAC. However, these posters were intended to reach a South African audience, as evidenced by contact/hotline numbers of South African assistance centres listed, and which victims or witnesses should call.

### **5.1.3. Prosecution, Policing and Legal Framework**

Respondents were asked whether they are familiar with the legal framework used for dealing in trafficking, or suspected trafficking cases. Some pointed out that since there were no existing laws on human trafficking in Namibia, it is difficult to prosecute traffickers and to keep statistics of prosecuted cases.<sup>148</sup> Presently, various pieces of legislation are used to prosecute sex-trafficking, which offenders are dealt with under the Combating of Rape Act, while labour trafficking is prosecuted under the Labour Act. The Immigration Act was also cited as a possible source of legal recourse.<sup>149</sup> None of the respondents reported statistics of cases for 2008. In this regard a respondent stated:

*“It would be very difficult to get the statistics on trafficking... police don’t have those statistics as they are maybe recorded as illegal immigrants or missing persons.”*

Individuals were asked whether they had attended any training or workshops on trafficking. In addition the researchers enquired about the legal framework which might support trafficking investigation and prosecutions. Some Immigration and WCPU officials reported having undergone a week-long training programme on various crimes, of which trafficking was one component. The police also receive basic training on human trafficking during their basic police training at the Police College but, as was emphasised by one respondent: *“it’s very basic, focusing on all the different crimes”*. A small number of respondents had attended training offered by NGOs or international organisations, but they were unable to provide details of such training.

When asked about corruption on the part of government or government’s perceived tolerance of trafficking, responses varied from a resounding ‘no’, to ‘not aware of any’ or ‘never heard of any’, among respondents.

### **5.1.4. Protection and Victim-Assistance**

Children were seen as particularly in need of assistance, and were reported as being involved in child labour in the Ohangwena-, Caprivi- and Kavango regions, on farms. The HIV and AIDS pandemic have exacerbated their situation by depriving many children of their parents. Respondents stated that the care of OVC varies from family to family, with some extended family members taking very good care of OVC, while others simply neglect these children or even abuse them, even though no reporting of trafficking these children occurred. It was noted by some of the respondents that the very strong extended family support system is being eroded by poverty, greed and selfishness. It was also stressed that there are no facilities or shelters visited in the regions which cater for victims of sexual violence generally, not to mention trafficking, except for the Zion Shelter in the Caprivi region, 12 km outside Katima Mulilo.

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<sup>148</sup> It must be noted that the Prevention of Organised Crime Act was implemented on May 5, 2009 only, after the conclusion of the interviews.

<sup>149</sup> Immigration Control Act, Act no.7 of 1993.



## **5.2. Interview Findings – The South**

### **5.2.1 General Knowledge**

It emerged that there is no clear definition of trafficking. Much confusion concerning the nature of trafficking became evident during the interviews. Many respondents did not understand that trafficking could be either international or domestic, and that trafficking involved not only organised crime, but also individuals and family members. Many also did not realize that men as well as women and children could be trafficked. Those who were aware of trafficking had a considerably greater awareness of trafficking for sexual exploitation than for other purposes, such as labour, forced marriage or body parts/organs. Both television and newspapers were cited as a source of information about trafficking.

Initially, many said that trafficking does not happen, but would - during the course of the interview - change their opinion as the discussions moved towards fact patterns found in trafficking. Many stakeholders felt that trafficking might be happening, but because of a lack of research and evidence, they could not state with conviction that it is an issue. They pointed out too that much “evidence” is based largely on hear-say. For example, one respondent claimed:

“Without information, this issue is difficult for us to take on.”

Most respondents denied knowledge of trafficking in the southern regions, but referred repeatedly to trafficking in the northern regions. However, some respondents alluded to the trafficking route to the Capital city.

“Sometimes the children are brought to Windhoek for work. Bosses use the birth certificates of their own children when they are stopped by patrols. Because children don’t know how to go back, they don’t run away.”

It must be noted, though, that some respondents had an acute awareness of trafficking. Those who did, noted the clandestine nature of the crime and the likelihood of under-reporting :

“It’s a hidden world. Once you start probing it, you would be surprised at the extent...”

In the border towns, human smuggling was perceived as a more serious problem than human trafficking. It was also noted that there were high levels of movement among prostitutes - both involved in sex work and adult prostitutes - with truck drivers. The stakeholders recognised risks and the potential for rape, further exploitation and trafficking.

### 5.2.2 Prevention Initiatives

While the need for prevention is universally acknowledged, very little was noted in terms of actual awareness of prevention campaigns or initiatives, whether directed at the community-at-large or specifically at foreigners/tourists. However, the role of the media was mentioned:

*“The media can help by reporting on the issue, creating awareness, giving people access to information and making practical examples of what actually happens, so that people can relate to each other and the problem.”*

As one respondent advised:

*“You must make the people aware of trafficking. Maybe from there you will get more results. Maybe it is happening but we do not know about it.”*

The prevention concepts that were advocated for include community mobilisation campaigns and education. Specific mention was made of the need for prevention education that involved all stakeholders. It was also noted that prevention campaigns must specifically include parents and target the rural communities:

*“We need workshops in the rural regions where, as a parent, I don’t realise that I am injuring my child by making him bring in the bread.”*

The importance of targeting farming communities was also noted, as part of a targeted prevention of labour trafficking- and exploitation campaign.

When identifying those leading the effort to prevent trafficking, the MGEWCW was noted as being at the forefront, but with the caveat:

*“The Ministry of Gender is trying to help but this is a national catastrophe and should be dealt with by all Ministries, regional councils and parliamentarians.”*

It was also stated that this research was important since it would help the MGEWCW devise a strategy to prevent the problem.

Prevention initiatives must identify risk factors in order to best target their campaigns and resources. Identification of the risk factors which make potential victims vulnerable to being trafficked include patriarchy and poverty, and the impact of HIV/AIDS. The importance of addressing patriarchy in prevention campaigns was aptly summarised by one activist:

*“Patriarchy supports trafficking as women are not the owners of their own bodies and destinies. There is no outrage about domestic violence and rape. The law on rape is not in the hearts and minds of people.”*

Prostitution of adults and children was reported as being prevalent, despite being illegal. The difficulty of working on prevention with this at-risk community was summed up succinctly:

*“You can talk to commercial sex workers and tell them of the dangers, but what can you do to assist them? They will just respond, ‘can you give me another job’? We need income-generating activities.”*

The role of the media in prevention initiatives was noted too:

*“The media can help by reporting on the issue, creating awareness, giving people access to information and making practical examples of what actually happens, so that people can relate to each other and the problem.”*

Faith-based organisations and their influence in terms of prevention, was also highlighted.

*“The church should play a leading role [in counter-trafficking campaigns,] as people listen to their pastors.”*

Risk factors, particularly in the border towns, include alcoholism, unemployment, domestic violence, gender-based violence and leaving/dropping out of school. As one respondent stated:

*“We need more focus and awareness-raising around township life. As a child growing up there you are demoralised, especially when you see how others are living. Look at domestic violence and alcoholism.”*

The San people, in particular, were seen as being at risk and disproportionately targeted for labour exploitation.

*“People take advantage of San people and they are taken to look after children, as domestic workers or after cattle posts. They are underpaid and should be in school.”*

Additional issues included the absence of public transport, which has translated into truck drivers being used as a source of transport for school children and others. This leaves those who are forced to rely on these drivers extremely vulnerable to exploitation and becoming trafficking victims. The “sugar daddy” syndrome and exchange sex among adolescents, which predisposes children to prostitution and being made vulnerable to trafficking, were also discussed.

### **5.2.3 Prosecution, Policing and Legal Framework**

Most stakeholders were not acquainted with the legal framework in place in Namibia which might be used to investigate or prosecute trafficking. Pieces of potential legislation that were mentioned included the Child Care and Protection Bill,<sup>150</sup> which is currently being revised to include prohibiting of trafficking in children.

Law enforcement officials cited an inadequate legal framework as one of many obstacles to their most efficient handling of these cases. Other challenges encountered by them on a daily basis included a lack of personnel, resources and training; poor infrastructure, inadequate technology and facilities; and a lack of procedures, coordination and the monitoring of borders. Police also pointed out fraud investigations and money laundering schemes as issues which are often linked to trafficking. Furthermore, the Police voiced concerns about people offering children jobs and education elsewhere, since there are few agreements in place with other countries to facilitate international cooperation, thus making it difficult to investigate these cases.

In the border towns there were concerns related to inadequate responses to human smuggling or trafficking as a result of a shortage of personnel; inadequate training of the personnel who were on site; inadequate equipment to scan for illegal substances, goods and people; the case of Ariamsvlei with regard to the substantial distance (17 km) between the South African and Namibian border posts; limited technology such as telephones, no computers, inadequate recording of movement which is done manually instead of on a database; and the porous nature of the border, given the geographical terrain. The lack of training on trafficking was also raised by the respondents.

In port towns concerns were raised about port security staff not having screening facilities for containers, making it difficult to detect hidden goods, drugs or human beings. Resource- and personnel constraints were again mentioned in connection with port facilities, and there was much concern over the anticipated impact of 2010, locally.

Corruption amongst officials was a cause concern especially in smuggling cases, and it is perceived to be a potential trafficking problem. Some respondents acknowledged that they had refused bribes in the form of money. Trafficking of goods was seen to be linked to trafficking of persons, and the need for a coordinated strategy to deal with these overlapping issues was expressed. Unofficial complaints about sex tourism<sup>151</sup> in coastal areas and lodges had also been lodged, even though no official investigation had been undertaken in this regard. The need for specialising in investigating cases of trafficking, and the general difficulties of investigating cases concerning missing children thoroughly, were emphasised.

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<sup>150</sup> Draft Child Care and Protection Bill, Ch. 12, Child Trafficking. MGECW, 2009. Full text available online at <http://www.lac.org.na/projects/grap/Pdf/ccpa-draft-full.pdf>

<sup>151</sup> Defined as occurring when an individual travels from one jurisdiction to another (either domestically or internationally) to engage in sexual abuse or exploitation of adults or children at the destination site.

#### **5.2.4 Protection and Victim-Assistance**

There was a general perception that the 2010 World Cup would have a negative effect on the protection of women and children, and that it might increase trafficking. Fears pertaining to organised crime targeting 2010 opportunities, were also mentioned.

Law enforcement respondents commented on the fact that there is no clear referral, assistance nor a return process for victims. The exacerbated difficulties of working with international cases were also raised. Reference was made to the perceived problem of social workers being stationed at hospitals only and not deployed to sites such as border posts, in order to work with immigration officials. It was felt that this situation hampered the provision of immediate assistance such as interviewing and identifying victims.

The lack of shelters/sites for women and children was mentioned frequently, and was seen as an imposing obstacle to providing proper victim-protection and assistance. While one new shelter in the Erongo Region is currently in the penultimate stage of readiness, this does not address the dire need of adequate facilities for victims. Reference was also made to the roles to be played by experts in assisting the victims:

*“We also need counseling for victims. Victims live forever with the trauma. Education will help, but social services officials within the Ministry of Gender should be trained on how to counsel victims to cope with the trauma.”*

### **5.3. Interview Findings – Windhoek**

#### **5.3.1 General Knowledge**

The interviews conducted towards the latter stages of the interviewing process basically followed the same pattern of the earlier interviews, with people generally demonstrating a limited knowledge of human trafficking in Namibia. Some respondents, however, were able to accurately define and explain what trafficking is. While knowledge of sex trafficking and labour trafficking was most prevalent, knowledge of trafficking in human organs or body parts was referred to by two respondents. The role of Namibia in regional and international trafficking was also noted by one respondent who stated that:

*“Namibia is key in a possible chain of organised crime between Angola, Brazil, Columbia, the Democratic Republic of the Congo, South Africa, Zambia and Zimbabwe.”*

The international as well as domestic vulnerable groups mentioned by respondents were Angolan-, Zambian- and San children, all being held up as being vulnerable to trafficking for farm labour and cattle herding, as well as working in the charcoal industry.

The reality of the family's participation in trafficking, was also recorded, as respondents underscored examples of parents trafficking their children as well as other relatives involved in trafficking. As one respondent stated:

*“There is a general belief that a husband can't traffic his wife – the question is, what was the ultimate reason for marrying her?”*

Sources of information on trafficking that would be to the advantage of the respondents included the media, the LAC, IOM, the Human Rights Commission, Immigration, trade unions and the MGECW. In Windhoek, two respondents indicated that they had accessed information via the Internet. However, one respondent correctly noted that such information would be general rather than Namibia-specific.

### **5.3.2 Prevention Initiatives**

There was a clarion call for training and awareness campaigns and programmes which address trafficking in Namibia, and which will be backed by a comprehensive law and policy that would coordinate the activities of all the relevant stakeholders. The concern was raised in some quarters that while much work seemed to be done on human trafficking, information was not shared between agencies or Ministries, resulting in the efforts not being collective or as productive and successful as they could be. Some stakeholders lamented the fact that efforts are rather fragmented at the moment, and need consolidation in order to have a national response to the issue of human trafficking in Namibia.

One of the recommendations which was repeated constantly during the interviews was that all related agencies work together as partners instead of viewing the other as a threat. By working together as partner agencies working towards the same goals, would add value to any anti-trafficking initiative. Collaboration and networking would reduce duplication of efforts and reduce frustration among the stakeholders. The stakeholders also requested more interaction with the MGECW. Also, a call was made for greater coordination that would extend beyond Namibia's borders, to the SADC region. An agency such as INTERPOL was mentioned specifically in terms of sharing data, information and intelligence with the local or national police force. One respondent noted however, that at a regional level this required:

*“a willingness to give up a piece of your sovereignty to the SADC, and we are not prepared to do that.”*

The main challenges to prevention of trafficking were seen as unemployment and an educational system that fails to address and stem the tide of high dropout rates. This was seen as resulting in a large number of young people who were particularly vulnerable to trafficking, since they had limited access to meaningful alternatives.

Additionally, the media were mentioned as a critical source of information dissemination in any anti-trafficking campaign. It was also noted, however, that the media should be

particularly sensitive in its reporting of trafficking matters by not sensationalising the issue, but rather deal with it in a manner that helped the readers, viewers or listeners become more aware and informed. Using the media to stimulate debate and forums on trafficking, was also mentioned.

### **5.3.3 Prosecution, Policing and Legal Framework**

As mentioned above, respondents repeatedly called for comprehensive legislation to address this issue. Training on trafficking was perceived as being non-existent. When asked about corruption of government officials, there were no reported instances of corruption but, as one respondent observed, there is always that potential and, therefore, monitoring is essential. Trafficking in Namibia was also not perceived as being rooted in organised crime networks, but instead perpetrated by individuals or small groups of individuals, such as family members or small syndicates.

The difficulties in policing porous borders were also emphasised by a number of respondents. In this regard the sheer size of the border areas was underscored, as well as a lack of sufficient personnel and infrastructure to effectively carry out their mandate. The need for more personnel in policing, generally, was also noted, as was the need for reinforcing all existing border posts.

### **5.3.4 Protection and Victim-Assistance**

The lack of adequate shelter facilities for victims of gender-based violence (GBV), generally, was used to support the call for more shelters, especially those that cater for trafficking victims. Psycho-social counseling and legal- and medical assistance were also cited as resources which had to be increased. As one respondent stated:

*“the only shelter I know of is the Woman and Child Protection Unit’s, which is grossly under-prepared and already overburden[ed] by GBV.”*

The other consistently echoed response was the need for creating employment opportunities for the youth. This would not only diminish vulnerability to becoming a trafficking victim, but also facilitate the rehabilitation of those youth already victimised.

## **5.4. Analysis and Findings**

### **5.4.1 Instances of Trafficking**

Cases of trafficking identified in the north presented the following facts:

- Trafficking for child-labour exploitation - in Katima Mulilo, a Zambian man is paid by Namibian farmers to recruit small boys in Zambia and transport them to work on the Namibians’ farms. This network was investigated by the police. Unfortunately, the recruiter had returned to Zambia prior to law enforcement intervention. The young boys were sent back to Zambia and the farmers who were

exploiting them, were warned by the police. Unfortunately, since both the victims and the recruiter had returned to Zambia, prosecution was not pursued.

- Trafficking for child sexual exploitation - in Rundu, reports were received of Angolans capturing young girls in Divundu, and then taking them into Angola, where they are sexually exploited.

Instances that were identified by the Southern Team presented the following facts:

- Trafficking for child-labour exploitation - Angolan and Zambian parents sent children to work in Namibia under abhorrent circumstances, and with the assistance of intermediaries. Zambian children were being employed as domestic workers, child-minders and farm workers.
- Trafficking for adult sexual exploitation - Women from Zimbabwe are being brought into Namibia - through deception - and forced to engage in prostitution.
- Trafficking for child sexual exploitation – In Walvis Bay, a mother was using her teenage daughter from the North for sexual exploitation, through forced prostitution. The mother invited her daughter to leave her father under the pretext of care, education and work. Upon arrival in Walvis Bay, the girl was forced into prostitution, with all earnings going to the mother. The Southern Team alerted Social Welfare staff of this case of trafficking.
- Trafficking for child labour and child sexual exploitation – internal trafficking from the Caprivi and/or Kavango regions to the South (Ousikeer Grape Farm) of Namibia, and then used as little mothers/child-minders/babysitters. Their income is given directly to their mothers. The girls are denied education, are sexually abused and exploited by men, resulting in the girls becoming pregnant.

Instances of trafficking were disclosed in the final Windhoek interviews, yielding the following facts:

- A German national married a Namibian and took her to Austria, where, upon arrival, he forced her into prostitution. This case was referred to as a case of trafficking by two governmental respondents. The victim has returned to Namibia.
- A prostituted woman from Katutura described how she was given travel documents and money to go to Cape Town for a conference, but when she arrived in Cape Town was forced into a brothel. When she became sick, she was thrown out onto the street by the brothel owner. She sought assistance and was able to return to Namibia.



#### ***5.4.2. Suspected or Possible Cases of Trafficking***

There were numerous reports of cases that might have involved trafficking, but the facts of the case were too nebulous to make a certain decision. One example is the report of border personnel arresting two Zambian men trying to cross into Namibia with ten Congolese men. However, since the ultimate intent of trafficking could not be proven, the Zambians were charged with immigration violations and returned to Zambia. Other instances involved border officials discovering people hidden in trucks trying to cross the border into Namibia. Since this might be trafficking, or smuggling, or it might simply be illegal migration, it cannot definitely be identified as trafficking.

When it came to cases of child-trafficking, there were suspected cases of Angolan boy-children coming to Namibia for cattle herding, goat-herding and to work on farms, as well as children from Katima Mulilo being moved to engage in cattle-herding and domestic labour in personal residences. However, because there was no available confirmation that the children had been recruited for this work, it merely remained a suspected case. There were also reports of San children being trafficked internally for domestic service but, again, confirmation was not possible.

One of the major difficulties in assessing potential trafficking cases is the lack of definitional clarity that both lay- and professional personnel have of the elements of trafficking. Throughout the country there was a consistent and prevalent lack of understanding of the term, especially the conflation of trafficking with other crimes or activities. This confusion should not come as a surprise, since even the researchers and experts of these issues subscribe to different definitions.<sup>152</sup> Some are very restricted, such as one that identified cases of trafficking in children occurring only if a child was held under “slave-like” conditions.<sup>153</sup>

Also, confusion pertaining to the terms “trafficking,” “smuggling,” and “migration that ends in exploitation”, must be eliminated. Trafficking may be entirely domestic or it may be across international borders. It is a human rights violation and a crime against the particular person being victimised. Smuggling, in contrast, is a crime against the State and must, by definition, be international. It involves taking a person or persons, usually for compensation in cash or in kind, across an international border and releasing them in that other country. However, it must be noted, that a case can begin as smuggling, but if the individual(s) is not released after crossing the international border, it can become a trafficking case.

Migration that ends in exploitation occurs when an individual freely moves from one location to another, within or between countries, but is ultimately exploited at the destination. As one research author has summarised:

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<sup>152</sup> See Literature Review, Annex A, at pp 9 - 15, for fuller discussion of various definitions used by researchers.

<sup>153</sup> Ministry of Labour and Social Welfare and ILO’s TECL programme (2008) “Action Programme on the Elimination of Child Labour. Namibia, 2008-2012”. TECL Publication No. 96. Windhoek: Namibia

“When the movement of a child was not intended to result in exploitative labour but the child, nevertheless, becomes involved in [exploitative] child-labour, this does not amount to child-trafficking. It may still be regarded as a migration-related form of exploitation and one of the worst forms of child labour”.<sup>154</sup>

#### 5.4.3. *Risk Factors of Trafficking*

Factors that put individuals at risk of becoming trafficking victims were identified and grouped into three categories: macro factors, interpersonal factors and individual factors, in line with the conceptual framework accepted in the initial capacity-building training. There is a complex interplay of these factors, which makes any discussion on them more about their correlation with findings of trafficking, rather than one of simple causality.

Macro factors included:

- Patriarchy
- Poverty
- HIV/AIDS
- Organised crime networks that, according to respondents, link drug trafficking to that of humans
- Norms that support the use of violence against women, children and the marginalised
- Cultural practices that are harmful or disempowering to women and children
- Sex tourism, described as occurring when an individual travels from one jurisdiction to another (either domestically or internationally) to engage in sexual abuse or exploitation of adults or children at the destination site
- Infrastructure issues such as; lack of public transport resulting in trucks being the main form of transport; control and security at borders and ports; a lack of technology, including computers, screening equipment for cargo, phones; and, a shortage of trained personnel to deal with trafficking cases
- Regional issues, such as Zimbabwe’s deteriorating political situation, socio-economic differences between specific countries in the SADC region, and the 2010 FIFA World Cup.

Currently, throughout Southern Africa, one of the highest profiled issues of concern in relation to trafficking is the FIFA World Cup to be held in 2010 in South Africa. *Molo Songololo* (Molo), a South African NGO, recently completed a rapid assessment on the effects of trafficking and the FIFA World Cup.<sup>155</sup> Their assessment identified a number of factors that may lead to greater exploitation and trafficking risks for children. Reports about past sporting mega-events in Greece, Germany and Canada suggest there is evidence to support a correlation between these events and an increase in trafficking in persons. These reports recommend awareness-raising, enforcement and victim-

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<sup>154</sup> *Id.* at 5.

<sup>155</sup> *Molo Songololo* (2008) “Rapid Assessment of impact of 2010 FIFA World Cup on child abuse, exploitation and trafficking”, completed by Southern Hemisphere Consultants

identification/assistance training as a preventative measure. *Molo Songololo* suggests that the 2010 event may also exacerbate existing gaps in the child protection system in impoverished and outlying areas, particularly when there is a large influx of people, short-term increase in demand for sexual and labour services, a rise in organised crime, relaxed visa- and border control, rural-urban migration, and countless poverty-stricken children seeking to work and survive. In terms of borders, *Molo Songololo* lists Namibia as one of the “danger zones for children.”<sup>156</sup>

Interpersonal risk factors included:

- Gender-based violence;
- Crimes against children;
- Reliance on children for income;
- Peer pressure; and
- Early marriage.

Individual risk factors included:

- Lack of education (school-leavers);
- Lack of marketable skills;
- Lack of positive leisure activities available; as one individual stated:

“Because nothing is happening here, kids are growing to be ladies and men quickly. It will be a problem in the future. Each and everyone is drinking, [because] they have nothing to entertain themselves. The only thing left to do is go to the tavern. Young kids are seeing us drinking, and at the end of the day, they will be drinking.”

- Sexual behaviours;
- Low self-esteem, self-efficacy and substance abuse;
- Lack of awareness of risks of work and migration; and
- Lack of birth or ID documents or other legal travel documents

The San community and their children were mentioned repeatedly and specifically as one community being disproportionately exploited and at-risk of being trafficked. As one respondent from the Kavango Region observed: “people own the San as their property”.

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<sup>156</sup> *Molo Songololo* (2009) “Hands off our children: campaign to prevent trafficking, abuse and exploitation of children during 2010”

#### ***5.4.4. Relationship of Domestic and Transnational Trafficking***

Trafficking may occur entirely within a country or between countries. While the focus of this assessment is on Namibia exclusively, trafficking must also be put in a regional context. Since trafficking may be transnational, it is important to review the framework within which international cooperation might take place. As set out in the Literature Review:

In Namibia there is a formal framework for mutual legal assistance and international cooperation, laid out in the International Co-operation in Criminal Matters Act 9 of 2000. This legislation facilitates the following:

- Transnational provision of evidence
- Transnational execution of sentences
- Confiscation and transfer of proceeds of crime between Namibia and foreign states.
- Mutual legal assistance or extradition, when accompanied by bilateral or multi-lateral agreements (Section 27 and 33): Namibia has made four requests for legal assistance to Latvia, Poland, South Africa and the United Kingdom, and has received and processed three requests from Angola, Botswana and South Africa<sup>157</sup>

Namibia is also a signatory to the SADC Protocol on Mutual Legal Assistance on Criminal Matters and the SARPCCO<sup>158</sup> Agreement in respect of Co-operation and Mutual Assistance in the Field of Crime Combating. This enables investigation, search and seizure by a police officer in another member State, with national police assistance.<sup>159</sup> The SADC Secretariat has also recently (February 2009) proposed a project on capacity-building around the implementation of the United Nations Convention against Transnational Organised Crime and its additional protocol to prevent, suppress and punish trafficking in humans - especially women and children<sup>160</sup>.

Furthermore, mutual assistance is facilitated by informal agreements such as the SARPCCO Response to Trafficking in Persons. This includes the establishment of joint task teams and transnational partnerships with intelligence services, departments of immigration and Interpol.

Since many of the cases identified involved individuals (either as perpetrators or as victims) from neighbouring countries, including Angola, Zambia, Zimbabwe and South Africa, it is of the utmost importance that a coordinated response be in place to address the transnational regional dimension to trafficking.

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<sup>157</sup> Zenobia Beatrix Barry (2007), "Challenges in investigation", p. 82

<sup>158</sup> Southern African Regional Police Chief Council Organisation

<sup>159</sup> Zenobia Beatrix Barry (2007), "Challenges in investigation", p. 82

<sup>160</sup> Wezi Tjaronda (12 February 2009), "Government plans to research local human trafficking"

#### 5.4.5 *Traffickers*

The traffickers in the identified cases were predominantly individuals who engaged in this crime, as opposed to organised crime syndicates. For example, the case of the mother in Walvis Bay who used her teenage daughter - from the North - for sexual exploitation through forced prostitution, is not unexpected or atypical. Previous literature documented this same dynamic of parents exploiting their children. LeBeau<sup>161</sup> has previously documented children coming into the WCPU to complain that their parents force them into prostitution to help support the family. As was concluded in the Literature Review, in Namibia parents and relatives may replace pimps in the traditional sense, thus making the children more vulnerable to being trafficked.

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<sup>161</sup> Debie LeBeau, Dawia Bosch, Debbie Budlender and Annalize Fourie (2004), "Towards the Elimination of the Worst Forms of Child Labour". University of Namibia and ILO. Pollination Publishers: Pretoria., at 34.

## CHAPTER 6

### RECOMMENDATIONS

Based on the research findings, the Study recommends the following:

#### 6.1. Prevention

Prevention is the key component to any coordinated response to trafficking. However, prevention is more than simply awareness-raising, important though it may be. The root causes of trafficking must be identified and addressed in a larger context. Poverty alleviation, issues of social and economic vulnerability, women's empowerment, high unemployment and school-drop-out rates, alcohol and drug abuse must all be considered when addressing how best to prevent trafficking.

The prevention initiatives recommended are:

- Raise awareness of local communities through media campaigns; include faith-based organisations (FBO) in prevention campaigns and make use of faith-based venues such as churches, as sites for information dissemination; placing of posters at border posts with Namibia-specific information, prevention initiatives at transport sites and tourist hot spots; mobile campaigns to reach rural communities; and child-friendly efforts, including drama, puppetry, debate and musical activities;
- Targeted prevention campaigns and activities (e.g. life skills, positive decision-making, awareness-raising around the dangers of migration and work, peer-to-peer counseling, etc.) aimed at children who are at risk of becoming school-leavers, school drop-outs, children living and/or working on streets, children-on the move, working children, children in shebeens<sup>162</sup> and clubs, girls, children with little care, children in shelters;
- Include the media within the prevention information dissemination campaign. Ensure the media are sensitive to the dynamics and issues within trafficking and are trained on how to ensure the confidentiality of the victim(s);
- Link prevention initiatives with social protection measures (i.e. poverty-alleviation, etc.);
- Create income-generation activities for vulnerable and trafficked women;
- Target possible perpetrators and accomplices in awareness-raising campaigns, especially tourists and truck drivers;
- Coordinate prevention initiatives, both domestically and inter-departmentally, as well as from a transnational and cross-border perspective;
- Incorporate a clear strategy for 2010 World Cup into prevention efforts;
- Enhance technology, equipment and infrastructure at border posts. Improve procedures and efforts around checking of vehicles, trucks, boats, etc;
- Harmonise port security to ensure private- and public ports conform to the same safety and security standards;

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<sup>162</sup> Shebeen is a Southern African term for a drinking establishment, much like a bar.

- Enhance security at harbours and ensure that private sector shipping companies are included in awareness-raising campaigns and subjected to the same stringent immigration, customs and police checks;
- Develop a database to track movement of people and link it to Interpol's missing persons database.

## **6.2. Victim-Assistance**

Victim-assistance is an integral part of any anti-trafficking initiative and must be incorporated into the basic process of responding to cases of trafficking. Victim services must be greatly improved and expanded to better respond to the unique needs of victims of this crime. Among the topics to be addressed, uppermost would be issues of adequate shelters for victims - both adults and children. Currently there are huge areas within the country that simply do not have any shelters, but use other facilities such as hospitals, for *ad hoc* accommodation of victims. For example, there are no facilities or shelter to cater for victims of trafficking in the northern regions visited, except the Zion Shelter in the Caprivi region, 12 km outside Katima Mulilo.

Additional, trained personnel in both social work and the allied criminal justice field of policing, should be accomplished. Nationally, the WCPU is currently staffed by an exceptionally small number of professionals, who are specifically tasked to handle sensitive, extremely time-consuming and emotionally exhausting cases on a daily basis. An increase in personnel would influence the optimal completion of that task.

There must also be a clear referral protocol in place to ensure that victims are linked systematically to such service providers and a seamless provision of services is rendered. Well-trained personnel must be assigned to these facilities, and they must have adequate specialised training in meeting the needs of the particular victims. There is also a need for coordination and communication between social workers assigned to these cases, to ensure that victim-needs are addressed in an internally coherent and consistent manner.

Specific Victim Assistance initiatives recommended are:

- Increased personnel and staffing capacity of WCPU and social workers in all regions. The current numbers of Women and Child Protection Units, and the numbers of specialised professionals within those Units, must be promptly supplemented with trained personnel as a matter of urgency;
- Interview rooms for victims and witnesses that are structurally designed to ensure privacy and confidentiality of identity and information discussed;
- Additional shelters and facilities for women and children. There is an acute lack of adequate facilities and personnel in this area, which must be remedied;
- Ensure the entire police force recognises that trafficking is also a general policing responsibility, and not exclusively a gendered issue;
- Specialised training for officers on how to provide basic psycho-social care, as social workers may not be immediately available;
- Clear referral protocols that link victims to service providers;

- Creation of a standby roster of medical and social welfare practitioners who can provide immediate assistance;
- Mandatory case assessment of child- and adult victims before planning their return to their home and community, since the conditions at their place of origin may be unsafe for return;
- Accompaniment of a victim by a social worker during the return process for foreign victims, even if victim is being deported;
- Coordination and communication between social workers of different regions within Namibia and also between countries;
- Preparation of the family/caregivers for return of the victim, and education on the unique traumas that the trafficking-victim may experience;
- Provision of long-term support and follow-up on these cases;
- Build on work of existing informal- and formal community-based care networks;
- Better collaboration by State and NGO actors;
- Coordination of new programmes with those who may already be in place, or be coming into place, such as the ILO's 2008 Action Programme on the Elimination of Child Labour in Namibia;
- A nationally supported toll-free helpline.

### **6.3. Legal Framework**

Currently, the laws that might be relevant to trafficking in Namibia are fragmented and there is no one, stand-alone piece of legislation that addresses trafficking in all its forms. However, there are pieces of legislation that might be used in a particular instance of trafficking, depending on the unique fact pattern found in any such case.

The Labour Act of 2007 prohibits forced labour and provides for imprisonment of up to four years. Article 3 prohibits children under 14 years being employed entirely. Children between 14 and 16 years must be protected from economic exploitation and may not be employed for work that is likely to be hazardous, interfere with their education or be harmful to their health or physical, mental, spiritual, moral or social development. Children are also prohibited from working under the following conditions: between 20:00 and 07:00; working underground or in a mine; where construction or demolition occurs; where goods are manufactured; where electricity is generated, transformed or distributed; where machinery is installed or dismantled; or where it would place the child's health, safety or physical, mental, spiritual, moral or social development at risk.

The Combating of Rape Act of 2000 might also apply in particular cases of trafficking for sexual exploitation. Therefore, the definition of rape, as well as circumstances under which this Act might apply to a trafficking case, are as follows:

- (1) Any person who intentionally under coercive circumstances –
  - (a) commits or continues to commit a sexual act with another person; or



- (b) causes another person to commit a sexual act with the perpetrator or with a third person,  
shall be guilty of the offence of rape.
- (2) For the purposes of subsection (1) “coercive circumstances” includes, but is not limited to-
- (a) the application of physical force to the complainant or to a person other than the complainant;
  - (b) threats (whether verbally or through conduct) of the application of physical force to the complainant or to a person other than the complainant;
  - (c) threats (whether verbally or through conduct) to cause harm (other than bodily harm) to the complainant or to a person other than the complainant under circumstances where it is not reasonable for the complainant to disregard the threats;
  - (d) circumstances where the complainant is under the age of fourteen years and the perpetrator is more than three years older than the complainant;
  - (e) circumstances where the complainant is unlawfully detained;
  - (f) circumstances where the complainant is affected by -
    - (i) physical disability or helplessness, mental incapacity or other inability (whether permanent or temporary); or
    - (ii) intoxicating liquor or any drug or other substance which mentally incapacitates the complainant; or
    - (iii) sleep,to such an extent that the complainant is rendered incapable of understanding the nature of the sexual act or is deprived of the opportunity to communicate unwillingness to submit to or to commit the sexual act;...
  - (i) circumstances where the presence of more than one person is used to intimidate the complainant.

The Prevention of Organised Crime Act<sup>163</sup> (POCA) specifically criminalises trafficking in persons and prescribes up to 50 years’ imprisonment or fines of up to N\$1,000,000 for those convicted. Chapter 1 of the Act defines trafficking in persons as;

“the recruitment, 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 the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, and includes any attempt, participation or organising of any of these actions. Exploitation includes, at a minimum, the exploitation or 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”

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<sup>163</sup> Prevention of Organised Crime Act 29 of 2004.

This Act, however, has only recently been brought into force<sup>164</sup> and, as such, has not previously been available to assist prosecutors, investigators or victims. Additionally, the Act does not include any distinction between trafficking in children and trafficking in adults, in terms of the element of deceit or coercion not being necessary with child-victims. By being placed within a framework of organised crime legislation, the myth that trafficking is exclusively the domain of syndicates might inadvertently be reinforced. Finally, POCA does not include provisions on prevention initiatives or services available for victims. Therefore, it is recommended that legislation should be enacted to create a separate, statutory offence of trafficking in persons.

Finally, the Child Care and Protection Bill currently under revision, also prohibits trafficking in children and precludes consent of the child-victim or their caregiver as a defence. The draft reads:

- (1) A person may not traffic a child or allow a child to be trafficked.
- (2) It is no defence to a charge of contravening subsection (1) that –
  - (a) a child who is a victim of trafficking or a person having control over that child has consented to –
    - (i) the intended exploitation; or
    - (ii) the adoption of the child facilitated or secured through illegal means; or
  - (b) the intended exploitation or adoption of a child referred to in paragraph (a) did not occur.<sup>165</sup>

Should a court have reason to believe that a parent or guardian has trafficked, or allowed their child to be trafficked, the court may suspend all parental rights and responsibilities and place the child in a place of temporary safety, pending an inquiry.<sup>166</sup>

It also criminalises behaviour that facilitates trafficking in children.<sup>167</sup> It states that a person may not knowingly lease or sublease or allow any room, house, building or establishment to be used for the purpose of harbouring a child who is a victim of trafficking. It also prohibits the advertising, publishing, printing, broadcasting, or distribution of information that facilitates trafficking by any means, including the use of the Internet or other information technology. It requires every Internet service provider operating in Namibia to report to the Namibia Police Force any prohibited content found.

The Bill makes provision for assistance to child-victims of trafficking, including repatriating a Namibian child-victim found abroad,<sup>168</sup> mandatory referral of a child-victim to a social worker,<sup>169</sup> and repatriation of a foreign child-victim to their country of origin.<sup>170</sup>

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<sup>164</sup> The Prevention of Organised Crime Act (POCA) was implemented on May 5, 2009.

<sup>165</sup> Child Care and Protection Bill, at cl. 157.

<sup>166</sup> *Id.*, at cl. 160.

<sup>167</sup> *Id.*, at cl. 158.

<sup>168</sup> *Id.*, at cl. 159.

<sup>169</sup> *Id.*, at cl. 162.

<sup>170</sup> *Id.*, at cl. 163.

The Bill includes a mandated reporting clause<sup>171</sup> that requires immigration officials, police, social workers, medical practitioners and registered nurses who come into contact with a child who is a victim of trafficking in Namibia to refer that child to a social worker. It also exerts extra-territorial jurisdiction<sup>172</sup> over Namibian citizens, permanent residents or juristic persons/partnerships registered in Namibia who commit trafficking offenses while abroad.

While this Bill does address both prosecution and victim protection, it contains no prevention component, and has yet to be enacted, thus eliminating it from the arsenal available to investigators, prosecutors and victims. It is also restricted by its mandate to deal only with cases of trafficking in children, thus it does not grant full protection to all victims. Finally, the definition it gives of trafficking varies from that used in international instruments and that to which Namibia is committed.<sup>173</sup>

In light of the difficulties outlined above, amendments to the existing legal framework should include:

- First and foremost, enactment of a comprehensive, stand-alone law on prevention and combating of trafficking in persons, in all its forms.
- The law should specifically distinguish between adult- and child-trafficking, in terms of the elements of these two, distinct crimes.
- Terms such as “abuse of power,” “exploitation” and ‘forced labour’ should be clearly defined.
- The law should criminalise not simply the supply side of trafficking, but also the demand side, including knowingly using the services of victims. Supply and demand must be met with equally harsh punishments.
- A specific tolling of any statute of limitations on trafficking in the event of the suspect or defendant leaving the jurisdictional confines of Namibia.
- Criminalise the facilitation of trafficking.
- Victims should be immune from prosecution for crimes committed as a direct and immediate result of being trafficked, such as immigration violations.
- Prevention should be addressed, including a component on public awareness and information dissemination.
- Victim-assistance initiatives, including return and reintegration of the victim into his or her community, must be included.
- Especially in the case of foreign child victims, inclusion of a mandatory social services investigation into whether the victim can be returned to her/his country of origin without fear of re-victimisation.
- Protocols for identification and protection of victims of trafficking.
- Provision for foreign victims not to be summarily deported.

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<sup>171</sup> *Id.*, at cl. 161.

<sup>172</sup> *Id.*, at cl. 164.

<sup>173</sup> See e.g. LAC comments on this issue at <http://www.lac.org.na/projects/grap/Pdf/ccpa-draft-full.pdf>, p.9.

## CHAPTER 4

### RESEARCH METHODOLOGY

#### 4.1 Research Design and Sampling

Interviews were conducted with government officials, NGOs, civil society, traditional authorities and leaders, and the private sector, as well as key informants such as truck drivers and community members, at large. Interviews in Windhoek also included representatives of international organisations, United Nations (UN) Agencies, development partners, the University of Namibia (UNAM) and the media. Stakeholders included experts in a wide range of fields including human rights, child labour, law enforcement, migration, border control, community activities and gender issues. More than 100 individuals were interviewed either individually or in focus groups, using a semi-structured format and a set of guiding questions.

The four-person assessment team was divided into two sub-teams to travel to sites in the northern and southern parts of the country. These sites were selected by both the government and the team members, based on findings of other studies and investigations. Interviews were conducted in eight of the 13 regions in Namibia. The sites visited are Khomas Region (Windhoek); Ohangwena Region (Oshikango, the border post); Oshikoto Region (Ondangwa); Caprivi Region (Katima Mulilo, Ngoma, Wenela and the border-posts); Kavango Region (Rundu, Calai and Katwitwi border-posts); Karas Region (Keetmanshoop, Karasburg, Ariamsvlei- and Noordoewer border-posts); Erongo Region (Swakopmund and Walvis Bay); and Omaheke Region (Gobabis and Buitepos/Trans-Kalahari border post).

The interviews covered four basic areas: (1) general knowledge of the respondent about human trafficking; (2) prevention initiatives; (3) prosecution, policing and the legal framework; and (4) protection and victim-assistance. The interviews employed an internationally accepted definition of trafficking, in line with the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime* (Palermo Protocol). The aforesaid definition states:

(a) “**Trafficking in persons**” shall mean 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 the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. (Article 3)

- The role of organised crime in trafficking;
- The role of victim and witness protection in trafficking prosecutions;
- Investigation and prosecution of trafficking - best practices;
- The role of NGOs, FBOs, CBOs, civil society and the private sector in preventing, prosecuting and protecting victims of trafficking;
- Regional (SADC) and international mechanisms for assistance and cooperation in addressing trafficking;
- The issue of policing and responding to the difficulties of porous borders;
- Special victims – trafficking in children, the differently able, and other uniquely vulnerable victims.

Additionally, based on participant feedback from such training, workshops could be held to establish other specific topics that might be included in future training, as well as other tailored improvements or expansions.

Training should be provided on an on-going basis, to keep frontline professionals abreast of recent trends in trafficking (routes taken, forms of deception used, targeting of at-risk population, etc.). Also, training may include a ‘training-of-trainers’ (TOT) component, to ensure that information is passed on within communities. Providing training in not only the capital city and major towns, such as Windhoek and Swakopmund, respectively, but also throughout the country, to ensure that the maximum number of stakeholders can participate.

## **6.5. Further Research**

After implementing the recommendations contained in this Report, additional qualitative research might be pursued to better understand trafficking patterns or risk factors or gaps in counter-trafficking efforts. Such research should focus on particular needs, problem areas, target groups or areas of the country where additional information is needed to design and tailor new initiatives and programmes to meet those needs.

Further research might include the following components:

- a longer time-frame in which to conduct the research;
- qualitative and quantitative methodologies;
- inclusion of all 13 regions;
- inclusion of more NGO and community respondents;
- consultation with children themselves;
- a more balanced methodology to give equal weight to research on both transnational and internal trafficking;

Any future research should be commenced only after the recommendations put forward in this Report are implemented, and the proposed programmes have had sufficient time to take effect. This assessment would then act as a baseline to gauge the success of such programmes, including awareness-raising and information dissemination, thus leading to

future actions being better tailored, based on the success, or lack thereof, of the newly implemented initiatives.

## **CHAPTER 7**

### **CONCLUSION**

Key conclusions have been drawn from the Baseline Assessment. From available literature and policy documents on human trafficking in Namibia, there are indications that trafficking in persons occur transnationally and within Namibia. However, a number of cases that were identified could not be sufficiently confirmed since the evidence could not be verified in order to conclude with certainty that they constitute more than ‘suspected’ cases of trafficking.

The absence of definitional clarity not only hinders attempts to draw conclusions around the incidence and prevalence of human trafficking, but also impacts negatively on the degree of awareness at an official level. Resultingly, not much effort is made to identify and investigate potential cases of trafficking. This leads to suspects as well as evidence being lost and, therefore, loss of opportunity to uncover trafficking motives and possible syndicates.

This problem is further complicated by the fact that there is no comprehensive legislation which serves to criminalise human trafficking in Namibia. Presently, various pieces of legislation are used to prosecute sex-trafficking, with offenders being dealt with under the Combating of Rape Act, and labour-trafficking is prosecuted under the Labour Act. The Immigration Act was also cited as a possible source of legal recourse.

Existing legislation on transnational crime that outlaws it directly, has yet to be enforced, and is not comprehensive enough to cover the rights of victims, the different needs of adults and children, and the plethora of interventions beyond investigation that are required, including identification measures, assistance, referral, reintegration of victims, follow-up and general prevention.

The lack of trained immigration officers to deal with issues of trafficking, as well as a lack of awareness of human trafficking generally, in the community, were noted. There is, therefore, need for training which focuses exclusively on trafficking at both community- as well as official level. Training requests concentrated on practical, hands-on information and skills. Specifically, training on issues of identification of victims, victim-assistance, legal framework, and international cooperation in dealing with trafficking matters, was identified as necessary.

A lack of knowledge of trafficking as well as confusion regarding what constitutes trafficking in persons, is underscored by the conflation of trafficking, smuggling and migration (whether legal or illegal) in the Namibian context.

The Namibian Government, in partnership with other regional governments, for example at the SADC-level, as well as INGOs, NGOs and other civil society actors have an important role to play in preventing and combating human trafficking at a regional and national level. However, in order to do so, more in-depth qualitative research is necessary

to understand the extent and magnitude of the trafficking of adults and children in Namibia.

Other limitations that were perceived as impeding the Government's efforts to deal with this crime included border posts that are inadequately staffed and equipped. The problems in this context were described both in terms of chronic understaffing, and also the reality of having to cope with only a few staff members who are unable to deal with high volumes of either people or trucks crossing the borders. The porous nature of the borders also hinders the control and detection of possible trafficking incidents. Another difficulty which was identified is the lack of infrastructure at some border posts. The lack of proper technical support, such as scanning equipment necessary to monitor the flow of human beings and cargo, was specifically mentioned. Furthermore, the lack of basic technology such as telephones and computers, was also encountered at some border-posts.

The 2010 Africa Cup of Nations in Angola and the FIFA World Cup in South Africa will pose serious problems for Namibia, given the number of people expected to arrive in Angola and South Africa, and the fact that Namibia might be used as a training ground for some of the visiting teams. Therefore, the implications for trafficking were in many cases viewed as the down-side of what is essentially a positive event.

In the border towns, human smuggling was perceived as more of a problem than human trafficking. It was also noted that there were high levels of movement among prostitutes, both child- and adult prostitution, with truck drivers. The stakeholders recognise the risks and potential of rape, further exploitation and trafficking.

The international as well as domestic vulnerable groups mentioned by respondents were Angolan, Zambian and San children, all being held up as vulnerable to trafficking for farm labour and cattle-herding, as well as working in the charcoal industry.

A clarion call was sounded for training and awareness campaigns, and programmes which address trafficking in Namibia, to be backed by a comprehensive law, and a policy that would coordinate the activities of all the relevant stakeholders. The concern was expressed in some quarters that while much work seemed to be done on human trafficking, information was not shared between agencies or Ministries, resulting in the efforts not being collective or as productive and successful as they could be. Some stakeholders lamented the fact that efforts are very fragmented at the moment and need consolidation in order to have a national response to the issue of human trafficking in Namibia.

Because Namibia is a vast and diverse country, the recommendations should be tailored to the unique needs and dynamics of each region. The best implementation of these recommendations could vary due to specific variables, such as ports of entry *versus* land borders that are porous, rural areas *versus* urban areas, and special considerations such as tourist destinations or capital city status being taken into consideration. Trafficking needs to be addressed from a holistic perspective for it to be effective. Adopting a multi-



disciplinary approach which takes into account both the causes and effects of trafficking, would give rise to desired results. Only if both the prosecution of the criminal and, simultaneously, the rehabilitation of the victim are attended to, can the fullest array of resources be mobilised to tackle the root causes of this phenomenon.

## **CHAPTER 8: ANNEXTURES**

### **ANNEX. A - SCOPE OF WORK**

## **Scope of Work**

### **Assessment of Trafficking in Persons (TIP) in Namibia**

#### **USAID EGAT/WID**

#### **I. Purpose**

The purpose of this assessment is to collect available information on the scope of trafficking in persons (TIP) in targeted areas of Namibia, and to review the efforts of government and civil society to address it. Furthermore, it seeks to outline gaps in information and recommend further research needs, as well as recommend next-steps to be taken by the Namibian government, NGO's or other actors. This assessment is a baseline Study that should be nationally representative of the situation in Namibia with regard to trafficking in persons..

#### **II. TIP Background on Namibia**

Trafficking in Persons is a significant human rights and development issue worldwide, which affects men, women and children. The U. S. State Department's Office which Monitors and Combats Trafficking in Persons, evaluates the commitment and effectiveness of countries in their response to anti-trafficking standards set forth in the Trafficking Victims Protection Act of 2000, as amended. Annually, the TIP office publishes a Trafficking in Persons Report (TIP Report) in which countries are graded according to a three-tiered scale, where Tier 1 is best and Tier 3 is worst. In the most recent TIP Report of June 2008, Namibia is classified as a "Special Case", which means that the existence of a significant human trafficking problem is suspected to prevail in Namibia, but that this situation remains unsubstantiated by sufficient reliable reporting.<sup>174</sup> Specifically, the TIP Report states:

*"It is suspected that the largest percentages of trafficking victims are children engaged in prostitution... There is evidence that small numbers of Namibian children are trafficked within the country for domestic servitude, as well as forced agricultural labor, cattle herding, and possibly vending. There have been a few reported cases of Zambian and Angolan children trafficked to Namibia for domestic servitude, agricultural labor, and livestock herding."*<sup>175</sup>

#### ***Government Efforts***

Legislation relevant to TIP exists in Namibia. The Prevention of Organised Crime Act of 2004 specifically criminalises trafficking in persons; however, the legislation is pending while the government completes its ongoing process of drafting, announcing and implementing regulations. In force is Namibia's Labour Act of 2007, which prohibits forced labour. Other existing laws prohibit child labour, child prostitution, pimping and kidnapping.

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<sup>174</sup> Department of State, Trafficking in Persons Report: June 2008, SPECIAL CASES: NAMIBIA, pg. 274 - 275, on-line at: [www.state.gov/g/tip](http://www.state.gov/g/tip).

<sup>175</sup> Ibid, pg 274.

To combat TIP, the Namibian government has created the Police's Serious Crime Unit, which is tasked with monitoring and investigating possible instances of human trafficking. A separate police unit, the Women and Child Protection Unit (WCPU), has improved services rendered to victims of sexual abuse by, among others, providing specialist training to first respondents such as police officers of the Ministry of Safety and Security (MoSS) and social workers in the Ministries of Gender Equality and Child Welfare (MGE CW) and Health and Social Services (MoHSS). The Ministry of Labour and Social Welfare (MoLSW) is engaged in addressing the worst forms of child labour. In January 2008, the government hosted a national conference on child labour which served to address child-trafficking as well. In addition, the MGE CW has introduced welfare programmes for orphans and vulnerable children, which entails providing grants and scholarships to keep them in school and allows for referral to foster homes.

In other areas, the Government has a hitherto untested policy framework to assist internally trafficked persons. This framework exists within the Namibian legal system and provides protection to victims who wish to testify against perpetrators of such crimes. There is also a comprehensive asylum policy for trafficking victims seeking asylum instead of deportation to countries where they face retribution or hardship. To support the efforts of Government, some in-country NGOs provide shelter facilities and counseling centres which are significant referral resources especially in terms of victims of crime.

### **III. Assessment Background**

In May 2008, the MGE CW requested assistance from USAID, Namibia in order to conduct a study on TIP to assess the existence, nature and impact of the problem in the country. This initial assessment is a response to the government's request. It is intended to help the Namibian and U.S. governments develop a better understanding of the problem, and would serve as a baseline for future actions. The Study will be informed by in-depth consultations with a broad range of government officials, civil society actors, international organisations and others who potentially possess knowledge of human trafficking to, through or within Namibia. Also, the Study also stands to benefit from those who are in a position to suggest programmatic approaches to address trafficking in the Namibian context.

This assessment conforms to recommendations set forth in the U. S State Department's 2008 TIP Report, which suggests that the Namibian Government consider taking steps to develop a baseline understanding of the problem. The aforesaid Report states that additional information could establish a foundation from which public awareness-raising and training of relevant law enforcement and social services officials could serve to identify and assist victims.

### **IV. Statement of Work**

Namibia requires a better understanding of the problem of trafficking within and across her borders (for example, types, patterns and routes of trafficking; profiles of trafficked

individuals, and vulnerability factors for trafficking; border and law enforcement issues and information about the traffickers; government and NGO anti-trafficking efforts and donor anti-trafficking programmes) in order to develop interventions that are evidence-based and consistent with best practices in anti-trafficking prevention, protection and prosecution. It is also important to examine trafficking in Namibia within a regional context, including anti-trafficking efforts of international organisations and civil society within the Southern African region.

This baseline assessment will target identified in-country and border areas, and will include an analysis of the political, legal, social services and civil society aspects of TIP. It will be designed for the Government of Namibia, and would help to determine priorities for next-steps, including a broader national assessment and the development of future anti-TIP activities. Bearing in mind the limited of information currently available, it is likely that this initial assessment would identify gaps which warrant further research.

### ***Activities and Tasks***

The MGECW, with the assistance of the USAID Office of Women in Development's (WID) Anti-Trafficking Technical Assistance Task Order (ATTO), will undertake this assessment to include fieldwork in Namibia. In addition, the assessment team will conduct an initial in-brief and final de-briefing with the MGECW and MAWF, USAID-Namibia, USAID-South Africa and the U.S. Embassy in Namibia. It goes without saying that the team will be guided by MGECW and MAWF, and key stakeholders from relevant ministries and NGOs. An outline of the final Report, with a draft executive summary, will be provided by the assessment team prior to departure. The aforesaid outline and draft executive summary will be shared and agreed-upon with MGECW, MAWF, USAID-Namibia, USAID-South Africa and the U.S. Embassy in Namibia prior to concluding the in-country fieldwork. A draft of the final Report will be prepared within two weeks by ATTO, and will be shared with the MGECW, MAWF, WID, CTO and USAID-Namibia and USAID-South Africa, and will take into account feedback from MGECW, MAWF, USAID-Namibia and USAID-South Africa. The assessment team will carry out the following activities, though not limited to:

A Literature Review: The assessment team will search for and review any pertinent trafficking assessments and analyses, relevant legislation and regulations, and past and current anti-trafficking programmes and actions undertaken by the government and/or civil society, ranging from prevention, protection and prosecution interventions. This review will also include selected regional and global documents of relevance.

Stakeholder and Key Informant Interviews: The MGECW and MAWF, with the input of USAID, will identify a list of individuals and organisations to be consulted including officials of the Government of Namibia, U.S. Government officials, civil society, development and relief organisations, USAID=Namibia, the U.S. Embassy in Namibia, development partners, other donors, in-country researchers and regional experts. It is anticipated that key informants will include

officials and experts in a wide range of fields, including human trafficking, human rights, child labour, law enforcement, migration, border control, health and social services and gender issues.

Analysis: Using the results of the literature review and interviews, the team will compile the information available and prepare measurable recommendations. Such recommendations may include suggestions for government action; types of programmes to be considered; and gaps in information requiring further research. Types of programmes might include, for example, public awareness initiatives and work with the media; training for cadres of government workers (for example police, customs- and immigration officials), legal- and regulatory changes, and work with civil society and the private sector.

Presentation of Initial Findings: To facilitate consensus-building regarding next steps, the team will present its initial findings and recommendations to MGECW, MAWF, USAID-Namibia, USAID-South Africa and the U.S. Embassy in Namibia - including other key stakeholders - for feedback and validation.

Final Report: The final report will summarise information on human trafficking in Namibia with measurable recommendations. Should further study be recommended, the Report would provide notional scope of such work.

## **V. Team Composition and Desired Qualifications**

The assessment team will consist of four consultants. Among the four consultants will be one international expert and one regional expert who together bring extensive experience in anti-trafficking assessment, policies and programming; development experience, (preferably in Africa); and comparative knowledge of international and national-level anti-trafficking programming. Furthermore, the team will also include two locally-based technical experts with experience in anti-TIP programmes and policies in Namibia and the Southern African region. In addition, the regional child- and adolescent expert from USAID's regional mission in Pretoria will provide at least two weeks of in-person assistance and expertise to the team.

As the team leader the international expert will be responsible for overseeing the design and quality of the assessment and its implementation; coordinating and facilitating the identification of research gaps and recommendations for further actions and programmes; and, leading and participating in the writing effort. The team leader shall work in consultation with the regional and technical experts, the MGECW and MAWF and target key geographic points at the border areas.

## **VI. Timetable and Level of Effort**

The selection of team members should be finalized by mid-February, and the assessment is scheduled to begin, nationally, in mid-March and end mid-April, barring external factors which might delay the aforesaid time-frame. It is designed as an initial phase, which will include:

#### An Initial Desk Review

Preparation and review of materials prior to departure for Namibia.

#### In-Country Data Collection and Consultations

In-country data collection, meetings and interviews with the communities in seven regions namely, the Erongo-, Karas-, Khomas-, Omaheke-, Ohangwena-, Kavango- and Caprivi regions. The team of consultants will lead the investigation and will be responsible for quality control and the submission of all deliverables.

#### Final Report Preparation

Report-writing and finalization: A draft of the final report will be prepared within two weeks and will be shared with the MGECW, MAWF, WID, CTO and USAID-Namibia and USAID-South Africa. It will take into account feedback from MGECW, MAWF and USAID-Namibia. USAID-Namibia will then submit the final draft report to the MGECW and MAWF.

### **VII. Logistics**

The Anti-Trafficking Technical Assistance Task Order (ATTO) is responsible for arranging and supporting all international travel. In-country logistics will be organised and provided for by the MGECW and MAWF, with the assistance of USAID-Namibia.

## **ANNEX. B - RESEARCH INSTRUMENT**



## Potential Interviewing Questions – Community Members

Have you ever heard of the term/word “trafficking”? What does it mean to you?

What types of trafficking have you heard of/do you know about?

If labour is mentioned, follow up questions might include:

What are the conditions of work (length of work hours, any hazards, payment for work, etc...);  
are they able to leave these situations but choose not to;  
how did situation come to occur;  
are the workers from within the region, from other regions, across a border;  
would the workers describe themselves as exploited;  
what is the relationship between the worker and the person for whom they are working?

Have there been any changes in the situation recently (e.g. changes in destinations)?

What are trafficking victims told about where they are going and what will happen to them? If promises are made, what are those promises (education, marriage, employment, etc)? Did they believe the promise(s)? If so, why? (Are they particularly young/children; are they naïve; are they affected by poverty; family obligations; etc...) Could they give meaningful consent (age, education, intelligence, etc...)? Were they aware of any dangers/risks of leaving/migrating? If so, what overcame those fears?

Into what kind of conditions are victims actually trafficked?

Vulnerability to TIP: Are certain groups of persons more at risk of being trafficked (*e.g.* women vs men, adults vs children, boys vs girls, adolescents vs younger children, certain ethnic groups, etc.)? If some groups (due to gender, age, ethnicity, etc...) are more at-risk, why is that? Are certain groups trafficked into different fields? If so, what groups and what fields (labour, sex, etc...)

Traffickers and Their Methods: Who are the traffickers/exploiters? Are they family members? Are they independent business people? Small or family-based crime groups? Large international organized crime syndicates? What methods are used to approach victims? What methods are used to move the victims (*e.g.*, are false documents being used?). Are employment, travel, and tourism agencies or marriage brokers involved with or fronting for traffickers or crime groups to traffic individuals?

Is Namibia a country of origin, transit, and/or destination for internationally trafficked victims? Does trafficking occur within the country's borders? If so, does internal trafficking occur in any particular areas or circuits? To which locations are people trafficked? Are there different circuits/destinations for adults and (versus) children? Are specific groups more likely to be trafficked for particular purposes? If so, why?

## **Investigation and Prosecution of Traffickers**

What role, if any, does civil society (e.g. FBOs/CBOs/traditional authorities/local leaders, etc...) play in the identification of victims?

Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? If so, please explain in detail (i.e., corruption, etc...)

## **Protection and Assistance to Victims**

As it pertains to children, if a child is separated from his/her primary caretaker(s) (thru parents' migrating, dying, sending their children to live with others, etc...), who takes care of these children? Do they ever travel to live with relatives? How are they treated (are they treated well or required/forced to work)? If required to work, what are the work types and conditions? Are they still able to attend school?

What kind of protection is the government able under existing law to provide for victims and witnesses? Does it provide these protections in practice?

Does civil society play any role in protecting and/or assisting victims? If so, what role or function do they perform, and which specific organizations are involved?

Are there victim care facilities (shelters or centers) that are accessible to trafficking victims? Do foreign victims have the same access to care as domestic trafficking victims? Where are child victims placed (e.g., in shelters, foster care, or juvenile justice detention centers)? Are there any differences between assistance offered to adults and to children? Is there specialized care for adults (in addition to children)? Does it have specialized care for male victims as well as female? Are female victims interviewed by women, men, or both? Are there any specialized facilities dedicated specifically to helping victims of trafficking? If so, are these facilities operated by the government or by NGOs? How many victims have been assisted by these facilities?

Does the government provide trafficking victims with access to legal, medical and psychological services? If so, please specify the kind of assistance provided. Does the government provide funding or other forms of support to foreign or domestic NGOs and/or international organizations for providing these services to trafficking victims? Please explain and provide funding amounts.

Does the government have a referral process to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to institutions that provide short- or long-term care (either government or NGO-run)?

Is there stigma attached to having been trafficked? Do the family and community accept them back willingly? Is there any follow-up done on the child's situation? Does the protocol, if there is one, vary based on the jurisdiction of the trafficking (domestic vs international).

Are the rights of victims respected? Are trafficking victims detained or jailed? Are victims prosecuted for violations of other laws, such as those governing immigration or prostitution?

Does the government encourage victims to assist in the investigation and prosecution of trafficking? Are there means by which a victim may obtain restitution?

Which international organizations or NGOs, if any, work with trafficking victims? What type of services do they provide? What sort of cooperation do they receive from local authorities?

### **Prevention**

Were there any anti-trafficking information or education campaigns conducted during 2008? If so, briefly describe the campaign(s), including their objectives and effectiveness. Whose campaigns were they (government/civil society/NGOs)? Please provide the number of people reached by such awareness efforts, if available. Do these campaigns target potential trafficking victims and/or the demand for trafficking (*e.g.* "clients" of prostitutes or beneficiaries of forced labor)?

What initiatives, if any, are present (whether from the government/NGOs/civil society) to target potentially at-risk populations for specific to prevent exploitation? EX: street children, child labourers, migrant children,...)

Given the large numbers of visitors expected in South Africa for the 2010 FIFA World Cup, are there any fears about it leading to an increase in trafficking in Namibia? IF so, are there any initiatives/steps being taken to prevent this?

Are there any key state or civil society run forums/task teams for coordination of anti-trafficking initiatives? What is their mandate? How often do they meet? Etc...

What role, if any, does the media (print, electronic, television) play in either facilitating trafficking or in counter-trafficking initiatives?

### **Government - Potential Interviewing Questions**

Have you ever heard of the term/word "trafficking"? What does it mean to you?

What types of trafficking have you heard of/do you know about?

If labour is mentioned, follow up questions might include:

What are the conditions of work (length of work hours, any hazards, payment for work, etc...);  
are they able to leave these situations but choose not to;  
how did situation come to occur;  
are the workers from within the region, from other regions, across a border;  
would the workers describe themselves as exploited;  
what is the relationship between the worker and the person for whom they are working?

Have there been any changes in the situation recently (e.g. changes in destinations)?

What are trafficking victims told about where they are going and what will happen to them? If promises are made, what are those promises (education, marriage, employment, etc)? Did they believe the promise(s)? If so, why? (Are they particularly young/children; are they naïve; are they affected by poverty; family obligations; etc...) Could they give meaningful consent (age, education, intelligence, etc...)? Were they aware of any dangers/risks of leaving/migrating? If so, what overcame those fears?

Into what kind of conditions are victims actually trafficked?

Vulnerability to TIP: Are certain groups of persons more at risk of being trafficked (e.g. women vs men, adults vs children, boys vs girls, adolescents vs younger children, certain ethnic groups, etc.)? If some groups (due to gender, age, ethnicity, etc...) are more at-risk, why is that? Are certain groups trafficked into different fields? If so, what groups and what fields (labour, sex, etc...)

Traffickers and Their Methods: Who are the traffickers/exploiters? Are they family members? Are they independent business people? Small or family-based crime groups? Large international organized crime syndicates? What methods are used to approach victims? What methods are used to move the victims (e.g., are false documents being used?). Are employment, travel, and tourism agencies or marriage brokers involved with or fronting for traffickers or crime groups to traffic individuals?

What is (are) the source(s) of available information on trafficking in persons? What plans are in place, if any, to undertake further documentation of human trafficking? How reliable are these sources?

Is Namibia a country of origin, transit, and/or destination for internationally trafficked victims? Does trafficking occur within the country's borders? If so, does internal trafficking occur in any particular areas or circuits? To which locations are people

trafficked? Are there different circuits/destinations for adults and (versus) children? Are specific groups more likely to be trafficked for particular purposes? If so, why?

### **Governmental Anti-TIP Initiatives**

Does the government acknowledge that trafficking is a problem in the country? If not, why not?

Which government agencies are involved in anti-trafficking efforts and which agency, if any, has the lead?

What are the limitations on the government's ability to address this problem in practice? For example, is funding for police or other institutions inadequate? Does the government lack the resources to aid victims?

To what extent does the government systematically monitor its anti-trafficking efforts (on all fronts -- prosecution, victim protection, and prevention) and periodically make available, publicly or privately and directly or through regional/international organizations, its assessments of these anti-trafficking efforts?

### **Investigation and Prosecution of Traffickers**

Existing Laws against TIP: Is there a law or laws specifically prohibiting trafficking in persons? Are there non-criminal statutes that allow for civil penalties against alleged trafficking crimes (*e.g.*, civil forfeiture laws and laws against illegal debt). Does the law(s) cover both internal and transnational forms of trafficking? If there are no TIP specific laws in place, under what other laws can traffickers be prosecuted? Are there other laws being used in trafficking cases – *i.e.*, are there laws on illegal (im)migration.

Punishment of Sex Trafficking Offenses: What are the prescribed and imposed penalties for trafficking people for sexual exploitation?

Punishment of Labor Trafficking Offenses: What are the prescribed and imposed penalties for trafficking for labor exploitation? If Namibia is a source country for labor migrants, do the government's laws provide for criminal punishment for labor recruiters who engage in recruitment of workers using knowingly fraudulent or deceptive offers with the purpose of subjecting workers to trafficking in the destination country? If Namibia is a destination for labor migrants, are there laws punishing employers or labor agents who confiscate workers' passports or travel documents for the purpose of trafficking, switch contracts without the worker's consent as a means to keep the worker in a state of service, or withhold payment of salaries as means of keeping the worker in a state of service?

Did the government prosecute any cases against human trafficking offenders during 2008? If so, how many investigations, prosecutions, convictions took place? What sentences were imposed, including details on plea bargains and fines, if available.

Please indicate which laws were used to investigate, prosecute, convict, and sentence traffickers. Who were the victims (i.e., women vs. men, children vs. adults). What were the actual punishments imposed on persons convicted of these offenses? Are the traffickers serving the time sentenced? If not, why not?

Does the government provide any specialized training for government officials in how to recognize, investigate, and prosecute instances of trafficking? Do the police receive specific training on child protection and trafficking of children?

Have any NGOs or international organizations provided specialized training for government officials?

What role, if any, does civil society (e.g. FBOs/CBOs/traditional authorities/local leaders, etc...) play in the identification of victims?

Does the government cooperate with other governments in the investigation and prosecution of trafficking cases? If possible, provide the number of cooperative international investigations on trafficking during the last year.

Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? If so, please explain in detail (i.e., corruption, etc...)

### **Protection and Assistance to Victims**

As it pertains to children, if a child is separated from his/her primary caretaker(s) (thru parents' migrating, dying, sending their children to live with others, etc...), who takes care of these children? Do they ever travel to live with relatives? How are they treated (are they treated well or required/forced to work)? If required to work, what are the work types and conditions? Are they still able to attend school?

What kind of protection is the government able under existing law to provide for victims and witnesses? Does it provide these protections in practice?

Does civil society play any role in protecting and/or assisting victims? If so, what role or function do they perform, and which specific organizations are involved?

Are there victim care facilities (shelters or centers) that are accessible to trafficking victims? Do foreign victims have the same access to care as domestic trafficking victims? Where are child victims placed (e.g., in shelters, foster care, or juvenile justice detention centers)? Are there any differences between assistance offered to adults and to children? Is there specialized care for adults (in addition to children)? Does it have specialized care

for male victims as well as female? Are female victims interviewed by women, men, or both? Are there any specialized facilities dedicated specifically to helping victims of trafficking? If so, are these facilities operated by the government or by NGOs? How many victims have been assisted by these facilities?

Does the government provide trafficking victims with access to legal, medical and psychological services? If so, please specify the kind of assistance provided. Does the government provide funding or other forms of support to foreign or domestic NGOs and/or international organizations for providing these services to trafficking victims? Please explain and provide funding amounts.

Does the government have a referral process to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to institutions that provide short- or long-term care (either government or NGO-run)?

What is the total number of trafficking victims, or suspected victims, identified during 2008? Of these, how many victims were referred to care facilities for assistance by law enforcement authorities? By social services officials?

Do the government's law enforcement, immigration, and social services personnel have a formal system of proactively identifying victims of trafficking among high-risk persons with whom they come in contact (*e.g.*, foreign persons arrested for prostitution or immigration violations)?

When a person has been identified as a [suspected] victim of trafficking, what happens next? To whom are they referred (if anyone), and how exactly does the referral process work? How are the cases documented/recorded? How is the victim's privacy taken into account? How are confidentiality issues dealt with?

If an adult denies being trafficked/exploited, but there is a strong indication that s/he is a victim, how is that dealt with? If a child is suspected of being trafficked, but denies it, how is that dealt with? If there is a regular/documented protocol/practice for dealing with this, does it treat child victims and adult victims differently?

If a child has been identified as a (suspected) victim of trafficking, what efforts/process is there to look for the child's family? Is the family's ability to protect the child from future exploitation investigated? If the child is returned to the family, is there any assistance given to reintegrating the child into the home and community? Is there stigma attached to having been trafficked? Do the family and community accept them back willingly? Is there any follow-up done on the child's situation? Does the protocol, if there is one, vary based on the jurisdiction of the trafficking (domestic vs international).

Are trafficking victims detained or jailed? If so, for how long? Are victims fined? Are victims prosecuted for violations of other laws, such as those governing immigration or prostitution?

Does the government encourage victims to assist in the investigation and prosecution of trafficking? How many victims assisted in the investigation and prosecution of traffickers during 2008? May victims file civil suits or seek legal action against traffickers? Are there means by which a victim may obtain restitution?

Does the government provide any specialized training for government officials in identifying trafficking victims and in the provision of assistance to trafficked victims, including the special needs of trafficked children?

Does the government provide assistance, such as medical aid, shelter, or financial help, to its nationals who are repatriated as victims of trafficking?

Which international organizations or NGOs, if any, work with trafficking victims? What type of services do they provide? What sort of cooperation do they receive from local authorities?

### **Prevention**

Were there any anti-trafficking information or education campaigns conducted during 2008? If so, briefly describe the campaign(s), including their objectives and effectiveness. Whose campaigns were they (government/civil society/NGOs)? Please provide the number of people reached by such awareness efforts, if available. Do these campaigns target potential trafficking victims and/or the demand for trafficking (e.g. "clients" of prostitutes or beneficiaries of forced labor)?

What initiatives, if any, are present to target potentially at-risk populations for specific to prevent exploitation? (e.g. street children, child labourers, migrant children, ...)

Does the government monitor immigration and emigration patterns for evidence of trafficking?

Is there a mechanism for coordination and communication between various agencies, internal, international, and multilateral on trafficking-related matters, such as a multi-agency working group or a task force?

Does the government have a national plan of action to address trafficking in persons? If so, which agencies were involved in developing it? Were NGOs consulted in the process? What steps has the government taken to implement the action plan?

Given the large numbers of visitors expected in South Africa for the 2010 FIFA World Cup, are there any fears about it leading to an increase in trafficking in Namibia? If so, are there any initiatives/steps being taken to prevent this?

Are there any key state or civil society run forums/task teams for coordination of anti-trafficking initiatives? Who is on this task team? What is their mission statement? How often do they meet?



What role, if any, does the media (print, electronic, television) play in either facilitating trafficking or in counter-trafficking initiatives?

### **NGOs - Potential Interviewing Questions**

Have you ever heard of the term/word “trafficking”? What does it mean to you?

What types of trafficking have you heard of/do you know about?

If labour is mentioned, follow up questions might include:

What are the conditions of work (length of work hours, any hazards, payment for work, etc...);

are they able to leave these situations but choose not to;

how did situation come to occur;

are the workers from within the region, from other regions, across a border;

would the workers describe themselves as exploited;

what is the relationship between the worker and the person for whom they are working?

Have there been any changes in the situation recently (e.g. changes in destinations)?

What are trafficking victims told about where they are going and what will happen to them? If promises are made, what are those promises (education, marriage, employment, etc)? Did they believe the promise(s)? If so, why? (Are they particularly young/children; are they naïve; are they affected by poverty; family obligations; etc...) Could they give

meaningful consent (age, education, intelligence, etc...)? Were they aware of any dangers/risks of leaving/migrating? If so, what overcame those fears?

Into what kind of conditions are victims actually trafficked?

Vulnerability to TIP: Are certain groups of persons more at risk of being trafficked (*e.g.* women vs men, adults vs children, boys vs girls, adolescents vs younger children, certain ethnic groups, etc.)? If some groups (due to gender, age, ethnicity, etc...) are more at-risk, why is that? Are certain groups trafficked into different fields? If so, what groups and what fields (labour, sex, etc...)

Traffickers and Their Methods: Who are the traffickers/exploiters? Are they family members? Are they independent business people? Small or family-based crime groups? Large international organized crime syndicates? What methods are used to approach victims? What methods are used to move the victims (*e.g.*, are false documents being used?). Are employment, travel, and tourism agencies or marriage brokers involved with or fronting for traffickers or crime groups to traffic individuals?

What is (are) the source(s) of available information on trafficking in persons? What plans are in place, if any, to undertake further documentation of human trafficking? How reliable are these sources?

Is Namibia a country of origin, transit, and/or destination for internationally trafficked victims? Does trafficking occur within the country's borders? If so, does internal trafficking occur in any particular areas or circuits? To which locations are people trafficked? Are there different circuits/destinations for adults and (versus) children? Are specific groups more likely to be trafficked for particular purposes? If so, why?

### **Governmental Anti-TIP Initiatives**

Does the government acknowledge that trafficking is a problem in the country? If not, why not?

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## **Investigation and Prosecution of Traffickers**

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Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? If so, please explain in detail (i.e., corruption, etc...)

### **Protection and Assistance to Victims**

As it pertains to children, if a child is separated from his/her primary caretaker(s) (thru parents' migrating, dying, sending their children to live with others, etc...), who takes care of these children? Do they ever travel to live with relatives? How are they treated (are they treated well or required/forced to work)? If required to work, what are the work types and conditions? Are they still able to attend school?

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### **Prevention**

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