



RESPONSE

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The Prevention & Combating of Trafficking in Persons Act

The Presidency announced on 30th July 2013 that President Zuma had signed into law five Bills, including the Prevention and Combating of Trafficking in Persons Bill. This piece of legislation has been before Parliament for six years, and has been the focus of advocacy campaigns around issues of human trafficking for more than a decade. The legislation is the largely the result of work done by the South African Law Reform Commission, together with numerous civil society inputs.

The new legislation provides the first comprehensive framework for combating trafficking in persons. Up until now, the law in this area has been fragmentary and prosecutions had to be effected via various common-law or statutory offences. For instance, existing legislation relating to sexual offences covered areas where trafficked persons were exploited sexually, just as the Children's Act covered areas solely relating to the trafficking of children. Inevitably, this fragmented approach left gaps in the legislation, did not offer a single focus for prosecution, and allowed for ambivalence around the interpretation of policies. The new Act closes loopholes and creates a coherent approach to preventing and combating what is widely considered to be the most pernicious form of contemporary slavery.

In addition, the legislation creates important new offences such as debt bondage, where a person is required to pay off debts through their labour. It also criminalises the possession, destruction or tampering with people's travel documents. It likewise makes it a crime to use the services of trafficked persons; this is of particular importance, for example, when it comes to the large numbers of girls and young women who are trafficked from the rural parts of South Africa to provide domestic labour in urban areas.

The legislation also meets the requirements of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, to which South Africa is a signatory, and brings domestic legislation in line with the standards set by that Protocol.

As part of the requirement that the law must provide strict penalties for those found guilty of trafficking in persons, a fine of R100-million, or a sentence of life imprisonment for such crimes, is stipulated. This is meant to function as a strong deterrent. It is also interesting to note that the Act provides for compensation to be paid directly by perpetrators to victims. In addition, it makes provision for protection and support for victims, especially in overcoming the trauma which they will have experienced.

In this way the legislation fulfils the requirements that were set out in the early stages of its development: that it should include measures to strengthen the combating of trafficking; that it must

bring domestic legislation into compliance with the standards set out in the UN's Palermo Protocol; and that it must provide appropriate penalties for perpetrators as well as protection for victims.

Despite this welcome advance in the fight against trafficking in persons, the law still requires appropriate regulations so that it can become fully operational, and this will require input from various state departments. Given the urgency of implementing this law, one can only hope that there will not be delays in securing the co-operation of the relevant departments. In this regard, it is encouraging to note that the Northern Cape Province has already established an Anti-Trafficking Unit. Finally, another area that needs attention is the swift and rigorous training of police, prosecutors and others in the criminal justice system who will be at the forefront of investigations and prosecutions in this area.

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