

Human Trafficking, prostitution, forced labour and the unaccompanied minor. The importance of data collection and the role of the rapporteur.

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Mr Chairperson, Ladies and gentlemen,

First of all, I would like to thank you for the opportunity to tell you something about the institution of the Dutch National Rapporteur. One of the most important aspects of my function and my role as a rapporteur is the fact that I am an independent body and that I can give my findings and recommendations unrestricted. Before I became a Rapporteur, I have been a judge for over 20 years so this independency is like a second nature. I will go into the importance of this aspect later on and will then give you some examples.

First I will tell you something about the history of my function and my Bureau and then I will highlight three aspects of the importance of a national rapporteur: the collecting of data, monitoring and the independent position of the Dutch National Rapporteur

HISTORY

Since 1 April 2000 the Netherlands has had a National Rapporteur on Trafficking in Human Beings (NRM). The appointment of the NRM is the direct result of the Hague Declaration of 1997, which called upon member states to appoint national rapporteurs in order to report to their respective governments on trafficking in women (as it was referred to at that time).

The importance of thorough information for drawing up policy in this area, was underlined later in such documents as the Brussels Declaration (2002) and the OSCE Action Plan (2003).

There are still not many national rapporteurs, A number of countries do have national coordinators, national action plans and/or working groups on THB. For example, as part of the Nordic-Baltic campaign Estonia appointed a national coordinator for THB in 2001. Belgium, Sweden and Romania have a Rapporteur system that is reasonably comparable to the Dutch system. And of course every country will have the monitoring system that suits

their needs, but I will stress that as far as the Netherlands is concerned monitoring, transparent figures and independence are all important aspects of the job.

The task of the NRM is to collect information and to report to the Dutch government on THB. The rapporteur is supported in her work by a small office.²¹ This institute is financed by five ministries.

The area of research started for Trafficking for exploitation in the sex industry; but since jan first 2005 exploitation in other sectors is also included as well as trafficking for the removal of organs..

Collecting data in general

It is widely recognised that knowledge about THB is of major importance for addressing the phenomenon in an adequate manner. We need to know more about human traffickers and how they work, but also about victims: how do they cope when they are being victimised, and in the period following this? If they are brave enough to tell their story, to what extent are they offered the necessary assistance and support, and which interventions in the battle against human trafficking and in relation to victim support are effective? At the same time, it is clear that is very difficult to collect reliable information. There are various reasons for this:

- exploitation partly occurs in hidden sectors such as the (unlicensed) sex industry, the informal economy and behind closed doors in private households, making it difficult to detect;
- victims, including victims of exploitation in other sectors than the sex industry, are reluctant to tell of their experiences;
- for these reasons, and also because exploitation does not, generally speaking, cause any visible disturbance of public order, cases remain undiscovered. It is unknown how large this ‘dark number’ is.

Another significant question is what type of research is needed. It is often said that studies in relation to a single country provide too limited a picture. This is true in relation to specific aspects of what is frequently a cross-border offence, such as human trafficking routes or obtaining a picture of the situation for victims who have returned to their countries of origin. However, for (national) policy purposes, it is valuable and even essential to collect information specific to a particular country. This type of information is also indispensable for clarifying the meaning of the results from large-scale international comparative studies. All the more so, because this type of studies, generally speaking and quite apart from human trafficking, already has to deal with additional problems.

An additional problem is that there is no unanimous international definition of THB. While the definition of human trafficking in the UN Palermo Protocol on THB is applied broadly there still are differences between different countries in the way they interpret this definition and in how THB is defined in national legislation. This in turn has consequences for any data that may (potentially) be available. In some countries, the data only cover cross-border human trafficking, whereas others also include internal (domestic) trafficking. In some countries, the law and the data cover exploitation not only in the sex industry but also in other sectors, while in other countries this is not (yet) the case. Also, the extent to which combating THB is prioritised in a particular country will influence the availability and amount of data on the phenomenon. The United States Government has in its TIP reports discussed this type of problems at length.

The question arises as to whether studies into THB on a large scale, occasionally even on the global scale take adequate account of the distinctions mentioned above. Do they reflect a balanced picture of reality, or do they simply reflect figures without paying much attention to the context from which these are drawn? It seems that the fact that some countries, such as the Netherlands, collect and publish information on THB and trafficking victims, has a negative influence on the image of these countries portrayed in large-scale reports.

Another problem is a reluctance to share data. This may have to do with privacy and data protection laws, and the wish to protect clients, but also with the wish to avoid risking international 'sanctions' as a consequence of collecting and presenting certain information. The Netherlands, for one, is often regarded critically, not only because of its prostitution policy, but also based on the information that is available on trafficking. The other way around, unfortunately, if you do not register trafficking victims or keep track of the court cases on trafficking, you cannot be called to account for - say - the number of identified victims or the average sentence imposed.

So again it is true that country-specific studies cannot answer many questions that need answering, as on international trafficking flows or on what happens to victims who return to their country of origin. But at the same time country-specific information is necessary for national policy purposes, for example on support and compensation for victims, their reluctance to report THB, and technical aspects of police investigations.

There are particular risks in researching trafficking at a large, international scale. Again, I mention just a few:

- can international overviews reckon with national differences in the trafficking definition and statistics?
- do these overviews present a balanced picture of reality, taking into account for instance the level of priority given to the fight against THB in different countries? After all, trafficking is easily overlooked if you do not want to see it.
- can the researchers involved know how valid and reliable the information is on which they base large scale studies?

There is a great need for numbers and a better understanding of them. It should be clear from what has already been said that it is difficult to obtain reliable figures on THB, if only because of the nature of the phenomenon. Researchers in the area of THB therefore have to wrestle with the question whether it is possible to estimate the size of, for example, populations of the victims of THB. The results have not hitherto been encouraging. This is regrettable, but we should also appreciate that, although knowing the numbers might say something about the scale of the measures needed to be able to deal with THB, this would not clarify *what* has to be done. For this, we (also) need more in the way of qualitative information. In this respect it is regrettable that, while many countries are showing interest in the phenomenon of the 'NRM' and international bodies are urging the appointment of rapporteurs, very few national rapporteurs have yet been appointed. I really do think that NR's could play an important role in the gathering of reliable and comparable data.

HOW DOES BNRM GATHER INFORMATION ?

The first aspect of my work is to gather information. One of the key elements in a successful counter trafficking strategy is knowledge. Knowledge is power. Power as a dynamic concept to approach and tackle the problem efficiently, to improve the fight against it, in policy making and in the application of the law (or other regulations) in practice. Therefore, solid research and analysis is at the basis of effective anti-trafficking measures that a government should take. I am assisted by a small bureau. It is our task to inform the government on all aspects of trafficking in human beings. This regards information on the nature and the scale, on perpetrators, on modus operandi, on victims, but also on more general themes like prevention, legislation, governmental policy and important developments in these fields, on

the national and international level. This information is gathered from all possible individuals and organisations, both state and non-governmental, that deal with the trafficking issue.

Working methods of BNRM

BNRM collects both quantitative and qualitative information. This is done using among other methods:

- in-house research;
- secondary analysis of existing data files;
- the organisation of meetings;
- attendance at consultative structures;
- participation in advisory committees;
- participation in working groups;
- attending conferences and workshops both in the Netherlands and abroad;
- occasional attendance at meetings, and also being kept up-to-date by means of minutes of such meetings, held by local (support) networks on THB;
- many bilateral contacts (in person, by telephone or email) with a wide range of individuals and bodies.

These recommendations cover a wide range of issues, including legislation and regulations, victims of THB, assistance and the protection of interests, law enforcement, police and investigation, and the PPS and prosecution

We report our findings in annual reports to the Dutch government, for which the Minister of Justice is acting as the coordinating Minister. Our reports thus contain qualitative and quantitative information on criminal investigation and prosecution, information with regard to prevention and on victim support and assistance. Next to reporting about our findings, it is also our task to formulate recommendations to the government in order to improve in any way the policy and practice in the fight against trafficking. It is obvious that the information my Bureau collects serves as the foundation and justification of these recommendations.

The reports (with the findings and recommendations) are commented by the government and then discussed in a Parliamentary debate. The goal is of course that the recommendations are recognised as relevant and are followed up by government and Parliament in its controlling role.

The sixth report was presented the end of may this year. The English translation can be found on www.bnrm.nl

Monitoring of counter-trafficking policy

In essence monitoring is reflecting upon your own activities and initiatives, in order to evaluate to which extent your set goals are reached. Monitoring of the combat against THB thus means measuring the effectiveness of the policy and the counter-trafficking activities pursued. In a Parliamentary democracy the controlling task of governmental policy and action is laid in the hands of Parliament. From this perspective, monitoring of counter-trafficking and victim assistance is the very task and responsibility of Parliament. In the Netherlands this task is in a way facilitated by the existence of a National Action Plan on THB. Following one of our - many - recommendations, the Dutch government drew up such a National Action Plan in 2004. This Plan contains concrete measures to be taken to improve the fight against trafficking, by whom and the timeframe wherein these should be accomplished. The Action Plan is updated after every presentation of a new report (of the Rapporteur) and is then also a discussion item in the Parliamentary debate on my reports.

These Parliamentary debates are the effectuation of the controlling function of Parliament on the issue of THB. In performing this task, Parliament makes ample use of the reports and the information and considerations contained therein. And this is precisely the point where the Rapporteur comes in the process of monitoring the counter-trafficking policy.

The Rapporteur and monitoring the governmental counter-trafficking policy

As follows from the preceding, from a formal point of view it is not the level of the Rapporteur being the monitoring mechanism on the governmental counter-trafficking policy, but it is Parliament itself. The Rapporteur has, however, an important role to play in this monitoring. As a logical consequence of my task to provide information and advise the government, also when it comes to the mechanisms playing a role and the effects of the policy pursued. Based on these, it is Parliament that debates with the government on the state of affairs in the fight against THB. The fact that the Rapporteur and my staff members have an independent position is crucial in this respect; it forms the basis for an objective and non

biased view on the developments and the pro's and the con's of the Dutch counter-trafficking policy and practice. By making use of such information in the debates, Parliament can critically assess and evaluate the achievements of the governmental counter-trafficking policy. Our reports (and the fact that they are issued regularly), therefore function as an impetus both to the government and to Parliament to perform their respective tasks of fighting trafficking and monitoring the effectiveness of that fight.

Desired monitoring and evaluation mechanisms

I will also say something about desired monitoring and evaluation mechanisms. You will understand that I first and foremost look in the existing political structure for a desired model of monitoring. As I said, it is the democratic task of Parliament to critically follow and assess governmental policy and activities in the field of combating THB. Parliamentary debate with the government is the natural way to execute this monitoring task. It would of course be very helpful for both Parliament and the government if it can revert to objective and well founded information to perform this task. After all, facts based debate will prove to be the most valuable, both in terms of commitment to the outcomes and of willingness to strive for further improvements. I therefore emphasize the importance that all countries establish an independent official, tasked to provide the government with qualitative and quantitative and transparent information on (the scale and the nature of) the trafficking issue in the country.

In order to get a more firm grip on the way and extent to which countries comply with their international obligations in the field of counter-trafficking, the establishment of monitoring mechanisms annexed to international treaties are most welcome. In this respect I mention the Council of Europe Convention on Action against THB, that provides for such a mechanism (under the name of GRETA).

INDEPENDANCE

The fact that we do so in an independent position is crucial. It forms the basis for a non biased view on the Dutch counter-trafficking policy and practice. It also allows us to decide which topics need to be investigated. In my view, a rapporteur should be neither a political activist nor a government official. But she can point out problems and try to help find solutions, in her reports and in other ways. A rapporteur can, for instance, help to create more trust and cooperation between different partners in the anti-trafficking chain.

At this moment I am doing an in depth research of jurisprudence. I am concerned about the fact that trafficking for labour exploitation has not yet effectively resulted in convictions. Also I want to investigate the way judges handle Trafficking cases, concerning the treatment of victims, the applied sanctions, the given retributions and problems concerning the evidence given by victims.

Furthermore I am investigating police cases that have not resulted in prosecutions. All this kind of research is possible and will be heeded also as a result of the fact that I have an independent status.

I inform and advise the Dutch government in public reports. Information is obtained in several ways and from many different sources, both state agencies and non-governmental organisations. For example, we use the quantitative data of others for secondary analysis, but also apply more qualitative methods, which enable us to keep in touch with what really goes on in practice. One way of doing this is by maintaining an extensive network of policy-makers, law enforcement agencies, NGO's, and international organisations. The Bureau also has access to all police and prosecutor's files and registrations. Many of our recommendations have been followed by the government.

Seven years Dutch Rapporteur

The first thing that may be noticed is the fact that the issue of trafficking has gotten a firm ground and basis in the Netherlands, both within the central government, as within the prosecution and the police. There is also more public awareness and publicity. At the start for instance of my Bureau THB was seen as a gender problem, rated under the vice crimes. Now it is well established, in the law as well as in with the police and prosecuting bodies that THB is an area where organised crime is active and that therefore a fitting structure to deal with this kind of crime was necessary. THB is typified as a lucrative business (high profits), but unfortunately still low risks to be caught.

On the level of ngo's dealing with victims of trafficking there was already a lot of activity and awareness, but I think it has even increased in the past years. I therefore dare to say that THB has now a firm position on the agenda of all chain partners.

Thank you for your attention