

Monitoring mechanisms in the fight against human trafficking

15 October 2010

Your Excellencies, Ladies and Gentlemen, colleagues and esteemed guests

We are nearing the end of this conference and now the moment has come for me to present the eighth report to the government. I am happy to see that Mr Teeven, our new State Secretary of the Ministry of Security and Justice is here to accept the report.

This report reviews the results of the work of the National Rapporteur in the ten years since the position was created. It describes the recommendations made on important topics and gives an impression of the issues that have arisen, the problems and the solutions, and the role played by the Rapporteur in that process. The focus is on the recommendations because, although it is certainly not the only instrument with which I can exert influence, it is the most prominent. Expertise and information accumulated over the years can be used to draw attention to specific subjects, accelerate changes, promote good practices, expose bottlenecks, make suggestions, and, occasionally, actually intervene in an individual case. In this context, a recommendation sends a powerful signal, even though its actual effect on policy is not always directly measurable in practice.

As I said this morning, until now the sum total of the recommendations is exactly 200. Many of those have been adopted and implemented, or are in the process of being adopted and implemented in the near future. Unfortunately my last report – as a result of the fall of the previous government – has not yet been discussed in parliament; it contained 47 recommendations, many of which still need working on! It is therefore a good thing to be in the parliamentary building today.

Nonetheless, when I look back at the last few years, the political willingness and commitment to fight trafficking, both of government and parliament, are clear. The attention of the general public for the subject has also grown in the last ten years. And looking at the agreement of our new government, I am positive that the Netherlands will continue to treat the fight against trafficking as a matter of priority.

Recommendations

The effectiveness of an independent rapporteur depends to a large extent on the degree to which the recommendations produce results. Many recommendations touched upon very practical issues. In such cases it is easy to see whether those recommendations have been adopted and have led to improvements. Recommendations adapting or changing regulations are also easy to measure. Other recommendations were of a more fundamental nature and aimed at contributing to the development of a general strategy. In my last report of 2009, for example, I said we needed to deal with collateral damage, the effects of anti-trafficking measures on other human rights, that might be jeopardised by the very measures used to protect them.

In the end, however, all the recommendations come under the heading of the three P's: protection, prevention, and prosecution, together with two additional P's: partnership and punishment.

In this context I have also drawn attention to the importance of a *comprehensive* policy: a policy that is not confined to the investigation and prosecution of offenders but a policy that also includes the care for victims, based on the notion that the two approaches are complementary and can only be effective in combination.

Effective progress depends on cooperation between the various actors responsible for implementing the 5P paradigm. Vast efforts have been made in this respect in recent years, also as a result of the establishing of a Task Force, consisting of key actors. But cooperation in the anti-trafficking chain is not in itself a magic formula. Success demands a constant willingness on the part of every actor to help find solutions for those elements of the paradigm, that are not necessarily their own direct responsibility. Partners of the chain need to be willing to speak one another's language. And though they both speak Dutch, police and social workers do not necessarily speak or understand the same language.

Recommendations incorporate commentary on policies and their implementation, and have an impact when the comments are understood. Only then do they subsequently play a role in the decision-making process. And I am happy to say that that has generally been the case in the last decade.

Results

In the field of investigation and prosecution, a lot of attention has been given to training and specialism and thus professionalism has increased in many areas.

Prevention, in the form of campaigns to raise awareness, targeted at the general public, at clients of prostitutes and, for example, at the staff of diplomatic missions abroad, has been an important issue. Information for schools and the workplace has been developed and distributed.

Preventing individuals from becoming victims is at the heart of the policy to combat human trafficking. It is noteworthy in this context that the number of Dutch victims declined in 2009, in both absolute and relative terms, for the first time since 2003. And although a direct link is never visible, the notion that awareness amongst possible victims and awareness amongst those around them may have played a part in this, is not improbable. However, and I will dwell on this issue later, actions targeted at prevention can never stop and must show flexibility and innovation to keep up with the ever changing modus operandi of traffickers.

The recommendations concerning immigration policy have largely been translated into improvements in rules and policies. The policy towards victims who are in the Netherlands illegally has become more balanced. Nonetheless, there are still tensions with respect to – on the one hand – assumed abuses of the facilities provided for victims, sometimes experienced as a disproportionate burden on the capacity of the police and – on the other hand – the recognition of a person's status as a victim, notwithstanding the absence of leads for criminal investigation.

It is however, as said before, important to realise that the two approaches (criminal investigation and protection of victims) are complementary and can only be effective in combination.

Recommendations concerning the care for victims have, slowly but surely, led to care being tailored more closely to their specific needs. Also serious efforts have been made to eliminate shortages of capacity in shelter facilities. Nonetheless, providing adequate care for victims remains an area of concern. I am pleased that the pilot project on specialised shelter has started and hope that the evaluation of the pilot will give us some answers on the right approach and towards better assistance and care for victims.

Labour exploitation

There have been a number of recurring themes in my interventions during the past years. One important topic has been to foster the realisation that human trafficking is not confined to exploitation in the sex industry, but also occurs in other sectors.

Dutch legislation makes no distinction between exploitation in the sex industry and labour exploitation. The seriousness of the exploitation does not depend on the sector in which it occurs.

The approach towards other forms of exploitation is still evolving. Awareness and cooperation in the chain with respect to labour exploitation have started to grow, particularly in the last few years. It is only in the last year that there have been more than incidental convictions for labour exploitation. The judgement of the Supreme Court on 27 October 2009 in a case of exploitation in a Chinese restaurant provides important guidelines.

A vision on the particular needs of these victims is however still lacking. With the growing awareness of forms of labour exploitation, it will become increasingly common for large groups of victims, often male, to be detected at the same time, which will impose special demands on shelter capacity.

Regulation of the prostitution sector

A number of recommendations have related to the regulation of the prostitution sector. In 2000, the Netherlands adopted an (internationally) exceptional position on the regulation of the prostitution sector. The government lifted the ban on brothels and opted for a more regulatory approach to prostitution. This approach was based, in part, on the idea that the profession of prostitution could be normalised. One of the factors behind this decision was the view that entering the profession was an individual's free choice that should be respected.

This view may have obscured the situation of forced prostitution, especially since establishing a licensing system for the prostitution sector was expected to make licensed prostitution more manageable, and hence to lead to the eradication of abuses.

Over the last decade, the emphasis in attitude towards the prostitution sector seems to have shifted to the vulnerability of the sector to human trafficking. Several notorious cases illustrating that widespread exploitation can also take place in the licensed prostitution sector, have undoubtedly been a factor in this.

As Rapporteur I have repeatedly pointed out that a comprehensive policy is also required in this area, one in which tackling the *illegal* sector is as important as firm supervision of the licensed sector. In the draft Bill to Regulate Prostitution, the government has proposed a series of measures in response to some of the developments and new insights that have emerged since the lifting of the ban on brothels. Accordingly, the Netherlands has shown that it is willing to look critically at the effects of policies and to revise them if needed.

We are still a long way from reaching a situation where there is sufficient control of the Dutch prostitution sector to substantially reduce vulnerability to exploitation in the sector. We still need better and more uniform enforcement and supervision, and: control of the *illegal* sector. Whatever the policy on prostitution, enforcement is crucial.

One cause for my concern is the apparent shift from window prostitution, which is in theory relatively easier to control, to other ways of offering sexual services that are more difficult to monitor. One of the Regional Information and Expertise Centres recently made an effort to map out businesses and their advertisement practices, on offering commercial sexual services. From this analysis of hundreds of advertisements it subsequently appeared that sexual services are provided in hotels, in women's private homes, and in massage parlours. The question is to what extent these places are in fact *black holes* for municipalities and police. This worries me.

If the Bill to Regulate Prostitution is enacted, a solid and thorough evaluation of the effects of this regulation is crucial, including its effects on the *illegal* sector.

Capacity

There is a lot of political and public attention for the phenomenon of human trafficking. But while the police and the Public Prosecution Service have made human trafficking a clear priority, in practice there are persistent problems in terms of capacity and giving the fight against trafficking the priority it needs.

All in all, I have repeatedly drawn attention to the need to make sufficient realistic capacity available for the relevant organisations. This is a point that still demands attention. Although capacity is not a goal in itself, it is always important to enquire whether the policy objectives formulated in this important domain can be achieved with the resources available.

Talking about capacity brings me inevitably to the figures of the last decade.

Human trafficking is often hidden and victims are often unwilling or afraid to speak out (or do not realise that they are victims). This means that there are probably a large number of unknown cases of human trafficking (a large ‘dark number’). Therefore, statistical trends based on the number of known cases of human trafficking usually do not directly reflect the actual situation.

The number of known cases of human trafficking depends to a large extent on factors such as the public attention for human trafficking, the priorities of the investigative services and the public prosecution service, the method of registration employed by victim support organisations, and changes in the law. So when analysing the data, it is important to be aware of the specific context in which the data were collected and of the various factors that might be of influence. In the report you will find figures on victims and prosecutions over the last decade. I will not tire you with a long list of figures, you will find those in the report. I will however give you some highlights:

- A total of 5084 possible victims of human trafficking were reported to CoMensha. The annual number has almost trebled in the last decade (from 341 to 909), mainly as a result of increasing attention for human trafficking.
- Dutch victims were reported most frequently in the period 2000-2009.
- Since 2008, the proportion of underage victims has been largest among Dutch victims.
- A total of 1815 cases in which there was a suspicion of at least human trafficking were registered by the PPS in the period 2000-2009.
- The number of cases dealt with annually has more than doubled in ten years (from 93 in 2000 to 204 in 2009)
- The proportion of convictions for at least human trafficking declined sharply (from 73% in 2000 to 51% in 2008), while at the same time the percentage of acquittals on charges of human trafficking increased (from 26% in 2000 to 45% in 2008). A partial explanation for this could be that since the end of 2006 there have also been prosecutions for labour exploitation. Until the end of 2009, these cases relatively frequently ended in acquittals.
- If a custodial sentence was imposed, which was in a vast majority of cases, it was mainly for a period of one to four years (53%). Sentences of less than a year were imposed in 37% of cases, and sentences of more than four years in just 11%. The custodial sentences imposed have become steadily shorter, which contrasts with current perceptions of the seriousness of the offence of human trafficking leading to the increase in the maximum sentences as from 1 July 2009).

This was the past, and now for a brief preview of the areas requiring attention in the future.

Let me mention four items: Protecting victims, data collection, case law and the virtual world: internet.

Protecting victims

We need a vision on the assistance and care that the youth care services should provide to under-age victims. A national strategy for caring for this category of victims should have been formulated long ago, embracing key aspects such as a pedagogical climate, safety, small groups and education. Considering the number of Dutch under age victims over the last decade the lack of a vision and strategy unacceptable.

Data collection

It is difficult to collect reliable information on human trafficking. Aside from the information gap that always remains, human trafficking is also an uncomfortable reality to deal with. It is not surprising then that emotional and ideological responses slip into the debate about how to tackle it. Yet, anti-trafficking policies should primarily be information-based. Reliable data collection, including openness and monitoring of the (inevitable) shortcomings of our research, is the key.

For this reason, from the outset, recommendations were made on the collection and proper registration of data. Since as a Rapporteur I do not perform executive tasks myself, I depend to a considerable extent on how other organizations keep records, whether for their own operations or for the benefit of my Bureau. Compiling aggregated results from the data from the computerised systems of the relevant agencies, without their intervention, could be compatible with the role of independent observer and rapporteur. If it were to prove technically feasible to automate this task, BNRM would be the most logical choice to perform it.

Case law

The development of case law both on sexual exploitation and on other forms of exploitation will also remain an important topic in the coming period. This will include such aspects as specialisation within the judiciary, the development of guidelines for sentencing and analysis of case law. The study of case law on exploitation in the sex industry in the seventh report of last year has in any event led to growing attention amongst the judiciary.

Recently a proposal was made to build a ‘Human Trafficking Case Law Tracker’ (HT-Tracker). This project aims to establish a systematic digital database of structured English summaries of important case law from national courts throughout Europe on the crime of trafficking in human beings. As such it will allow stakeholders – in particular courts, public prosecutors and law enforcement agencies – to fight this crime more efficiently and effectively, with key knowledge generated abroad travelling freely across Member States’ borders. It will address the lack of qualitative data on the application and interpretation by national courts of the shared regulatory framework, thus providing a tool for aiding bottom-up harmonisation and sharing of law in this field.

As national rapporteur I hope that this initiative will provide a useful tool for criminal law practice, including the judiciary.

The virtual world

The role of the internet in human trafficking will demand a lot of attention in the coming years. The importance of information and communication technology (ICT), also in relation to human trafficking, has grown enormously in a relatively short space of time. The internet is used to recruit potential victims, as a means of coercing victims with compromising photos or

films or as a medium to exploit victims. Images of sexual acts with victims circulating on the internet constitute a new dimension to victimhood.

We know that these practices exist but there is not much scientific research on these topics, and appropriate responses are in fact still lacking. In addition we must realise that it may be quite difficult for organisations to constantly adjust to fast changing technologies. The internet is becoming more anonymous and more accessible at the same time.

Young potential victims spend a large part of their lives in a virtual reality, but that is not always true of those who must protect them. There is, therefore, ground to be made up. Not only to learn more about the virtual world of young people, but also to make optimal use of the possibilities of ICT. Internet is a fact of life, including the possibilities and risks that also exist in the real world. Internet should not be perceived as a great danger but as an opportunity to reach out. Internet should be perceived as a place we can use for prevention; and as a place that must be monitored

In combating trafficking in the virtual world, partnership between the public and private sector is an obvious solution.

A week ago, MyChildOnline started a national campaign to raise awareness about the risks of cybersex for parents and schools. Initiatives such as these are very important.

Another example of public-private partnership is the social network site Habbo where more than a million Dutch children aged 10 to 18 meet and play in a virtual world. Habbo (successfully) cooperates with governmental institutions such as the police and NGOs (Helpwanted.nl) in creating a safer internet environment. I myself will soon be giving a once-only consultation to youngsters on Habbo. I will also be following digital developments with great interest in the future.

Concluding remarks

The post of National Rapporteur on Trafficking in Human Beings has now existed for ten years in the Netherlands. The approach chosen was to create an institution that, while part of central government, occupies an entirely independent position, similar to an independent government advisory body.

With this structure, the Netherlands has created a powerful instrument. Through the appointment of an independent Rapporteur to evaluate policy and make recommendations, the Dutch government has arranged structural feedback. This can be regarded as a powerful model for the office of rapporteur. This robust instrument demonstrates the Dutch government's determination to achieve tangible results in tackling human trafficking. The government further underlined its intentions by extending my mandate last year.

For the last ten years the Rapporteur has held a mirror up to the agencies and other organisations engaged in the fight against human trafficking in the Netherlands. They have looked in that mirror.

I have the honour of presenting the Eighth Report to you, as representative of the Dutch government, with some pride, and, as I already mentioned, with positive expectations for the future.