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Policy Review of the Swaziland National Strategic Framework and Action Plan

2013-2015

Trafficking in Persons

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Declaration

I, Sabelo Mkhatshwa, declare that this dissertation is my own original unaided work. It has never been submitted before for any degree or examination at any other university. I am submitting it for the degree of Master of Arts in Development Studies at the Faculty of Humanities of the University of the Witwatersrand, Johannesburg.

Signed ……

This _____ day of _____ in the year _____

Acknowledgement

This research is dedicated firstly to victims of human trafficking and the precarious situations that they find themselves throughout the world. Special dedication to my father, Paul Mkhatshwa who passed away during me pursuing this MA degree, my brother Wandile who my family lost in 2009, my mother Thembisile Mkhatshwa, Phumzile, Nokufika, Wakhelwe and Sibayo, who were behind me in belief and providing prayer that I achieve this task. A huge thank you to Sazi who always knew what to say during the times of worry, stress and self-doubt, thank you for giving level headed advice. Thank you to my supervisor Prof Ran Greenstein for his guidance and contribution to my research. I hope this research provides a bit of knowledge towards the response to people trafficking in Swaziland (Swaziland) and hope it will assist fellow researchers in years to come**.**

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Acronyms and Abbreviations

AGOA	African Growth Opportunity Act
BRICS	Brazil, Russia, India, China and South Africa
DPP	Director of Public Prosecutions
ERT	Emergency Response Team
ERC	Economic Review Commission
IATF	Inter Agency Task Force
IOM	International Organisation for Migration
NDS	National Development Strategy
NRM	National referral Mechanism
NSF&AP	National Strategic Framework and Action Plan
PEPFAR	United States President's Emergency Plan for Action Relief
PPCU	Public Policy Coordination Unit
SADC	Southern African Development Community
SSA	Sub-Saharan Africa
TIP	Trafficking in Persons
UNODC	United Nations Office on Drugs and Crime
UNICEF	United Nations Children's Fund
UNDP	United Nations Development Program
U.S.	United States
USTIP	United States Trafficking in Persons
CEDAW	The Convention on The Elimination of All Forms of Discrimination Against Women
AIDS	Acquired Immune Deficiency Syndrome

HIV	Human Immunodeficiency Virus

Chapter 1

1.1 Background

The United Nations and its member states signed the United Nations Convention against Transnational Organised Crime in Palermo, Italy in December 2000 (UNODC,2004). The signing of this convention signalled political will to combat a global crime with a global response.

Swaziland is a state which signed this convention on the 14th December 2000. This convention outlines the blue print in the fight against transnational organised crime and its three protocols, namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

Swaziland as a country, has made substantial advancements in responding to this transnational crime. In 2009, Swaziland enacted The People Trafficking and People Smuggling (Prohibition) Act 2009 and was operationalised on the 1st March 2010. The country as per the requirements of the convention ratified the convention and its related protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children. Dlamini, B. (2010).

States that ratify this instrument commit themselves to taking a number of measures against transnational organised crime, including the creation of domestic criminal offences (Participation in an organised criminal group, money laundering, corruption and obstruction of justice); the adoption of a new frameworks for extradition, mutual legal assistance and law enforcement cooperation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities. (UNODC 2004, p5)

1.2 Rationale

Swaziland developed a National Strategic Framework and Action Plan, a roadmap of actions and programs that outline the response in combating people trafficking. With

this policy document having elapsed its three years' life cycle from 2013-2015. This research seeks to conduct a policy review of this document and evaluate its success's and developmental challenges in relation to the situation in the country. This research also seeks to identify challenges that are faced in implementing anti-human trafficking policies in Swaziland.

The Protocol tackling Trafficking in Persons defines Trafficking in Persons as "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, deception, of the abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation. Exploitation is defined as the exploitation through the prostitution of others or other forms of sexual exploitation, forced labour, slavery or activities like slavery, servitude or the removal of body organs". (UNODC, 2004 p5)

Swaziland is a source, destination and transit country for men, women subjected to sex trafficking and forced labour. Source countries are countries with small economies and poverty stricken. The labour force is in a precarious state of employment and having a comfortable life is difficult. Transit countries are countries that geographically lay along the path between the source country and country of destination, usually used as access to the destination countries. Porous ports of entry allow easy access to the destination countries through the country with poor border control. Destination countries are countries whereby victims are trafficked to, and where the various types of exploitation occur. These are countries with vibrant economies and higher standards of living which are the pull factors that draw attention from victims.

Adepoju (2005) explains how women in the Sub-Saharan region take over sole responsibility for households after their husbands die of AIDS related illnesses. These situations increase the burden on women to provide for their families and some choose to migrate in search of employment to make a living. During such migrations, the women may fall into the trap set out by traffickers and be coerced or forced into sex trafficking.

The available information reveals that Swaziland is predominantly a source country for victims being transported to South Africa for exploitation.



Source: Swaziland National Strategic Framework & Action Plan 2013-2015(People Trafficking)

According to Adepoju (2005) similar findings in the sub-Saharan region on trends of migration and outlines three main types of trafficking that have been identified in the region. These are trafficking in children, mainly for farm labour and domestic servitude within and across countries: and trafficking in women and the youth for sexual exploitation, mainly outside the region; and trafficking women from outside sub-Sahara for sex industry of South Africa.

As the previous paragraph explains migration patterns in the sub-Saharan region, which substantiate to a certain level the findings made by the TIP 2016 report on migration patterns, it is a sad reality not much literature on migration on Swaziland is available. Admire & Whitehead (2014) suggest the same in their writings on migration in Swaziland, they say that “literature on Swazi migration and development is however scant and often hidden in other studies of the region” .

According to the USJTIP (2004) report, historically labour brokers fraudulently recruit and charge excessive fees to Swazi nationals for work in South African mines, means often used to facilitate trafficking. The United States, State Department 2016 TIP report claims that reports indicate a recent downtown in the textile industry in Swaziland which has led textile workers to follow promises of employment in neighbouring countries, potentially increasing their vulnerability to trafficking.

According to study conducted by Laterza V. (2016) entitled '*Resilient Labour: Workplace Regimes, Globalisation and Enclave Development in Swaziland*', the study states that "the supply of migrant labour to South Africa continues and exploitation is the norm and still has a significant role in the Swazi political economy. The early 2000's saw a rapid growth of the textile and clothing industry led by Taiwanese companies taking advantage of Swaziland's inclusion of the African Growth Opportunity Act (AGOA), an Act that gives preferential access to the United States markets for textile products. The inclusion of the country as a beneficiary of the AGOA created a new wave of investment and created 40 000 jobs in manufacturing filled predominantly by young women. Laterza (2016) further suggests that the country's stagnating economy coupled with a small industrial workforce, the government of Swaziland turned a blind eye to reports of exploitation, poor health and safety reports of verbal and physical abuse of workers being paid wages below the minimum wage regulations. By 2011, Swaziland was excluded from this Act by the Obama administration due to poor labour practices by government and the workforce in the textile sector decreased to 18 000 after a decline in the economy after a few years and by the strong South African Rand to which the Swazi currency called Lilangeni, is pegged to.

Laterza (2016) writes, that regional socio-economic developments have taken place in the past three decades particularly in Sub-Saharan Africa, which has produced a new wave of foreign investment to African countries particularly from the BRICS group of countries. Swaziland has become integrated into the South African regional economy firstly through mass labour migration to South African mining economy and through the increased penetration of South African capital in the Swazi economy. Trafficking in persons has also been enabled through these recent socio-economic developments and more than fifty percent of people trafficking victims between 2010 and 2012 have been to South Africa.

According to the NSF&AP the need to study migration is important in order to add to the little literature available on Swaziland and the need to research migration linked to trafficking in persons is even more important. As a signatory state to the Palermo Convention and certain actions been taken by Swaziland, such as enacting legislation and policies to respond to the crime of people trafficking and smuggling, this research seeks to contribute to literature on the topic in Swaziland.

As a policy review document, the research seeks to evaluate the measure taken by the country in the response to people trafficking and to see if it is working given the various external and internal variables that can and do influence the outcome of programmes intended to fight this phenomenon. This research aims to contribute to literature on people trafficking and to assist researchers in the future when developing policies on the topic in Swaziland.

1.3 Problem Statement

Since signing of the Transnational Organised Crime convention in 2000, Swaziland has established several response mitigations structures. Section 6 of the People Trafficking and People Smuggling (Prohibition) Act 2009 states that structures including the formation of the Taskforce for Prevention of People Trafficking and People Trafficking and Smuggling, a Secretariat housed at the Prime Minister's Office and toll freeline against trafficking in persons.

Enactment of the Act and the development of these structures was set up in 2010, Swaziland was rated on "Tier 2 Watch list" by the 2009 United States, State Department, Trafficking in Persons Report. According to this report compiled yearly the tier ranking system is described in this way:

Tier 1: Countries whose governments fully comply with the TVPA's minimum standards for the elimination of trafficking.

Tier 2: Countries whose governments do not fully comply with TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

Tier 2 Watch list: Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards, and for which:

a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing

b) There is failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increase investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials.

c) The determination that a country is making significant efforts to bring itself into compliance with minimum standards as based on commitments by the country to take additional steps over the next year. (Trafficking in Persons Report, 2016)

The difference between tier 2 and tier 2 (Watchlist) is that countries on tier 2 have prevention, protection and prosecution structures that have some measure of success and tier 2 watchlist countries merely have them on paper but have not really been tested practically, due to various reasons that are fleshed out in this research.

Tier 3: Countries whose governments do not fully comply with the TVPA's minimum standards and are not making significant efforts to do so.[1]The enactment of the legislation upgraded Swaziland to Tier 2 in 2011 and maintained the tier 2 ranking up until 2016, whereby the United States State department through its TIP Report downgraded the country back to Tier 2 Watch list.

According to the Countries that drop-in tier rankings according to the U.S. government trafficking in persons report, face certain sanctions and restrictions. Funding restrictions for Tier 3 Countries include restrictions on assistance, whereby the United States President may determine not to provide U.S. government non-humanitarian, non-trade-related foreign assistance. The President may also decide to withhold funding for government officials or employee participation in educational and cultural exchange programs for certain Tier 3 countries. The President may also determine to instruct the U.S. Executive Director of each multilateral development bank and the International Monetary Fund to vote against and use their best efforts to deny any loans or other uses of the institutions' funds to a designated Tier 3 country for most

.

purposes, however this excludes humanitarian, trade-related, and certain development-related assistance. Alternatively, the President may waive application of the foregoing restrictions upon a determination that the provision to a Tier 3 country of such assistance would promote the purposes of the TVPA or is otherwise in the national interest of the United States. The TVPA also authorizes the President to waive funding restrictions if necessary, to avoid significant adverse effects on vulnerable populations, including women and children".

The USTIP Report (2016) states that, the Government of Swaziland does not fully meet the minimum standards for the elimination of trafficking. The report states that significant efforts to meet minimum standards with collaboration with regional bodies such as the Southern African Development Community (SADC) and an International Organisation. The report further states that the government launched a victim identification Guidelines document, and launched a national referral mechanism, finalised in 2015

The immense significance put on the US State Department TIP Report is also seen with neighbouring countries and is questioned by researchers such as Walker and Oliveira (2015) in their paper entitled "Contested Spaces: Exploring the intersections of migration, sex work and trafficking in South Africa". The claim is made that there is not much solid data or evidence to warrant such significance put on this report by local and international bodies, however by virtue of countries being signatory to the Palermo Protocol and pressure from the United States, there needs to be a concerted effort in the response to TIP.

Objectives

The National Strategic Framework and Action Plan includes a large number of actors as stakeholders, namely: Office of The Prime Minister, Deputy Prime Minister's Office, Ministry of Home Affairs, Ministry of Foreign Affairs, Royal Swaziland Police Services, Ministry of Justice and Constitutional Affairs (Office of the Director of Prosecutions), Swaziland Revenue Authority (Commissioner of Customs) UNICEF, UNDP, NGO, s and Faith Based Organisations. This document builds on past achievements-scaling up what worked well, introducing new and proven strategies and rectifying what did not well in the past. (NSF&AP, 2013)

It's a multi-sectoral overarching guide which informs the strategic directions to be considered by government departments that are part of the response in trafficking in persons. It also defines the main agencies/ government departments responsible for specific activities and deadlines for implementation. The National Strategic Framework and Action Plan as the name suggests, is divided into two parts. The first part introduces the framework, outlining guiding principles, vision and mission. The second part clearly outlines the specific activities set out by the action plan.

With such a detailed implementation plan set in place which has elapsed its life span in 2015, my research seeks to;

1.1.1. Investigate what instrument failed leading to Tier 2(Watch list) downgrade

1.1.2. What were the goals set by this policy on anti-trafficking in persons to be achieved by government to mitigate people trafficking and smuggling as a social issue in Swazi society, and was the policy aligned with other developmental policies to achieve its objectives?

1.1.3. Measure through performance indicators of the programmes to establish if they were met in the 3-year timeline initially set out and what they tell us about the context of Swaziland's developmental challenges and what forces and tendencies (political, social, cultural) within Swazi state and society help or hinder the shaping of policy and its implementation.

Chapter 2

Literature Review

2.1 Introduction:

This chapter seeks to give theoretical background on people trafficking in general and give clear definitions of what people trafficking and people smuggling is. The first part gives internationally recognised definitions and background on how anti-human trafficking policy came about. The second part discusses different theoretical frameworks or approaches to viewing trafficking it looks at the influence of feminist approach and the reasons as to why general theoretical literature on people trafficking is focused on predominantly one aspect of exploitation, which is sexual exploitation and ignores other forms of trafficking which happen. The importance of looking at the different theoretical approaches to viewing people trafficking is important because these theories help inform why certain type of policy strategies are selected in the response to people trafficking. The third part looks at policy network analysis and the specific approach at combating human trafficking, one utilised by Swaziland and in many countries in Africa and world over, but due to non-aligned policies, resources, capacity and the relationship among policy network actors and how these relationships can influence policy development through various factors some external that contribute to having a good or a substandard policy.

2.2. Trafficking in Persons:

A Definition

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Article 3, Paragraph (A), which supplements the UN Convention against Transnational Organised crime states as a definition the "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, deception, 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or

services, slavery or practices like slavery, servitude, or the removal of organs. (UNODC, 2006, P43)

2.3. Child Trafficking

A Definition

Child trafficking has all the elements in the above definition however this applies to a person younger than eighteen years.

2.4 Smuggling of Migrants

A Definition

‘Smuggling of migrants” shall mean the procurement, to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (UNODC, 2004 p54)

‘Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State’. (UNODC, 2004 p56)

The convention stipulates three elements needed for a crime to be specified as trafficking, namely: 1) First is recruitment in the home country, transport to the country of destination, reception and accommodation in the country of destination and the handing over of human beings from recruiter to receiver. The second element is that trafficking must be by means of threat or use of force, or other forms of coercion, abduction, deceit, or fraud. People can also be kidnapped. They also can be prepared for work in the country of destination but deceived concerning the nature of employment. A lot of victims, especially women, are led to believe that they will be doing domestic work-employed at a restaurant. Some women are also aware that they are going to work as prostitutes in the country of destination but misled about conditions. The last element that needs to be present is that there must be the element of exploitation. Trafficking of women for sexual services is generally for prostitution, but sometimes for other related actions, such as the production of pornographic materials.

2.5. Key Theoretical Perspectives

People Trafficking research according to Alverez and Alessi (2012), has tended to favour the study of sex trafficking/sexual exploitation over other forms of exploitation such as labour exploitation despite evidence that a lot of trafficked persons are forced to work in several sectors. The focus on sexual exploitation and prostitution has been influenced by highly politicised ideological debates on the definition of human trafficking. Activist driven studies have typically focused on women and girls who have been fallen victim of sexual exploitation

According to Ucerer (1999) People trafficking has been tackled from various angles which sometimes intersect in terms of perspectives including gender, human rights and international law, migration, legal studies as well as political economy. In academic literature and policy, discourse there are four key theoretical approaches to the issue of trafficking. Although trafficking in persons is not only subjected to women but across all genders, the most popular or rather more recognised theoretical frameworks deal specifically with women and these theories are the theories used to pioneer the anti-trafficking legislation globally.

Migration Approach

The first approach to be highlighted is called the migration approach. According to Lazaruk (2005) the migration approach treats trafficked victims as strictly illegal migrants. It views trafficking without incorporating the gender aspect, as a crime involving mostly women and without any consideration for the human rights aspects of trafficking in persons. The migration approach views people trafficking as a threat to state security and to a certain extent, this approach is a state-centric realist stand point of view. The migration approach ignores the significance of individuals and their lack of consent in the process involved in trafficking in persons and focuses wholly on state security. This approach views the state as the victim, as illegal migrants, deemed to be violating the laws of the country in which they end up as destination.

The Feminist Approach

The second theoretical approach to people trafficking is the 'feminist' approach. According to Marinova and James (2012) looks at trafficking as a human rights issue. This approach views both sexual exploitation and prostitution as violations of a woman's body and her spirit and therefore as subjects of feminist concern. The feminist approach was propagated by feminists who advocated for a convention that outlaws anything that violates the rights of a woman such as female genital mutilation to prostitution and female infanticide.

Practices advocated for by early feminists include having laws in place, as combating violence against women developed as an issue on the international agenda in 1980's and 1990's. Examples of this include The Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979 and came into force in September 1981. Article 6 of CEDAW calls on states to suppress trafficking and prostitution and by the end of the last millennium trafficking in persons entered the broadening agenda of women's rights. (Marinova and James, 2012, p234)

The Labourist Approach

The Labourist Approach**,** treats the activity of trafficked women in prostitution in the same manner as those who freely volunteer to labour in prostitution and sees trafficked women as sex workers who deserve human rights protection. 'Researchers such as Ucarer (1999) suggest that the answer to trafficking as being able to create better working conditions in a legalised setting and consider the criminalisation of prostitution facilitates the efforts of such networks to coerce women and secondly makes the climate less safe for women in that sector.

A strong critique of the Labourist approach is the work of Janice Raymond who in 2002 was chair of the international Coalition Against Trafficking in Women (CATW). Raymond (2002) rejects state sanctioned prostitution and trafficking, she says it cannot be considered as legitimate employment. Her argument uses the term "state-sponsored prostitution" as evidence that in any of the legitimised systems that acknowledge the sex industry as a legitimate sector, the state becomes another exploiter, living off the earnings of women in prostitution. An example of such a state

is the Netherlands where the state legalised prostitution and that sector brings in a substantial amount of revenue to state coffers.

The Repressive Approach

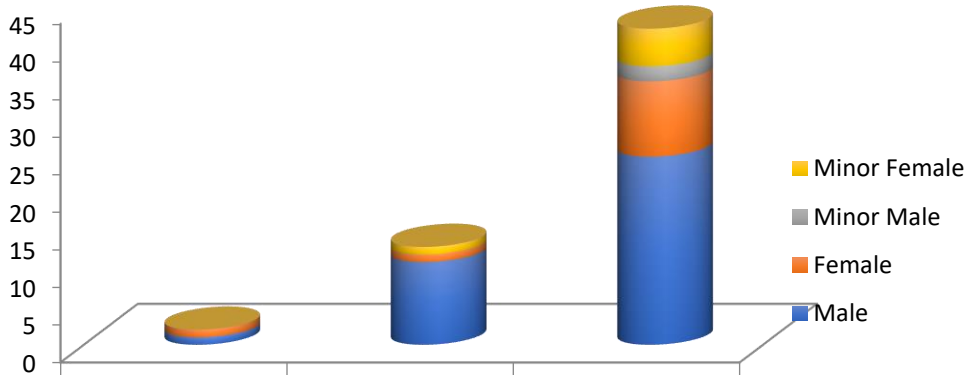
The final approach known as the 'Repressive Approach' within the feminist literature, is against the legalisation of prostitution, however they didn't or don't advocate for a comprehensive international document such as the Convention and protocols that came about through the continued campaigning of researchers and feminists in the 1950s. "The repressive approach views the legalisation of prostitution as a way of curbing the problem is deceptive" (Marinova and James, 2012, p234). Opponents of legalised prostitution, argue that it cannot be regarded as formal employment. The repressive approach favours the suppression of prostitution and sees the legalisation of prostitution as policy that will encourage trafficking in persons.

Most theories on people trafficking focuses on female victims of trafficking and this bias has its roots in the anti-prostitution campaigns in England. Josephine Butler, a British feminist linked people trafficking to sexual exploitation through her campaign against the 'White slave trade" Butler's campaign began as an outgrowth of her fight against the legalisation of prostitution in England. Butler founded the International Abolitionist Federation in 1875, and this inspired a series of international conventions and treaties which were exclusively related to people trafficking. (Alvarez and Alessi, 2012, p144).

Alvarez and Alessi (2012) argue that, linking people trafficking solely with prostitution has caused the conventions and international agreements that followed Butler's campaigns to overlook other types of labour exploitation, such as mail bride arrangements or domestic servitude. What most of early literature on people trafficking fails to recognise is that, trafficked individuals are forced not only to engage in prostitution but also to produce commodities that are sold in the global economy such as coffee, cocoa, sugar cotton and gems. According to the United Kingdom Human Trafficking Centre, report (2012), more than half of the adult victims of trafficking that received post trafficking support between the years 2009 to 2011 were exploited in industries that were not in the sex trade.

Findings in reports such as the 2012 UKTC report ring true as in the case of Swaziland as well. Contrary to what most feminist rhetoric says, but linking victims of trafficking as well as those vulnerable to it solely to sexual exploitation, is not always the case. Since legislation came into force in Swaziland in March 2010, the statistics from the NSF&AP show that from that time up until 2012, 57 reported cases of people trafficking have seen a majority being adult males as highlighted in the graph below.

Victims of Trafficking in Persons by Age & Gender (2010-2012)

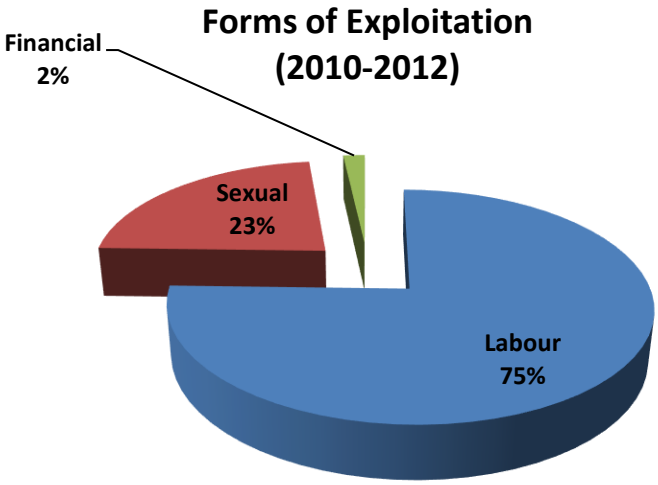


	2010	2011	2012
Minor Female	0	1	5
Minor Male	0	0	2
Female	1	1	10
Male	1	11	25

Source: Swaziland National Strategic Framework & Action Plan 2013-2015(People Trafficking

The graph above shows that

Forms of exploitation in Swaziland that have been recorded according to Swaziland's NSF&AP 2013-2015, show that labour exploitation has been the predominant form of exploitation.



Source: Swaziland National Strategic Framework & Action Plan 2013-2015(People Trafficking)

Such evidence goes against the dominant theories on people trafficking which the female as always, the victim of trafficking. Further evidence that moves away from the key theoretical literature on human trafficking is the UNODC Global Report (2009**)** on trafficking states that, children are at risk of people trafficking as they can be trafficked for sexual exploitation, begging, organ harvesting and domestic servitude. This also highlights the varied forms of exploitation which may include commodity production. Butler's violence against women approach succeeded in drawing attention to the exploitation of trafficked women and promoted the 'victim subject", its key focus was to get the sympathy of the media and government and offer a unifying language for women across cultures.

Swaziland adopted the feminist approach in its policy response to people trafficking and outlines key themes that were adopted and used when developing legislation and policy pertaining to people trafficking. The national strategic plan policy document, under its guiding principles states that the human rights as well as gender sensitivity as key guiding principles to government's approach in its response. The document clearly outlines that the human rights and victim centred approach will be underlain by international human rights standards, targeted at promoting and protecting the human rights of victims. This is combined with a gender sensitive approach in recognition of the gendered nature of human trafficking. These two themes, rhetoric of Barry's feminist approach, were key considerations in the development of Swaziland response to trafficking in persons.

These approaches stem from the feminist discourse that looks at people trafficking as a human rights issue. Barry (1979) a feminist advocate, advocated for a convention that outlawed any activity that that violated the rights of the woman. She advocated for an international convention that outlaws people trafficking, with the woman(victim) involved not being punished by the state. The non-punishment of the woman recognises the woman's subjection and objectification. She advocates that the trafficking syndicate be held responsible for the crime and prosecuted. (Alvarez & Alessi 2012, p146)

The policy document does not subscribe to the other approaches that such as Ucarer's (1999) labourist approach, Lazaruk's (2005) migration approach, Marinova and James (2012) repressive approach. Swaziland's legislation echoes the same sentiment Alvarez and Alessi write about. Section 16 of the People Trafficking and People Smuggling (Prohibition) ACT, 2009 (Vic) states that Consent of trafficked person irrelevant: In a for an offence under this Part, it shall not be a defence that the trafficked person consented to the act of people trafficking or to the exploitation" Swaziland's policy document borrows its guiding principles that lean to the feminist approach from the United Nations convention on Organised Crime.

2.6. The Role of the Media

Alvarez and Alessi (2012) suggest that, the violence against women approach played a key role in the sensitisation not only of the public but also policy makers. The media has also been awakened on people trafficking albeit from the feminist perspective and still focuses primarily on the trafficking of women and children for sexual exploitation. The stories told by journalists, writers, filmmakers and performing artists have compelling narratives of traumatic experiences that victims of trafficking have suffered. Film makers have brought individual stories of trauma, violence and resilience to public awareness, in some cases the underlying conditions that are prevalent in the countries of origin such as poverty and political unrest.

However generally viewers are not exposed to a more multifaceted narrative on people trafficking, a narrative that considers the economic, political and social consequences of globalisation, a narrative which is more relevant in the global south. Most narratives do not discuss the structural factors that increase a person's risk of falling victim to people trafficking and present a stereotype of victims to further push the agenda of a moral crusade (Weitzer, 2007). The dominant narratives exclude the story of victims who predominantly leave their precarious living conditions. A case in point is the situation that prevailed in Swaziland, with the decrease in jobs after the country was excluded from the AGOA by the Obama administration.

Logan, Walker and Hunt (2009) suggest that such job losses are reasons why potential victims leave their countries in search of employment to escape poverty and their state of precarity. In a review of nine studies that investigated people trafficking in the United States**,** Logan, et al (2009) found that most trafficked individuals were impoverished migrants. Countries and regions with poor economic and social conditions provide traffickers with opportunities to access and recruit individuals who are extremely vulnerable to exploitation.

Swaziland's NSF&AP recognises the role of the media and has extensively used it in its efforts in the response to People trafficking. Benefits of the utilisation of the media is evident in chapter five of the research. The country has gone a step further than the moral crusade and has detailed the economic and push factors related to the crime of trafficking.

2.7. Global Response Policy

DeStefano (2010) states in his book titled ‘The War on Human Trafficking U.S. Policy Assessed’, people trafficking is a social crime categorised as organised crime and when combating people trafficking, an anti-organised crime stand point should be taken. For instance, in the United States prosecutors succeeded in prosecuting certain forms of organised crime including the Mafia or La Costra Nostra. Focusing on arrests and prosecution of its leadership, greatly weakened the Mafias’ leadership and curtailed its membership. The American Government used potent enforcement tools such as racketeering laws, witness protection programs, and electronic surveillance to fight the mafia. These efforts didn’t wipe out the organised crime in America but did slow it down and disable it to a certain extent and heavily damage the syndicates.

The example used above is just one country which had a vast amount of resources to fight organised crime, however according to DeStefano (2010) most developing countries do not have the capacity to deal with criminal syndicates, needing either laws, law enforcement capability, judicial experience, or the will to act. The migration of criminal syndicates and recent technology advancements allowing instant communication and banking means that organised crime is now transnational, and many countries are far behind in dealing and combating the various criminal combinations.

In 1994 at the World Ministerial Conference on Organised Transnational Crime in Italy, many countries proposed the creation of a United Nations convention to tackle the issue of people trafficking. The United States Department of State began to develop international law enforcement standards covering several criminal issues, including small arms trafficking, money laundering, official corruption and human smuggling and trafficking. Washington had come to realise that all major powers needed to collaborate if there were to have any chance of negotiating international agreements on organised crime or transnational crime. This in mind, countries such as France, Germany, Italy, Japan, England, Canada and the United States built consensus for international treaties or agreements on organised crime**.** (DeStefano 2010, p170)

The rationale according to DeStefano (2010) was that, since organised crime transcends borders and the countries cannot successfully deal with these syndicates

alone. Italy had its long-standing thorn in its side of the mafia, Germany was coping with people smuggling and trafficking because its borders were shared with Central and Eastern European countries that were going through a lot of emigration, Canada had a problem with small arms control. Gradually other nations, such as those in the Organisation of American States, which were dealing with drug trafficking and immigration problems came to favour the idea of having an international instrument dealing with organised crime.

When support was lined up for the transnational organised crime issue, the United Nations Commission of Crime Prevention and Criminal Justice and its Economic and its Social Council adopted a special resolution that would form the basis for high level diplomatic negotiations. The outcome was a resolution to have a ‘comprehensive international convention against organised crime. This convention through the suggestions of many countries also incorporated several additional international instruments called protocols. Each protocol would deal with a specific area of crime, namely: manufacturing and trafficking in firearms, illegal trafficking in migration and trafficking in woman. Protocols are important because they serve as model’s governments can use when drafting legislation and policy.

2.8 Public Policy Process

Chigona & Metfula (2013) state that policy formulation is a complex interaction among many actors. Civil society entrusts its government to formulate public policy based on the social issue at hand. Government then ropes in policy actors such as business, academics and non-governmental organisations to assist and make recommendations. The policy makers agendas however may not be in sync because the motives for the policy making process may have little to with good governance or socio-economic development. Reasons may relate to ‘box ticking’ for political achievements, catching up with other states in the region, influence from international bodies or economically powerful countries, securing or attracting donations from foreign agencies, as has been the case in several African countries.

Good governance according to Chigona & Metfula (2013) or development might not be a priority to some stakeholders, private sectors stakeholders may participate in the policy development process to further their personal interests, international development partners may also wish to implement what they call international standards and best practices that are relevant elsewhere and not in the country the policy is for. The interests of such actors usually find their way into the final policy, silencing local stakeholders with a limited voice.

This research borrows from Chigona & Metfula (2013) policy network analysis to review Swaziland's Anti-people trafficking policy. This method allows for a way to look at the policy making process from the interest intermediation perspective. This perspective sees policy networks as unequal forms of relationships among interest groups and government. Policy networks become structures through which stakeholders take regular decisions in areas of policy and in most cases the privileged groups and stakeholders have strong relations with government and usually concludes in other interest groups being side-lined.

Chigona & Metfula (2013) state that the make-up and the behaviour of networks affect the policy outcomes and shows the power levels between the different stakeholders. This perspective in policy development stresses the need for negotiation between interest groups and government actors and is usually characterised by deep relations between certain groups and the government. During the negotiation process certain sentiment may become more dominant and controlling than other and the more controlling ideas are not always governments ideas. Usually the dominance of a certain interest group is not always the government and this is due to a number of variables, including resources and skills and with the frequency of dominance those external interest group's interest may become institutionalised within national government. Interactions and relationships become the norm due to persistent interactions in private quarters rather than public lobbying by local interest groups.

The policy network actors arrive at the network with set agendas and interests, governments use the various actors to push their own policy objectives. Some actors are unrealistic and radical in their interests while others are deemed acceptable. Policy actors can be divided into several groups namely:

Topocrats- these are actors with local autonomy and are usually government entities that arrange policy networks to promote their interests. Topocrats always protect their autonomy and that certain annex of government to which they fall under. Expenditure advocates-these actors are primarily interested in sectoral policy goals in the political/policy system. They seek new public programmes in place with more fiscal support for new and current programmes and new public sector regulation. The final group are the expenditure guardians who are focused on macroeconomic control and generally want to control and curtail public expenditure and activity. (Chigona & Metfula, 2013, p85)

Actors choose their positions within the network depending on their interests and the policy being discussed and there needs to be an equilibrium and fair interest intermediation to reach the ideal policy. Should one group be excluded within the network than a policy can still be developed, however it will be heavily flawed (Blom-Hanse

Chigona & Metfula (2013) suggest that, for a good policy network to come up with good policies, there are several policy networks classifications which usually have four perspectives namely: memberships, interdependence/integration, resources and power. This view of policy classifications acknowledges that policy networks are sometimes made up of dominant interests and views policy networks as relationships between interest groups and government and policy networks are categorised according to the degree of closeness of the relationship between the two.

The structural placement of an actor in the policy process depends to its standing in society. Its reputation and the resources, allow it to exchange the following resources, which are: authority, money, legitimacy, information and organisation. Access to information is vital and encourages informed and productive policy actors. Actor skills are used to achieve an advantage in policy interactions and finally skilful actors can produce effective strategies aligned to their interests, which in turn influences organisational values.

The network structure is the physical formation and make-up of the policy network. It is the team that is put together and mandated with the task of the formulation of the policy. With the actual team being formulated to come up with policy, there are exogenous factors that influence the network and they are usually not physically

present in the network but affect the processes of the network. These usually appear in the form of foreign assistance or pressure from powerful organisations that are not in the network but interact with the network. A network interaction is the divergence of various factors that could or could not work well together. It is the melting pot of diverse skills, resources, exogenous factors, rules and bureaucracies the more diverse the actors, the more complicated the interactions can be and further complicating the policy formulation process.

2.9. Measuring Policy Effectiveness

Policy against people trafficking has been based on the three Ps principals:

- Prevention of people trafficking
- Prosecution of perpetrators
- Protection of victims

Of the three P's, prosecution is the simplest to quantify because the courts keep data of criminal case load. Researchers can measure prosecution results and analyse outcomes using conviction rates and sentencing. (DeStefano, 2010, p124)

According to DeStefano (2010) protection and prevention are challenging to measure since they deal abstractly with criminal conduct. Unreported victims have no protection and there is no way of knowing how many are out there. The prevention category has similar problems of measurement and assessment. Trafficking works in the shadow world and this creates problems involving how to measure conduct. The first scenario is how is conduct that has happened measured? Secondly how is this conduct that has been prevented by different government strategies?

Because the anti-trafficking legislation requires the establishment of various government programs and practices, it is easier to establish if the government has carried out actions to meet those requirements. Governments can successfully prosecute cases and provide protection; however, it is quite challenging to see how much policies and practices have done to deter trafficking.

DeStefano (2010) states that a key ingredient for policy to be successful is that, it should be aligned with other policies and there must be synergy between policies.

Multi-sectoral approaches in dealing with developmental challenges must have policy that is aligned with the different sectors involved in that developmental challenge to achieve decent levels of success.

With people trafficking happening globally, there needs to be regional coordination in order to combat this crime especially since several states are categorised as source, transit and/or destination countries. Deporting a potential trafficking victim does not solve the problem to the victim being victimised again by authorities and possible revictimization by trafficking perpetrators.

Araujo (2011) shares similar sentiment with DeStefano (2010) when he suggests the need for anti-trafficking policy to be human rights and victim centred in their approach and gender responsive, since human trafficking is driven predominantly by organised crime syndicates and the response to it should be at a national, regional and international in its level of response, with an integrated multi-sectoral approach.

Certain initiatives have been taken by regional bodies to encourage cooperation and support such as the Libreville 2000 Common Platform for Action, which looks at international assistance in establishing and implementing state- specific child trafficking policies, sharing of information and having a monitoring system put in place. The Declaration and the Plan of Action against Trafficking in Persons, which created an internal monitoring body to assist with an effective legal framework and response to the development of policy**.** (Araujo, 2011, p5)

The sentiment that arises from collective processes emphasise the need for collaboration and consistency in order to create sensitisation and establish effective anti-trafficking mechanisms. Despite the efforts of the above-mentioned declarations outlining cooperation at a national and international level, many of them have failed to take off. Several variables including solid government buy in, political will and availability of resources have led to an eventual halt to collaboration. The eventual outcome is, research, insightful action plans and proposed partnerships and frameworks to look good as documents but don't do much when it comes to implementation.

Issues such as simple wording of the phenomenon causes challenges to interstate harmonisation of legislation and policy and could expand and affect cross border cooperation. Many different countries adopt different definitions

2.10. Combating Trafficking in Persons

The four different approaches in viewing trafficking are adopted by different states in different countries and continents. All countries party to the Palermo Protocol acknowledge that trafficking as illegal. The most common approach in combating trafficking is a Multisectoral Approach in combating it.

Van Impe (2000) states that the multisectoral approach to combating trafficking argues that there is no easy or one-dimensional solution to human trafficking since it is influenced by a complex set of factors, usually working in synergy with another. An effective strategy needs to combine and balance punitive measures with protection of human rights, tighter border control and the elimination of causes of irregular movements. These measures must be agreed and coordinated between origin, transit and receiving countries.

He justifies the Multisectoral approach by saying that the desire to migrate is continuously increasing but the legal means to migrate especially to the west are decreasing daily. Migrants who usually do not have access to the necessary contact, knowledge and financial or logistical capacity turn to specialised networks to achieve their final steps to their country of destination. The black market or rather organised crime syndicates answer the demand by offering an illegal market of migration possibilities.

Organised crime syndicates dealing in the smuggling and trafficking of humans work as a network with many focal points, both within the country of origin and internationally. For an Anti-Human trafficking policy to be effective, it must use the same network and “Multisectoral” model practised by the organised crime syndicates.

According to Van Impe (2000), effective policies to combat human trafficking must consider these numerous factors and should combine and balance punitive measures with protection of basic human rights, stricter border control and the removal of main

causes of irregular movements. The Multisectoral approach should also harmonise measures between the source, transit and destination countries. Destination countries sometimes make the mistake of attaching disproportionate importance to specific set of narrow and ad hoc measures, focusing on short term cures through border control and punitive action and in the process, do not focus on the push factors/root causes of trafficking such as poor economies, unemployment, political unrest.

These narrow approaches to combating trafficking have been acknowledged by the global south member states of the Southern African Development Community (SADC). The regional block through its Secretariat has developed a Multisectoral approach in combating trafficking and it emphasizes the need for all member states to have anti-trafficking strategies that that feed into the greater regional SADC in combating smuggling and trafficking of migrants.

Kaulemu (2012) emphasises the need for countries in the region are all to do a role in achieving the regions objectives in combatting human trafficking and have set policies as individual countries. Kaulemu (2012) uses a case of Zambia, which has legislation prohibiting human trafficking and stiff penalties such as imprisonment and a committee that deals with issues of trafficking. Government efforts also include the established of a human trafficking fund for the material support of victims and their training, tracking family members and other matters related to rehabilitating victims. Government policy and initiatives are supported by United Nations Bodies such as ILO, UNICEF and the IOM with civil society organisations like Women and Law Southern Africa (WLSA).

Zambia's implementation of anti-trafficking policy is often a challenge as law enforcement officers such as the police, prosecutors, judges and immigration officers are not adequately equipped to carry out investigations and prosecutions effectively. No unified system for data collection of data on human trafficking cases and documenting it for the use of stakeholders working in combatting human trafficking exists. Places of safety are highlighted as to be given to victims, however, most countries in the region do not have places of safety that are up to the standards required by the protocol and in some cases, victims are placed in prisons together with perpetrators of human trafficking.

Birth of Development Policy in Swaziland

According the Kingdom of Swaziland National Development Strategy (NDS) the Government embarked on a comprehensive planning system designed to meet emerging development challenges. The NDS was part of this new planning system. The process of developing the NDS was conducted by Economic review commission (ERC). (NDS,1999, p3)

The Ministry of Economic Planning and Development articulated a long-term vision and formulated macro and sectoral strategies for the attainment of its developmental goals. The NDS document provides a long-term framework (25 years) within which short and medium-term action programmes being formulated by His Majesty's Government.

The NDS (1999) states that in twenty-five years from the year 1997, Swaziland will have significantly made progress in its world standings in terms of measurable indices of human development. In its efforts for improved standing, it will rely on sustainable economic development, social justice and political stability.

To achieve this development goal mentioned above, the NDS has key macro strategies identified. They are macro in the sense that they are broad and encompass a broad number of more focussed strategic considerations. The key macro areas include: Sound Economic Management, Economic Empowerment, Human Resources Development, Agricultural Development, Industrialisation, Research for development and Environmental development.

Sectoral strategies related to the area of law and order, defence and security include:

- Review, research and codify some aspects Swazi Law and custom to ensure uniformity and consistency in its application.
- Review all existing legislation to determine relevance to and conformity with the various tenets of the new constitution.
- Strengthen and up-date crime prevention measures to ensure crime reduction, rapid response and effective crime investigation.
- Create and develop mechanisms for the training, formalisation and monitoring of community-based policing services.

- Improve mechanisms and systems for the maintenance of law and order, performance appraisal for law enforcement agencies and ensure adherence to proper standards and practices.
- Strengthen and support activities and institutions aimed at crime prevention and re-integration of offenders into main stream society.

The labour key strategies include:

Legislative Matters

- Strengthen the structures and mechanisms for the review and reform of labour laws to ensure their conformity to ratified international labour standards.
- Rationalise and harmonise the various acts and pieces of legislation governing employment to ensure constancy in applicability
- Harmonise all labour laws to ensure conformity with conditions of employment and governments General Orders.

Efficiency and Productivity

- Create and strengthen structures for continuous dialogue and mutual sharing of information in the work environment to ensure harmony and industrial peace.
- Introduce and promote mechanisms for employee shareholding in work establishments to engender a sense of ownership and to ensure accountability and higher productivity.
- Improve measures for ensuring adequate and qualitative staffing of department of labour and public service to improve its efficiency and speed in the execution of its functions.

The vison behind this national development policy is “By the Year 2022, the Kingdom of Swaziland will be in the top 10% of the medium human development group of countries founded on sustainable economic development, social justice and political stability” (NDS, 1999). The vision is viewed by Government to be achieved if vibrant economy, human and social development issues are seriously addressed and state

that it is within the capacity of the Swazi nation to ensure that conditions necessary for achieving the vision are indeed satisfied. With this policy document, it is envisioned that all government policy shall be in line with the NDS, striving to achieve the end goals set out by it.

The NDS is a key document designed to give strategic guidance to all government ministries, when developing strategies and policies. It was developed as a response to the development, social and economic challenges faced by the country. It was created with the intention of providing a grand plan to be adopted by all stakeholders in the country. to which all policy development should be based on to achieve His Majesty King Mswati III vision of the country achieving developed status by the year 2022, this vision is commonly referred to as “Vision 2022” (NDS, 1999, p2)

2.11. Policy Development

Araujo (2011) states that in order to facilitate sound policy development, it’s imperative to identify and understand the core challenges in anti-People trafficking policy development. Understanding these issues assists in formulating a comprehensive framework that is human rights based and victim centred in its approach. Domestic and regional as well as international considerations must be included into policy.

Challenges of developing human trafficking policy according to Araujo, (2011) is identifying the problem, clearly laying out a comprehensive definition and understanding the full scope of the issue. Coordination and consistency when working on prevention, protection of victims and prosecution of perpetrators. Further challenges include addressing the basic causes such as gender inequality and demand, recognising agendas, getting stakeholder ownership and identifying resources.

The Government of Swaziland enacted the People Trafficking and People Smuggling (Prohibition) Act in 2009 and came into effect on the 1st March 2010. As the name of the legislation states that, it’s a ‘prohibition’ Act, the title defines what type of theoretical approach its leaning towards. The legislation adopted by Swaziland follows a feminist/ human rights approach in relation to understanding and dealing with human trafficking by the virtue of protecting women and children

The Act also clearly defines what strategy has been adopted in combating human trafficking, in the country and it applies the Multisectoral approach in dealing with human trafficking. This is evident in sub-section 6 of the People Trafficking and People Smuggling (Prohibition) 2009 (Vic), where it stipulates organisational structure and establishes the Inter-Agency Task force to be known as the Taskforce for the Prevention of People Trafficking and People Smuggling.

The Task Force is made up of: Prime Minister's Office (Chair), Ministry of Justice and Constitutional Affairs (Director of Public Prosecution and Attorney General's Office), Ministry of Home Affairs, Ministry of Foreign Affairs and International Cooperation, Swaziland Royal Police Services (Domestic Violence Unit), Commissioner of Customs, Ministry of Information Communication and Technology and not more than five people from Non-governmental Organisation including Development Partners.

Swaziland's legislation against people trafficking is unique to other legislation passed by other member states of the SADC region because it is the only one that combines the trafficking and the smuggling aspect into one piece of legislation. Part Four of the legislation prohibits the smuggling of migrants by clearly stating as a section 'People Smuggling Offences'.

The legislation states that a person who arranges or assists a person's illegal entry into any country of which the person is not a citizen or permanent resident, including Swaziland, either knowing or being reckless as to the fact that the persons entry is illegal, in order to obtain a financial or other material benefit commits the offence of people smuggling and is liable on conviction to a term of imprisonment not exceeding eighteen(18) years" (People Trafficking and People Smuggling (Prohibition) Act 2009, p11).

The combination of the trafficking and smuggling in the same legislation makes it imperative for Swaziland to utilise a multisectoral approach in combating human trafficking and a policy that deals clearly with these two aspects, to prevent confusion and clearly outline the roles expected to be played by the relevant stakeholders, and also to prevent conflicts that arise in particular in the case of Swaziland, whereby the smuggling aspect of the people trafficking legislation clashes with the immigration Act of 1982. There is a need for a clearly outlined strategic framework and action plan

which is not one dimensional but incorporates all possible sectors society that can have a role in the response to people trafficking in Swaziland.

The Government of Swaziland launched the 'National Strategic Framework and Action Plan 2013-2015 Trafficking in Persons" in 2013. It is a multi-sectoral overarching guide which informs the strategic directions to be considered by the government departments involved in the national response to trafficking in persons. It also defines the main parties for implementation of defined measure and activities.

Guiding Principles

Swaziland's policy document is guided by the following approaches:

- Government ownership and Multisectoral: Stakeholders made up of the public administration and directly linked to it assume full participation, responsibility and accountability.
- The Principle of Non-discrimination: National Strategic Framework and Action Plan is implemented in a manner that does not discriminate against people on the basis that they are victims of human trafficking.
- The Human Rights and Victim Centred Approach: The response to anti-trafficking in Swaziland is guided by international human rights standards and aimed at promoting and protecting human rights, especially those of victims.
- Gender sensitive approach: The recognition of the gendered nature of human trafficking is given key consideration in the development of the national response to people trafficking.
- Child-Rights approach and child participation: Children are afforded special protective measures irrespective of their legal status, the best interests of the child are the main concern.
- Sustainability: The structure and system implemented can endure over the long term and creatively adapt to changing conditions over an extended period.
- Evidence-based approach: Data collection, research and regular monitoring and evaluation should be the bases for the development of the national response to human trafficking.

For this broad strategy to be implemented effectively its divided into a three-pronged sub-division based on three key principles namely;

- Prevention: Of people trafficking and smuggling.
- Protection; Of victims once identified
- Prosecution: Of perpetrators of people trafficking and smuggling

2.12. Possible Challenges

The National Strategic Framework and Action Plan is a document that is ambitious and it seeks to make a positive response to anti-trafficking in the country, however as in the case with having a multi-sectoral approach certain policy challenges exist be it at policy level or implementation level in this approach as in the case of Zambia. Ngulube (2015) states that in Zambia there was a high staff turnover especially in governmental organizations like the Police and the Ministry of Health. This leads to disjointed coordination and new staff that arrives may be ill equipped and facilitating training them adds to an already existing funding constraint.

Another challenge according to Laczko (2002) in combating human trafficking, prevalent in a lot of countries within the SADC region is the lack of policy advocating for a central depository of empirical data. There are numerous reasons as to why there is not much data, and this includes victims' usual reluctance to report crimes or testify for fear of reprisal. Disincentives which are both structural and legal, for law enforcement officers to act against traffickers, a lack of harmony within existing data sources and the unwillingness of some countries and agencies in sharing data with their counterparts.

Lazcko (2002) states that numerous reasons are attributed to a lack of trustworthy data on human trafficking at national and international level. The clandestine nature of human trafficking makes it difficult to establish a reliable sampling frame. Other reasons include variations in operational and legal definitions as well as variations and inconsistencies in law enforcement policies and practices in different states also contribute to the challenge

Laczko (2002) further suggest that lack of data can also be attributed to the low priority placed on fighting trafficking by law enforcement officers. There are two main reasons that Laczko attributes to this and they are, firstly the legislation for prosecution and victim protection usually not enough or policy not clear on who and how protection is to be implemented, making the conviction of traffickers very slim and usually impossible. Swaziland is a case in point whereby according to the NSF&AP 2013-2015, there has been fifty-seven reported cases of trafficking but only two successful convictions. The NSF&AP claims that the reason as to why there are many reported cases of trafficking, but only minimal successful convictions secured is because many perpetrators have fled before the crimes have been identified as TIP cases. Other reasons include the unavailability of witnesses who leave the country during the trial, together with insufficient evidence and gaps in the investigation process.

The UNODC Global Report on Trafficking in Persons (2016) leans towards Lazcko's (2002) findings on the lack of convictions by stating that from information gathered during the reporting period its was discovered most countries have solid legislative progress however there is still very low conviction rates. The number of countries that outlaw a majority forms of trafficking in persons used by the United Nations Trafficking in Persons Protocol increased from 33 in 2003 (18 per cent) to 158 in 2016 (88 per cent). (UNODC,2016 p12).

This translates to having an increase in identification and assistance and protection of victims and more traffickers put in jail, however most legislation is recent and introduced less than ten years ago. The average number of convictions remains low, and for countries to have better conviction rates there needs to be time given for the legislation to fully function effectively.

The more time given, the more convictions are recorded, meaning that convictions require time and dedicated resources for a national criminal justice system to be able to detect, investigate and successfully prosecute cases of trafficking in persons.

Data discrepancies according to Laczko (2002) emerge because there is no central agency that acts as a focal point for the collection of data or the harmonization of statistics on trafficking either at national level or at a regional level, thus giving policy makers a significant level of uncertainty. A lot of data is also non-program specific Data Hoarding is another challenge to the response to human trafficking, some states

view data as classified information and do not share. Other states have laws that prohibit the dissemination of personal information while some ministries just apply a policy of selective distribution.

Conclusion

The first part of the chapter clearly defines the definitions of people trafficking and people smuggling. The chapter highlights the differences between the two. People trafficking is regarded as a crime against an individual and people smuggling is considered as a crime against the state.

The chapter looked at the different theoretical approaches when viewing trafficking in persons and gives descriptions of theories used in people trafficking discourse, mainly the migration approach which looks at people trafficking as a crime against the state and has no consideration of the human rights or gender aspect because this theory sees all victims as illegal migrants. This approach is characteristic of a destination country mentioned under the sub-heading 'Combatting Trafficking in Persons' in the chapter. According to Van Impe (2000) destination countries tend to focus on border control and legal action against victims of trafficking and ignore the push factors that lead to the migration of victims such as political unrest and weak economies.

The feminist approach which is the more generally accepted theoretical approach when working on issues of people trafficking and is the theoretical approach used by Swaziland. As the chapter explained that Swaziland's policy on people trafficking is guided by a multisectoral, principle of non-discrimination. Human rights and victim centred, gender sensitive, and child rights approach. This approach does not agree with the migration approach that Lazaruk (2005) writes about, which view people trafficking as and victims as perpetrators of crime against the state.

Comparison of the feminist approach with the third approach, the labourist approach, which does not consider how women end up in occupations such as prostitution, but rather advocates for the legalisation of the prostitution. This goes against the feminist approach employed by Swaziland because it ignores the different components that make up the crime of trafficking outlined in the beginning of the chapter, which are; 'recruitment, transportation, reception, accommodation and exploitation'. (UNODC, 2004, P43)

All theories in the chapter lean towards the female victim and this perspective isn't always the case. The situation in Swaziland shows that the feminist perspective is comes short because the statistics in the Swaziland NSP&AP show that between 2010 and 2012 the large majority of victims were male rather than females. This highlights that the feminist perspective, although relevant but isn't always the case in case studies like Swaziland.

The chapter highlighted the Public policy process and policy network analysis method that was used to analysis the NSF&AP. Key points that stand out in this section are that, 'policy networks are seen as unequal forms of relationships between interest groups and government'.(Chigona & Metfula, 2013, p83) The composition and behaviour of networks affect the policy outcomes, the dominance of certain interest groups may not be the government. The more resourceful the interest group is compared to government, usually determines interest groups' influence over the government.

Measuring policy effectiveness is discussed in the chapter in relation the three key thematic areas that Swaziland uses in the response to people trafficking. These areas are highlighted in the chapter as; Prevention of people trafficking, protection of victims and the prosecution of perpetrators. Conclusion drawn up from this section is that, the prosecution thematic area is the simplest to measure and quantify, because of court records that are available. Protection and prevention are the most challenging to measure because they deal abstractly with criminal conduct. This highlights the need to have policy alignment and synergy between government policies. The multisectoral approach has to be used in responding to people trafficking and policy networks need to be balanced in order for cooperation between stakeholders to be fostered, locally, regionally and internationally.

Chapter3

Research Design

This chapter details the research methodology, including the research design and research paradigm that was used. The chapter also discusses how the data was analysed and outlines the limitations and ethical considerations

3.1. Research Approach

This research took a qualitative method in acquiring data. The reason for selecting a qualitative method in the data collection is because qualitative research, according to Yin (2018), other research methods are usually limited by the inability to create the needed research setting, as in the case of an experiment, the difficulty in gathering a large enough sample of respondents and achieving a sufficiently high response rate, as in the case of a survey.

Since the respondents to the research were policy implementors, qualitative research allows the researcher to collect information from the policy implementors as experienced under real-world conditions. Interaction with respondents using this method allows little intrusion from artificial research procedures and respondents can respond in a manner they want to.

Yin (2018) suggests that this method allows the researcher to put issues into context, be it social institutions, cultural or even environmental conditions to which the respondent's lives take place. Other methods of research are seen not to address the above-mentioned issues which were addressed by using this method. Above all qualitative research methods allowed the researcher to collect and present data from several sources and allows the researcher to triangulate between the various sources to establish converging lines of enquiry.

3.2. Research Design

According to Bless, Higson-Smith, Sithole (2013) research design is concerned with the answering of the research question. Due to research being a project that extends over a period, it is essential that that a clear plan or rather design is chosen as a blue

print. Research design in qualitative research is sometimes cyclical and less detailed than in quantitative research. In qualitative research as in the case of this study, as the numerous steps of literature review, theory building, sampling and data collection do not make up separate activities but are continuously interrelated, the planning and design of the entire process should stay dynamic.

3.3 Participants

Purposive sampling was used in the research to select the Inter-Agency Taskforce stakeholders as participants in this study. De Vaus (2004) asserts that purposive sampling is a non-probability sampling technique, which allows a researcher to choose specific people within the population to use for a study or research project. The researcher relies on his/her own judgment to select sample group member. The advantage of using this sample is that it targets a very specific population, which can help gain detailed insight into their characteristics

Interview subjects;

- **Ministry of Home affairs**
  Respondent 1
- **Ministry of Labour:**
  Respondent 1
  Respondent 2
- **Ministry of Justice and Constitutional Affairs**
  Respondent 1
- **Prime Minister's Office (Prevention of People Trafficking and Smuggling Secretariat):**
  Respondent 1
  Respondent 2
- **Women and Law Southern Africa**
  Respondent 1

3.4 Data Collection

Interviews

The researcher planned to use structured interviews together with literature especially for the first and last question of the research. Structured interviews were first set and after the first two interviews, the researcher realised that due to the nature of the respondent's position and general experience working on policy and social issues, they tended to elaborate and raise issues or rather angles and viewpoints that the researcher had not thought of but were very important points. Having to go back to questions that had been answered or partially answered in previous questions made for a "stop start" interview and disturbed the flow of the interview session.

The use of semi structured interviews was then adopted to answer all three research questions, however in question 1 and 3 the data collected from respondents was supplemented with reports from the People Trafficking department which had set indicators and showed if set targets were met in the instance whereby objectives can be quantified. Adopting the semi-structured interview format allowed respondents to be free to elaborate on the issues at hand and were free to speak of social, political and cultural issues that either assisted or hindered their work and the implementation of the policy. Magongo (2009) explains that the flexibility of guided or semi-structured interviews allows the interviewer to adapt questions according to the answers the respondent gives.

Interviews involve the direct personal contact with the participant who is set to answer questions relating to the research question. Semi-structured interviews were conducted on the respondents of this research. This type of interview was chosen by the researcher to be able to determine the frequency of different answers and to find answers and to find relationships between answers to different questions.

The aim of this method according to Bless et al (2013) is also to convert information directly from a respondent into data. The information collected directly is essentially:

- What the respondent knows, knowledge and information
- What the respondent thinks, attitudes and beliefs
- What the respondent is experiencing or has experienced

Information is gathered from respondents rather than other means such as observing behaviour and therefore certain fundamental conditions need to be met to ensure objectivity. Firstly, the respondents must be willing to be interviewed and share their knowledge. Secondly, they must convey what their reality is instead of what their reality should be or what they think is the best suitable answer that the interviewer might want to hear. Thirdly respondents must be aware what they feel and think and be able to articulate themselves.

This type of interview assisted the interviewer in overcoming misunderstandings and misinterpretations of words or questions, and because of that the answers given were clear. Interviewers conducted were thorough by making sure that all areas on the questionnaire are covered and respondents can fully understand the questions. The researcher was able to ask respondents on clarifications on some of the answers and reassure respondents and encourage them to push on until the data is collected.

The interviews were guided by clear set of questions and divided into two types of questionnaires. The first set of questions was directed to the actual members of the coordinating body which is the Anti-People Trafficking and Anti-people Smuggling Secretariat, the custodians of the policy document. The questionnaires were divided per thematic area that the respondent worked for instance the Protection Officer had a set questionnaire dealing with the Protection thematic area, Prevention Officer the same format.

Before the researcher conducted each interview, it was explained to the respondents the purpose of the research and that this is an academic research for a Master of Development Studies course requirements, approved by the University of the Witwatersrand and approved by the Office of the Prime Minister. Ethics approval letter was presented to respondents and a letter of consent from the Office of the Prime Minister was also presented to respondents.

The researcher conducted a total of eight interviews with the average interview lasting 26 minutes.

3.5 Audio Recordings

Oliver (2010) suggests that Structured and semi structured interviews are now commonly tape recorded because note taking cannot be done as accurately as the actual audio recordings of every word said. As with other issues of ethics, informed consent from the respondent should be obtained. Respondents should get an explanation as to why the need to record via audio and the way the audio recording will be used.

With this research, the researcher used cell phone audio recording when conducting interviews, the record function of the researcher's phone was used. Respondents were told that the interview will be recorded and it was explained to them that the reason for recording is; to accurately record the entire interview so as transcribe every word without missing certain points that might have been of great importance to the respondent. Recordings are needed in order not to misinterpret the words, points, concepts and issues that the respondent wanted captured in the study.

The researcher let the respondents know that once the recordings have been transcribed, they will be kept locked under phone recordings up until research is finalised. Utmost care is taken not to expose recordings and will be archived.

3.6 Documents

This research reviews a policy with set goals, clearly outlined jobs for specific agents and set outputs that to be measured. This research investigates developmental policy through the lenses of the Anti-People Trafficking strategic plan and its relevance and relation to overall development policies set out by government in the country. The method used will seek to give provide clear goals and objectives set out by government and investigate why the country has been downgraded to tier2 (watchlist)

Qualitative

1) Extensive desk review of policy strategies used in fighting development challenges in the region namely organised crime and human trafficking. Success stories if any and best practices/policies used by different countries in the response to challenges people trafficking.
2) Research journals
3) Thesis research documents
4) Prescribed books from the University of the Witwatersrand (Course

3.7 Ethics

Social research entails working with human beings and various considerations should be made when conducting research in this field. Bless et al (2013) state that Issues of race, gender, social experience, culture, health, financial and considerations such as residency status should be considered by the researcher when conducting research and make sure no one is hurt or put in danger by the research.

Research ethics in scholarly research helps prevent research abuses and helps researchers in understanding their responsibilities in as ethical scholars. It's the researcher's responsibility to ensure that the research is ethically conducted and if there are any ethics bodies that need to be consulted are consulted and research plan is passed through the ethics body.

3.7.1 Informed Consent and Voluntary Participation

Due to the sensitivity of this subject matter, precautions have been taken when interviewing key Government stakeholders. The researcher formally requested consent with the highest office in government, which is the Office of the Prime Minister (Cabinet), and permission was granted via a formal letter to the researcher. Government also circulated a memorandum explaining this research and requesting heads of departments with government to allow the researcher to interview key staff

members with the different key stakeholders identified in the research. The researcher was granted permission to carry out research by the University of the Witwatersrand Ethics committee after submitting the required proposal of intended research.

Before each interview, respondents were told the title of the research and purpose of the research. It was also explained to them that this research is purely academic and a thesis which forms part of the submission requirements for a master's degree in development studies at the University of the Witwatersrand, Johannesburg.

3.7.2 Confidentiality

The discussion of confidentiality goes hand in hand with the informed consent process. Researchers such as Oliver (2010) say that firstly there should be a clear explanation about the people who will be able to see the data given. The respondent should must have a clear understanding of the people who will view the information they are asked to provide and informed on the steps taken in keeping anonymity.

Such a detailed explanation of confidentiality in relation to the research undertaken should be made clear to respondents before they give informed consent to participate. This level of detail ensures that the respondent is fully informed. The statements made to the respondents should be regarded as a promise and taken with seriousness which shows a moral standing of the researcher themselves.

Confidentiality is of utmost importance in this research more so since the scope of work being researched on falls under the law enforcement sector. The fact that this research will involve interviews from officers in various ministries and departments it was crucial that data collected from them is kept under secure conditions to avoid chatter and ill feelings amongst officers and different departments.

The researcher informed respondents while going over informed consent that the respondent's identity will be kept anonymous and code names will be used, should the need arise during the analysis stage of the thesis development. Explaining the confidentiality issues to the respondents assisted in them feeling comfortable with the researcher and eased their minds because in some instances their supervisors were direct descendants of royalty in the country and Swaziland is considered the last

absolute monarchy in existence in Africa. The traditional authority still holds much sway in the country.

3.8 Limitations of the study

The fact that most respondents were part of the stakeholder group that form part of the Inter-Agency Taskforce truthfulness was a concern because no respondent would want to admit that their department is at fault for a lack of proper implementation of the strategic framework and action plan. Steps were taken by the interviewer to assure the respondents of study being approved by their superiors and that this is scholarly research and not a report. Anonymity was guaranteed to the respondents for them to feel at ease and free to communicate the real situation on the ground.

According to Olivier, (2010) from the perspective of the researcher, anonymity makes it conducive to go deeper into issues which might be slightly uncomfortable, or which are regarded as sensitive. The protection of respondents' anonymity assists the researcher feels bolder to explore sensitive issues. The assumption will be that respondents may be more willing to provide data in such circumstances.

Conclusion

The researcher followed various steps and procedures in gathering data using a qualitative method in data collection. The research design addressed the questions the research was asking although the methods had to be adjusted periodically due to unforeseen circumstances. Semi-structured interviews had to be adopted in order to allow respondents to elaborate on issues.

Interviews, audio recordings and documents such as journals were used extensively in understanding and answering the research topic. Ethical issues were addressed through informed consent and voluntary participation. Confidentiality has been placed as a priority during the data gathering process and participants were assured of their confidentiality being protected in the best possible manner

As with most studies, there are limitations of the study, for instance during this research the respondents were essentially part of the Inter-Agency Taskforce working

on human trafficking so a certain level of bias was expected from respondents. Overall the research was conducted using the best possible best practices generally accepted when conducting research in the social sciences.

Chapter 4

Respondents and discussions

4.1. Introduction

This chapter explains participant placement in the response to people trafficking and discusses findings from analysis from interviews conducted with key stakeholders of the Inter-agency Taskforce. Respondents are Members of Inter-Agency Task Force (Comprised of various experts in different sectors of government, development partners and NGO's. For the reader to get a better understanding of the response pool I will give brief over on the respondent and their placement as stakeholder.

Ministry of Home Affairs

This respondent is placed in the immigration department which carries five main portfolios. This department is involved in the issuance of travel documents and passports, issuance of temporary residence permits to foreigners. Approval of the different types of visas together with facilitating the naturalisation of people who have been resident in the country for the stipulated period in the constitution.

The respondent also works with a new unit within the immigration department called the corporate services division, which carries out inspections to ensure that people in the country have the correct documents and are in the correct places. Lastly the department performs border management, which is the immigration function at the border, which is the stamping of passports which allows people to resume entry into the country.

Ministry of Labour and Social Security: Labour Respondent 1:

This respondent works with labour officers in the country. Respondent also deals with issues of human trafficking and smuggling, child labour and works on gender focal person in the department.

The respondent has vast experience in labour issues in the country and offered great insight on the state of labour in the country.

Ministry of Labour and Social Security: Labour Respondent 2:

This respondent is from the department of Labour and the department oversees labour issues and child labour issues also works in the child labour unit which oversees especially child trafficking. The department works in the labour policy formulation process.

The Anti-People Trafficking and Anti-Smuggling Secretariat

The Secretariat is the main arm of the Taskforce that is mandated to coordinate the response to human trafficking and smuggling in the country.

The Taskforce was established under section 7 of the People Trafficking and People Smuggling (Prohibition) ACT 2009.

People Trafficking Secretariat: Respondent 1

The respondent is part of the coordinating body and responsibilities include; raising awareness on human trafficking and smuggling, raising awareness on what constitutes the crime of human trafficking. Duties also include dissemination of information to the public on issues of human trafficking and smiling.

The respondent is responsible for guiding the communication and media strategy used by government when raising awareness to the public. Part of the responsibilities of the respondent is to formulate and coordinate measures to inform and educate the public, including potential trafficked or smuggled person, on the causes and the consequences of people trafficking and smuggling.

People Trafficking Secretariat: Respondent 2

The respondent is responsible for the day to day care of victims of human trafficking and smuggling. The respondent oversees and facilitates the logistics involved in government providing psychosocial support to victims: healthcare, accommodation, counselling and general support.

Part of the duties the section that the respondent is placed in, ensures the victim is informed on court dates and facilitates victim preparations together with the Director of Public Prosecution during trial preparations. Repatriation logistics and

documentation are all facilitated by the respondent's section. Ensuring that all necessity agencies are contacted and notified of a victim's repatriation back to their respective countries of origin.

Duties also include the supervision of victim's place of refuge, facilitating the processing of protection orders from the courts for victims of trafficking and smuggling.

Women and Law Southern Africa (WLSA) (Non-Governmental Organisation)

WLSA is a women's rights organisation focusing on the social economic advancement of women and girl rights. This is done through four core programs:

- Legal rights education
- Para Legal assistance
- Research unit
- Law and policy reform

The respondent has worked on gender and women issues in the country and is a strong advocate for women empowerment and women legal representation. Information gathered from her was very insightful because it gave the researcher a different angle to most respondents that were from government. The respondent spoke from an NGO sector and gave a version from the people who policies are made for.

Public Policy Coordination Unit Respondent

The respondent has experience on policy development within government and the department oversees policy development for different government ministries. The department also advises cabinet on various aspects of government policy development, implementation, monitoring and evaluation. Respondents unit oversees all government policy implementation.

Ministry of Justice and Constitutional Affairs

This respondent is in the Director of Public Prosecution department and the department has experience in prosecuting people trafficking and smuggling cases. This department has attended various people trafficking trainings offered by the

Secretariat. The department has been involved in many legislation drafting processes and is knows the ins and outs of the judicial system in Swaziland

4.2. Data analysis

All key informant interviews were transcribed. The key informant interviews were analysed using thematic analysis, which according to Braun, & Clarke, (2006), describe thematic analysis as a process of analysing and reporting patterns within data and it organises and describes data set in detail. The researcher chose thematic analysis to highlight key issues that came from the data collection interviews and fleshed out the dominant issues that came up in relation to the implementation of the NSF&AP and Swazi societal workings in general in relation to the effect they had on implementing the ant-people trafficking policy.

4.3. People Trafficking as a new phenomenon

Respondents all agreed that human trafficking does exist in the country and it happens, however a significant number of citizens were still not aware of it when the NSF&AP was launched in 2013. There was a perception that human trafficking and human smuggling are abstract concepts that occurred across the country's borders and not within the country's borders. A large percentage of the population weren't aware of the reality of the situation due to several reasons, including denial of the existence due to desperation for a livelihood perpetuated by the lack of job opportunities because of a stagnating economy.

With a rise in population and the HIV/AIDS pandemic, and sovereign debt situation, the standard of living conditions in the country of most citizens have not improved and instead worsening. The government of Swaziland has a hard time providing basic services, such as access to clean safe drinking water and electricity, particularly in the underdeveloped areas of the country.

There aren't any social welfare policies that offer protection or cushioning from labour exploitation by local and foreign investors in the form of social grants or unemployment benefits, although a slight effort has been made for elderly grants albeit very minimal

and sporadic with no monthly consistency. The only form of social welfare that exists to every Swazi citizen is access to land which is obtained through customary tenure. Seventy-eight per cent of Swazis live in the underdeveloped rural areas under chiefs' rule and subsistence farming is going through a decline, exposing the lack of social insurance for most Swazi citizens.

With these settings and this reality in the faces of citizens, the ordinary citizen is desperate for a livelihood and is highly susceptible to being tricked and falling victim to being trafficked by perpetrators into countries such as South Africa and abroad. Admire (2014) suggest that migration into South Africa is not a new phenomenon and a large percentage of Swazi men have been migrating there to work in mines and farms. A growing trend of women has been migrating to South Africa and this is also seen to be caused by the knowledge of other women migrants that that have crossed the border in search of a livelihood in neighbouring South Africa.

The consequence of the new migration trends are situations quoted below by a respondent from the Secretariat'

'Awareness campaigns are done weekly on the radio station and in the rural communities, churches, schools and through the local print media, however we still get callers calling into our radio show telling us of relatives that were promised jobs in neighbouring South Africa and never coming back or coming having been exploited and what was promised to them not being true'

The above quote is from the Prevention officer from the People Trafficking and People smuggling Secretariat who is mandated to facilitate awareness raising. The respondent explained that even with all the efforts that their department carries out raising awareness, Swazi citizens still fall for the scams that they warn them about and attributes some of this being caused by the denial of such a crime existing due to the denial that poverty-stricken citizens go through and think that it won't happen to them.

The fact that the general public calls into the radio show to ask and tell their stories is evidence that the goal of awareness raising to the general public is slowly being realised and the phenomenon is moving away from being a new one to a phenomenon that is slowly being part of the ordinary Swazi's vocabulary and becoming part of Swazi society discourse when talking about social issues.

4.4. Legislation

In 2009, Swaziland enacted the People Trafficking and People Smuggling (Prohibition) Act and was operationalised on the 1st March 2010. Dlamini, B. (2010). As highlighted in chapter two. The name of the legislation and the fact that it's a "prohibition" Act shows a leaning towards a feminist/human rights approach that Barry, K. (1979) talks about in the when explaining the origins of the feminist approach to people trafficking. Swaziland's legislation follows the human rights approach which focuses on the victim and wellbeing of the victim and puts the victim's needs first. The legislation is also aligned to what Barry (1979) talks about when she initially started advocating for the convention that outlaws people trafficking, with the woman involved not facing being punished. The non-punishment of the woman recognises the woman's subjection and objectification.

Swaziland's legislation echoes the same sentiment shared by feminist rhetoric that pushes for a human rights approach in dealing with victims of trafficking. Section 16 of the People Trafficking and People Smuggling (Prohibition) ACT, 2009 states "Consent of trafficked person irrelevant: In a for an offence under this Part, it shall not be a defence that the trafficked person consented to the act of people trafficking or to the exploitation".

Swaziland's guiding principles lean to the feminist approach, which are also the United Nations convention on Organised Crime principles. The policy document does not subscribe to the other approaches that advocate such as the labourist approach, migration approach, repressive approach.

Respondents value the efforts done by the country to have legislation and it signals that government recognises the crime of human trafficking and smuggling. Legislation challenges faced are with other pieces of legislation that need to be updated or aligned with the People Trafficking and People Smuggling (Prohibition) Act 2009. Legislation such as the Immigration Act of, 1982**,** section 3 states that anyone that enters the country illegally without a valid permit shall be charged and deported out the country. Human trafficking legislation says that victims of human trafficking and smuggling

cannot be prosecuted for illegal entry in the country and these two pieces of legislation cause a predicament as to which legislation supersedes the other.

The legislation needs to be amended to accommodate other legislation particularly the immigration Act. Amendments have been going on for several years with no final product being delivered by government. This hinders not only the implementation of the people trafficking legislation but also the implementation of the NSF&AP together with the "mother policy" for development policies in Swaziland which is the NDS. The NDS (1999) outlines the need to "review all existing legislation to determine the relevance to, and conformity with the various tenets of the constitution and this is seen by the NDS to ensure predictable rules and procedures.

The development of this legislation and enactment of the it has seen a number of implementation issues arise which have also hindered the implementation of the NSF&AP. Issues such as the place of safety for victims is stipulated in the legislation as a place to keep victims of people trafficking, however up until now, Swaziland still does not have a designated place of safety that would suffice under international standards of a place to keep victims. Government has had to place victims in makeshift places of safety which do not qualify as secure and victim friendly places and borders on issues of human rights due to some of the area's victims are placed with no access to education and training as well as basic recreational infrastructure or planned activities.

Development challenges, the availability of resources, an issue that has been appearing through this research has led to certain components of the convention's protocols being neglected and not included in the Swazi legislation and no provision being made for them going forward either in the NSF&AP. These include Article 6 in the Protocol to Prevent, Suppress and Punish Trafficking in Persons. Article 6 deals with to assistance to and protection of victims of trafficking in persons.

Sections excluded from Swaziland's legislation include that Section 3(d) employment, educational and training opportunities. Article 6, section 6 whereby it states that: "*Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered*", (UNODC 2004, p8)

Lastly neither the people trafficking Act nor the immigration Act cater for Article 7(i) of the protocol whereby it states *that " in addition to taking measures pursuant to article 6 of the protocol, each state Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases. (UNODC, 2004 p8)*

These articles are depicted as international standards to be followed but developing countries such as Swaziland cannot bite off more than they can chew, and it makes sense not to include such, yet considering the development issues currently in the global south and the porous border posts coupled by a lack of migration policy in the instance of Swaziland. It makes sense in the interim to overlook such articles however they cannot be overlooked indefinitely and amendments to various legislations dealing with the crime have to be looked at in order to be able to have legislation that will allow for workable policies to be developed based on realistic goals that are founded on sound legislation.

4.5. National Strategic Framework and Action Plan

The National Strategic Framework and Action Plan was developed as a road map of actions and programs that outline the response in combatting human trafficking. This theme forms the crux of the research and respondents gave their views on the implementation of the document based on experience in their fields and how the NSF&AP was implemented during the stipulated period 2013-2015.

Not all respondents stipulated as stakeholders by the document were aware of its implementation. During data collection the general feel was that it was a document that exists however it's not a document that has been actively implemented and no structures are there to link stakeholders with activities. There is no accountability on the part of stakeholders towards the document.

Several stakeholders did not implement the document during the period 2013-2015 or incorporate it in their own individual programs. Government stakeholders utilised their own legislation and policies that is in line with their sector hence only stakeholders

directly linked with the movement of people did incorporate the NSF&AP activities in their programs, largely also because most of their official duties are in line with activities within the action plan.

'Yes we have been using the law and maybe if we were directly involved in its development and even reminded that DPP, police, immigration to stick to the strategic plan maybe we could even be able to report to our department and emphasize that there is a strategic plan and make sure that we are able to use it in whatever we are doing'.

The non-governmental stakeholder in the response to people trafficking highlighted the fact that the document exists however their organisation is not aware of its contents. The respondent noted that most stakeholders that form part of the core stakeholder group are government organisations and civil society is not represented. The non-inclusion of civil society groups in the development and implementation of the policy and yet the legislation does include civil society and faith-based organisations to be included in the Taskforce is an issue that government needs to address and corrected for successful implementation and buy in.
The role of civil society groups is key considering that they assist government in providing care and support for victims and yet their involvement in the development of the NSF&AP was limited to just validation.
'There are certain tendencies in our country, I am being honest on how government operates, they come to you when they want to tick a box and say you were engaged and consulted and yet the whole document has been developed and completed. I feel the level of engagement is not there and yet we carry the voices of the voiceless'

The respondent felt that their organisation was only consulted at the latter stages of the document development just to validate what was already decided. The respondent felt that they as an organisation couldn't come late into the process and change issues and priorities out of respect for the government. A reason for "box ticking" done by government could be attributed to the way NGO's are viewed by government. Civil society groups are generally viewed as radical human rights groups that usually are against several government policies, hence government tends to ignore them in

development of policies. Civil society groups are generally only recognised by government when they perform development activities in the communities, such as poverty alleviation programmes which ultimately assist in contributing to development projects that are supposed to be carried out by the government.

The rolling out of the implementation was also viewed as inefficient by respondents, the feel was that the coordinating body which is was the Secretariat have become the implementers' themselves and their role seems not to be known by themselves added by the fact that they are very thin on the ground in terms of personnel and resources. The consequence of the coordinating body trying to coordinate and implement at the same time has led to core functions being neglected, such as the documentation of key interventions government has started due to all stakeholders looking at their own priorities and a lack of harmonisation of policies.

'It is not a case of nothing has been done in Swaziland, its just that the coordinating body is not working well with people, there is a lack of efficient policy coordination. In the beginning we made progress because the legislation was new and every stakeholder wanted to be involved, but now you see the Secretariat teaching in churches, and you ask yourself that how can a coordinating body that is supposed to be working at a policy level teaching in churches and communities'

The above statement highlights the policy document's lack of identifying lead agencies on the ground when implementing the activities set out in the plan. The timeframes of the completion of activities was limited due to lack of resources and a lack of a monitoring and evaluation mechanism linked with the strategic plan. The lack of clear time frames for activities also contributed to stakeholders not fearing the end of the implementation timeline of the action plan. Evidence of timelines not taken with enough seriousness is the fact that the policy document elapsed its timeframe of 2013-2015 and up to the time of this research being compiled in 2019 there still is no new strategic plan and action planned rolled out, albeit plans are in place to launch and implement a new plan in 2019.

When respondents were posed with the question of how they have been able to work well after the NSF&AP had elapsed one respondent answered to the effect that:

'It is not to say that the activities of the office were solely based on the plan itself we also had our own activities. We had other initiatives but also more importantly if you look at the timelines that were set on the strategic plan and action plan, there have been activities which have not been undertaken for the same reason I have already said to you (Resources), we had pending work that we needed to do and still need to be done'

Another respondent from the law enforcement replied to the same question by stating that:

'I think that maybe from the period since the legislation was enacted, we have never made reference to the strategic plan, so we have been operating as if it is not there because even during the period that it was there, we were not using it'.

The above responses were common during data collection and policy effectiveness and efficient implementation was a major challenge, considering that timelines and deliverables are what make a policy a success or a failure. The lack of buy in caused by autonomous development of the policy by the coordinating body didn't give the document much of a chance for meaningful success and questions the relationships between key stakeholders in the response to people trafficking. The lack of recognition of the overall National Development Strategy which is meant to be the blueprint for all development policies in the country, developed by government to achieve the status of a developed state by 2022, the NSF&AP does not refer to the NDS itself in the literature section, which is a key document in outlining government policy.

Key objectives of the NDS include the creation and strengthening of structures for continuous dialogue and mutual sharing of information in the work environment to ensure harmony and industrial peace. Also included in the document is the Improvement of mechanisms and systems for the maintenance of law and order, performance appraisal for law enforcement agencies and ensure adherence to proper standards and practices.

The key areas highlighted by the NDS are not being adhered to by most sectors within government and there are no major repercussions to sectors for not aligning and keeping the NDS in mind in all policy development. The Ministry of justice has been utilising the people trafficking legislation but have not streamlined the NSF&AP with

their own programmes with the justice system, highlighting that performance appraisals may not be implemented in government departments to check if all policies and action plans linked to law enforcement agencies are in sync and are being streamlined with timelines and end results achieved.

The NSF&AP appears to be a document developed with a policy network structure that had two very dominant actors within it, primarily the Taskforce Secretariat placed in the highest office in government which is the Prime Minister's Office which has characteristics of a topocratic institution, which Metfula & Chigona, (2013) describe a Topocrats as an actor that has self-autonomy and with a great interest in protecting the wing of government that it is under. It appears to be a document which had good intentions however was developed in a flawed manner and environment with more of political background rather than a developmental background.

4.6. Policy Coordination

Government established the Inter-Agency Task Force for the Prevention of People Trafficking and People Smuggling and a Secretariat to coordinate human trafficking response in the country. These two bodies are there to ensure inter-sectoral coordination of interventions against trafficking and smuggling in persons at a national level.

The research respondents highlighted that the response to human trafficking is lacking and there seems to be no coordinated response. Certain respondents brought up the issue of the coordinating body not being clear on their role and the role of the Inter-Agency Task Force, and instead of a coordinating role, the Secretariat has assumed the role of implementor instead of working at a policy level.

"I believe that because of a lack of coordination aspect, there is a bit of a gap in terms of coordination. You are aware that the response, because this is an organised crime we are talking about, so there is a need to adopt an organised coordinated response"

The coordinating body (Task Force) together with its Secretariat, which oversees the day to day coordination aspect of the response to people trafficking is placed at the

Prime Ministers' Office which is the highest office in government. The placement of it there was done to show political will in combating people trafficking. Such actions done by government may be good on paper but real tangible benefits of political will are hard to come by because of the true motives of placing certain departments dealing with social challenges being placed in political offices.

A case in point highlighted by (Metfula & Chigona 2013) in chapter two of this research is that, the real motives for even making policy may have little to do with transparent governance or socio-economic development but rather political achievements, appeasing international bodies as well as economically powerful states in order to attract foreign aid from donor agencies. The disadvantage of this other than the obvious lack of tangible development dealing with the socio-economic issues is that international NGO's may want to put in place so called international standards and best practices that are suitable for other parts of the world not necessarily for that country or region.

The involvement of foreign actors in the policy development process in developing states comes with more dynamics in an already complex process. Usually the foreign influencers have power because of their financial strengths and access to economic and political elites that usually ends up influencing their views in line with their agendas. Metfula& Chigona (2013) state that the results of this is that the views of the minority being advocated at the expense of representative and democratic views of all sectors of society. Such actions do not allow active participation of the general population. In some cases, public participation is only done symbolically and policy makers particularly in developing countries disregard that an effective policy is achieved by having clear and realistic goals by catering to societal needs and not political interests.

According to Metfula & Chigona (2013), the lack of participation of civil society and even key government stakeholders in the policy development process usually leads to resistance or rather a lack of interest to those specific policies These writings by policy researchers are what this research discovered in the case of Swaziland and its people trafficking policy.

The government of Swaziland has the Public Policy and Coordination Unit (PPCU), a dedicated unit that deals primarily with public policy within the country. This unit is

responsible for policy development, performance targeting and appraisal. The unit also looks at the impact of policies such as the socio-economic and financial implications of government policies in the country.

The respondent interviewed from the public policy department during an interview conducted on the 8th January 2019, went into detail when explaining the role played by the unit and highlighted areas that are needed for a good policy to exist such as:

'*We advise government ministries on how to develop policies, and we also provide technical advice through conducting research when ministries want to develop policies. We harmonise policies between ministries so that they do not clash*'.

'A policy should be responsive, it should respond to a policy issue because a policy should address a problem that is visible, perhaps there is a gap somewhere, so a policy comes through to address that. Stakeholders must be engaged because they play a key role, since you cannot develop a policy in isolation, especially a public policy because it impacts a lot of people and their lives, since we are in the public service sphere. So whatever policy that is developed it should think of the person on the receiving end of the policy'.

A surprising issue that came up during the interview with this respondent is that, the Anti Trafficking National Strategic Framework and Action Plan 2013-2015 was developed without the involvement of the PPCU department which is a major disadvantage to the development, implementation and the success of the policy document. The lack of involvement of this unit in the development and implementation is an anomaly which contributed to the non-alignment of this policy to others that meet the anti-people trafficking document. Possible early detection of problem areas could have been done if this unit was utilised and activities such as amendments would have been done and completed by the end of the NSF&AP in 2015.

The lack of involvement of a key department in policy development is an injustice to the response to people trafficking, as proper policy planning would result in strengthened mechanisms and allow for broad based participation of all sectors and not primarily government sectors that occupy the structure of stakeholders in the policy document. Broad based participation according to the NDS allows for effective

planning, implementation, monitoring and evaluation in policies concerned with national development.

When probing as to why such a crucial department in policy development is left out when ministries and departments develop policy the respondent responded by highlighting certain points:

'*The problem that exists is that most of the time, most government ministries don't know the role of the PPCU. A government ministry or department, when it develops a policy should involve us from the beginning. It should go to cabinet for approval having passed through us and we review if those policies do not clash with each other. You find that government ministries bypass the PPCU and we meet a policy on its way to cabinet seeking approval without the unit having seen it or participated in its development'.*

Issues that were raised as challenges are not only limited to the development of policies but also the implementation of them. The respondent highlighted that some government ministries and departments do develop good policy documents but fail when it comes to the implementation. When asked as to why is that? The respondent mentioned several issues that have led to the failure of good policies.

'Firstly, there is not any...I don't want to say political will, let me say commitment to implement, and you find that funds for that policy implementation have been diverted because you find that someone, somewhere is interested in something else. We have wasted a lot of money because when developing policies, we hire consultants, and they are paid, and they produce very good policies and you find that whoever is the decision maker has no appetite for that policy and you find that the document is then shelved'

Resources especially financial resources are an issue that came up over and over during the interview process and be it a lack of or the misdirection of them. Araujo (2011) writes about similar evidence when it comes to policy debates on human trafficking in the case of South Africa and states the need for collaboration and consistency for awareness to be raised and for the creation of effective anti-trafficking mechanisms. Challenges such as solid government buy in as well as a political will and resources contribute towards stalling and a breakdown of development or

implementation. Good research, clearly thought out action plans and envisioned partnerships and frameworks, may look good in documents, however failure to implement these plans and roadmaps leads to no response towards the developmental challenge being faced.

4.7. Prosecution of cases

Prosecution is a key pillar in the response to people trafficking and smuggling and is a key factor indicated by the TIP Report (2016) that led to a tier 2 (Watchlist) downgrade. The key stakeholder in this theme is the Ministry of Justice and Constitutional Affairs and the office in charge is the DPP's Office.

All respondents agreed that this area is lacking in effectiveness, however various reasons were put across as to why they think it is an issue. The DPP's Office highlighted the fact that they have not won all cases they have prosecuted however some cases of human trafficking and human smuggling fail to get convictions against perpetrators due to inadequate investigations performed by the police. The Dpp's Office only guides investigations and investigators sometimes might not always recognise the three elements that comprise of the crime of human trafficking, mainly recruitment, transportation and exploitation.

The prosecution debate in response to people trafficking is not unique to Swaziland alone but is a challenge experienced in other countries as well. Literature on prosecution challenges similar as in Swaziland exist in other parts of the SADC region. Examples include Van Impe (2000) when he writes on the need of a multisectoral approach in combatting human trafficking and discusses the prosecution challenges faced by Zambia. According to Van Impe (2000), Zambia's implementation of anti-trafficking policy is often a challenge to stakeholders because law enforcement officers such as the police, prosecutors, judges and immigration officials are not adequately equipped to carry out investigations and prosecutions effectively.

Respondents agreed that not all stakeholders in the response are equipped or equipped well enough but do agree that trainings are held in partnership with development partners such as the UNODC in conjunction with the Secretariat. The challenge noted about the trainings is that no communication is done in relation to

finding out from implementors by the coordinating body as to what are the skills needed by implementors in order to effectively implement duties and responsibilities outlined in the legislation and NSF&AP.

The lack of adequate investigative techniques by police has contributed to the prosecution pillar being weak in terms of successful convictions of cases. Issues such as training have had minimal effect on investigations and cases of trafficking are not highly reported according to police reports. This has led to minimal cases of trafficking being handed over to the prosecution side of the legislation. Evidence of this is highlighted in the responses given by the prosecution respondent of the research. The respondent highlighted the complexities of case investigation and reporting.

An example of the complex nature of prosecution is:

'***During the period of the NSF&AP for us prosecution, we receive cases from the police and the cases are reported either to the Secretariat or whoever but for us as an office we rely on the police. When prosecuting these cases, we look at the elements, if one of the elements is missing then clearly it will be an acquittal. So, if the elements are not satisfied, we then prefer other charges***.

When asked as to why a case may be reported to prosecution as a case of people trafficking and yet it is not the respondent gave the following response;

'*Most people are not legal minds. You can report a case as a human trafficking but for us in the legal department we then read the enquiry file or the docket then if one of the elements is missing, we clearly don't prefer the human trafficking charge we prefer another charge that can be linked'.*

The prosecution pillar stressed the point of a lack of thorough investigation by the police which could lead to successful convictions. The police seem to work on a reactionary basis instead of being pro-active. The result of a low number of convictions is also attributed to a lack of time frames in the judicial system hence the respondent highlighted the fact that those few cases of trafficking that are reported to them tend to stay for a long time without being prosecuted and pending in court.

The legislation does lean towards the human rights approach however it has not been effective in prosecuting perpetrators as well. Reasons for such poor prosecution of

perpetrators as highlighted during interviews is the lack of proper investigations. Poor investigation cannot be solely attributed to a lack of training but is also related to a severe lack of resources to institutions like the police. These challenges of financial resources greatly hinder investigations being a success. In Chapter two of the research the researcher highlighted the global response to combatting organised crime and referred is made to how the United States had a fair amount of success in fighting it due to a vast amount of resources. The American Government used potent enforcement tools such as racketeering laws, witness protection programmes, and electronic surveillance to fight the mafia. The example of how he U.S. government fought organised crime highlights that investigation must be supplemented by several aids, such a racketeering laws, electronic surveillance and witness protection programmes. These resources and laws that could assist the people trafficking legislation are not present in Swaziland especially the resources needed to get surveillance equipment and the many hours needed to conduct fruitful surveillance and the costs that come with it.

Information gathered from interviews in particular with respondents working in the prosecution field is that Swaziland is in the process of passing legislation to deal with organised crime in general and there is hope that prosecution of people trafficking perpetrators will increase once such laws have been established and enacted, legislation which can supplement the people trafficking legislation. The respondent which highlighted this point was asked if the strategy employed by the country outlined in the NSF & AP is best suited for Swaziland. Their response was:

'The link between human trafficking and organised crime is a link we cannot run away from and we are currently busy trying to pass legislation in parliament that deals with organised crime'

The above statement shows the realisation that a lot more resources and bylaws need to be put into prosecution of trafficking perpetrators and the country is slowly moving towards that direction.

The challenge of pending cases leads to several issues arising in the prosecution exercise and touches several stakeholders in the process. Firstly, the victim kept at a place of refuge cannot be kept in that place of refuge indefinitely the People Trafficking & People Smuggling (Prohibition) Act, 2009 clearly states in section 43 subsection 2

that 'A magistrate may make an interim protection order for the person to be placed at a place of refuge for a period of fourteen days for the purpose of carrying out an investigation and enquiry under section 50'

This is the most crucial period in the investigation process because during this period if inadequate investigations are conducted and a substandard report id given to the magistrate then the case falls apart and victim does not receive justice and perpetrators are not prosecuted. The People Trafficking and People Smuggling (Prohibition) ACT 2009 clearly states that:

"Where the magistrate having read the report is satisfied that the person brought before him is not a trafficked victim or smuggled person and needs protection, a magistrate may:

i) in the case of a trafficked or smuggled person who is a citizen or permanent resident of Swaziland, ordering that such person be placed in a place of refuge for a period not exceeding two (2) years from the date of the order, or

ii) In the case of a trafficked or smuggled person who is a foreign national, ordering that such person be placed in a place of refuge for a period not exceeding six months from date of the order, and thereafter to release him to an immigration officer for necessary action in accordance with the immigration Act No5 of 1982.

With the above sections of the legislation in mind, prosecution becomes difficult when there are no time frames stipulated for court prosecutions and the time stipulated for placing a victim in a place of refuge elapses the victim has the right to request the protection officer to be allowed to go home. The protection officer is then obligated to facilitate the repatriation of the victim back to their country of origin or even back to their home in Swaziland if that victim is a Swazi national. The lack of time frames in prosecution of trafficking cases leads to such issues arising and eventually leading to the non-prosecution of perpetrators due to a lack of victims taking the witness stand.

This is a problem that is faced by prosecution authorities and perpetrators end up not being prosecuted and being let free. Due to keeping up to international standards set by the convention incorporated into legislation, a victim cannot be forced to testify in court if they feel that all they want to do is to go home, hence speedy investigations

and prosecutions are crucial in raising the number of convictions for the country. These are some of the complexities that come into to play that are major challenges for the country in the response to people trafficking.

The lack of mechanisms within the justice system in expediting court cases is also a key area that the NDS highlights as an issue that needs to be efficiently improved to the level of high efficiency within the justice system. Prosecution is an area that was a major challenge in the implementation of the NSF&AP and contributed immensely to the downgrade if the country to tier 2(watchlist).

4.8. Immigration

Immigration is a key component in the response to human trafficking and smuggling since human trafficking and smuggling is a crime involving the movement of people.

Respondents acknowledged that human trafficking exists, and the immigration sector deals more with the smuggling aspect of trafficking. Activities outlined in the National Strategic Framework and Action Plan (NSF&AP) are in line with the mandated daily duties of the immigration department and immigration has embarked in incorporating anti-trafficking and anti-smuggling initiatives in their day to day operations. The issue of pieces of legislation that have caused predicaments came up again in particular the Immigration Act (1982).

'we sit with the Office of the Attorney General we are already aware as a department that there are consequential legislation amendments that we must do there are certain specific permits that we must have in place to allow a victim to reside in the country legally. We have not gotten to that. Fair enough we have not convicted anyone we have also in a way within the existing schedules created permit types that have accommodated victims of trafficking or smuggling. It has not been specifically provided for in the legislation so now the mere fact that you do it on the ground and not provided for in the legislation you will be viewed as negative and something you have not committed to do in the legislation'.

The respondent highlights the difficulty that immigration has in trying to implement legislation and policy within the aspect of people trafficking. The non-alignment of policy is a challenge to officers on ground and forces immigration to try fit in issues of

people trafficking such as the issuance of residence permits with other legislation such as the Refugee's Control Order of 1978. Since immigration must improvise on a case by case basis, this puts the immigration department under no obligation by any immigration law to do this to every victim of trafficking.

The lack of written obligations faced by the immigration department essentially means that immigration can treat victims as illegal migrants and apply the migration approach theory mentioned in chapter two when dealing with victims of trafficking, an approach used in countries such as Sweden. The migration approach views people trafficking as a threat to state security and to a certain extent, this approach is a state-centric realist stand point of view. The migration approach ignores the significance of individuals and their lack of consent in the process involved in trafficking in persons and focuses wholly on state security. This approach views the state as the victim, as illegal migrants, deemed to be violating the laws of the country in which they end up as destination. However, as the respondent highlighted that Swaziland does not apply this approach talked about by Lazaruk (2005) when writing on the Swedish perspective towards how it views people trafficking, it is however a serious issue that needs to be amended in the two legislations.

The fact that there is a clash in the People Trafficking and People Smuggling (Prohibition) Act 2009 with the Immigration Act of 1982 and immigration legislations has not been amended to cater for victims of trafficking.

'The human trafficking Act of 2009 was obviously promulgated at the time after we had already had the Immigration Act of 1982, which I must admit is quite outdated, so there has been a need to have some consequential amendments to our legislation, which is yet to be done so it can be in line with such provision. One such provision says you cannot prosecute someone who is a victim of human trafficking for an immigration contravention, yet the immigration Act says that you must prosecute anybody who is found in the country illegally, so that is one grey area'.

The above example of illegal immigration applies when the victim is from another state and had to enter the country illegally on route to destination of exploitation. This does not apply if the exploitation happens in the victim's country of origin. According to the United Nations Convention on Transnational Organised Crime:

"Smuggling of migrants" shall mean the procurement, to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (UNODC, 2004, p54)

'Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State'. (UNODC, 2004, p54)

The smuggling aspect of the trafficking legislation is what the respondent from the Ministry of Home Affairs highlights as problematic in the sense that amendments need to be done on the Immigration Act of 1982 to cater for the victims of human trafficking that have entered the country illegally so as for the people trafficking prohibition Act of 2009 and the immigration act speak to each other. At present the documents clash and such clashes have overlapped and affected the implementation of the National Strategic Framework and Action Plan.

'In terms of policies, the country does not have a policy on immigration as it were, so obviously one would assume that when the framework was developed, it did consider that issue, remember it was developed after the promulgation Act was done. So, it would have considered that the immigration Act, but the biggest let down is that there was no immigration policy, so it was developed on its own separate because there was no document to basically reconcile with because the immigration department does not have a migration or immigration policy right now'

The lack of a migration policy in the country leaves immigration officials to work within the outdated policies and legislations that exist, therefore making it difficult for immigration officials to justify soliciting funds for anti-people trafficking activities in line with the NSF&AP. Immigration officials are further hindered by bureaucracy when advocating for financial resources within government. Respondents talking on immigration elaborated this point with an analogy saying, "you cannot bring five empty bowls which are demanding resources for one activity, senior department leadership will refer immigration officials to that particular unit responsible for people trafficking and smuggling which is mandated to deal with the issue".

Such responses raise a concern on the efficient implementation of the policy document, as to how well versed the decision makers within different government

ministries are on People trafficking and smuggling as members of the Taskforce. Immigration struggles in advocating for resources to which a body they sit on. The officials in charge of the key stakeholders in the response to trafficking fail to draw a link between migration, smuggling and trafficking of people.

Chapter 5

The NSF&AP 2013-2015: Main findings

This chapter sets out to conclude on the research and its findings, while linking the different chapters to the conclusion chapter narrative. The chapter also answers the key questions that the research set out to interrogate which are;

Investigate what instrument failed leading to Tier 2(Watch list) downgrade

What were the goals set by this policy on anti-trafficking in persons to be achieved by government to mitigate people trafficking and smuggling as a social issue in Swazi society, and was the policy aligned with other developmental policies to achieve its objectives?

Measure through performance indicators of the programmes to establish if they were met in the 3-year timeline initially set out and what they tell us about the context of Swaziland's developmental challenges and what forces and tendencies (political, social, cultural) within Swazi state and society help or hinder the shaping of policy and its implementation.

Swaziland's first step in responding to the developmental challenge of people trafficking was to enact The People Trafficking and People Smuggling (Prohibition) Act, 2009. Swaziland ratified the United Nations Convention against Transnational Organised Crime and its related Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children in 2012.

Government established an inter-agency Taskforce, and Secretariat. The Swaziland National Strategic Framework and Action Plan 2013-2015(People Trafficking) is a policy document that was developed as a formalised method of mitigating the developmental challenge of people trafficking and people smuggling in the country. Its development and implementation followed the steps mentioned in the first paragraph, of legislation, ratification and formal government structures mandated to work on the issue of people trafficking.

5.1 Tier 2(Watch list) downgrade

The main instrument that wasn't as successful as the other instruments in the case of Swaziland is the thematic pillars that were outlined as action areas in the action plan. The two pillars that led to a downgrade are the protection and prosecution pillar. The lack of successful prosecution of perpetrators due to improper investigations and the lack of fully rounded services provided to victims of trafficking under state hands did not do well for the country rankings under the USTIP rankings. The country's legislation does include the feminist and human rights aspect in relation to the none prosecution of victims that enter the country illegally while being transported to the place of exploitation. Additionally, similar sentiment is found in Marinova and James (2012) writings on the different European theories of trafficking. The feminist theory as highlighted earlier in chapter two advocates for non-prosecution of victims involved in people trafficking and Swaziland does practice that non prosecution of victims. Swaziland practices non prosecution of victims however same non-prosecution also overlaps to the poor prosecution of perpetrators. The lack of reliable people trafficking prosecution statistics from government does not do well for the country rankings.

The provision of protection and support to victims of trafficking has been fairly efficient to an extent. Victim identification guidelines and a national referral mechanism have been developed and are in place. One other activity outlined in the action plan has not been implemented, including the establishment of a permanent shelter for victims of trafficking.

Certain pillars did achieve relative success such as the prevention pillar whereby most of the country's citizens are aware of the crime of people trafficking and are aware of the Secretariat. Awareness raising programs were carried out continuously during the time frame of the NSF&AP and well after its implementation period elapsed in 2016. Radio shows, community awareness programs were ongoing throughout the timeframe of the document. The Secretariat was visible during national events such as the annual Cultural Reed Dance, the international trade fair, schools and in churches. Some awareness activities were not detailed in the action plan but were carried out by government and greatly assisted in raising awareness and clearing myths and perceptions on people trafficking in the country.

The role of the media was fully utilised by the county through its state-owned media houses and the country recognises what Alvarez and Alessi (2012) talk about when they highlight the role of the media in sensitising and raising awareness to the plight of people trafficking victims and the crime of people trafficking. The media was effectively used to highlight the plight of the victim to the general public. The lack of clear timeframes hindered clear measurable achievements; activities were carried out however a lot could not be aligned with the action plan in relation to time frames.

There is not a specific instrument that led to the downgrade it is a combination of instruments and factors. In addition to poor records of prosecutions and fairly effective protection there is a lack of resources to fully implement the activities set out to be carried out under the thematic areas which government has stated as key focus areas.

5.2. Goals and Policies

The NSF&AP followed the ICMPD model, which consisted of a strategy and an action plan based on a situational analysis on the existing situation and response to trafficking in persons in the country. The NSF&AP designed goals based on the response to people trafficking - namely of prevention, protection, prosecution and partnerships. A total of main thematic areas was given in the NSF&AP, namely covering prevention, protection and prosecution under each objective, the action plan outlined activities. Additionally, indicators to measure progress in achieving objectives, as well as timelines set and responsible bodies were given in the NSF&AP. Although the NSF&AP indicated that monitoring would be carried out through periodic reporting, no template was developed, and as a result Swaziland never formally reported on their progress in implementing the NSF&AP.

The goals set by the policy document are relevant to the response to people trafficking but the delegation of roles to stakeholders, clear timeframes and deadlines of activities, lack of resource mobilisation plan, no costing of activities, no depository of data and no monitoring and evaluation has let down the successful implementation of the NSF&AP.

The policy document was developed without vigorous consultations with key stakeholders. Not all the relevant stakeholders were consulted enough to come up

with solid meaningful input to give a clear direction to the response to combatting people trafficking. Several key stakeholders were only included during the validation process and not throughout the development process such at stakeholders in the prosecution field, civil society organisations and labour stakeholders. Such actions taken by governments when developing policy are not new in the field of policy development.

The document was not aligned with key national documents that outline the development path of Swaziland

The development of the NSF&AP failed to recognise the value and role of a well-balanced policy network that Metfula & Chigona, (2016) talk about when describing the value of having the right balance in policy actors during policy formulation. A policy network should have a proper balance of actors, proper interest/intermediation to reach the ideal policy and not including the right policy network actors may result in a flawed and ineffective policy. The development process of the policy was characteristic of one controlled by a topocratic actor within a senior government office where the driving actor of the policy seemed to protect their own independence and the wing of government to which they belong to.

Coordination of the NSF&AP was effective in some areas but not in all areas that it needed to be. Given that it was the inaugural policy document outlining the country's strategy on people trafficking, errors that are commonly made when developing policy in Africa are evident such as "box ticking" for political achievements, catching up with other states in the region, influence from international bodies or economically powerful countries, securing or attracting donations from foreign agencies. These are flaws that developing countries have in their policy development processes mentioned by researchers such as Metfula & Chigona (2016) when they talk about box ticking in order to appease the exogenous factors that influence policy.

Measure through performance indicators of the programmes to establish if they were met in the 3-year timeline initially set out and what they tell us about the context of Swaziland's developmental challenges and what forces and tendencies (political, social, cultural) within Swazi state and society help or hinder the shaping of policy and its implementation.

Programme objectives were partially met within the timelines set out by the performance indicators; the prevention pillar is the thematic area which received the most attention. Weekly awareness raising was carried out in the state-owned radio stations, national events such as the International Trade Fair and communities. The majority of programmes were not completed or started. Non-completion of activities was largely attributed to a lack of set timelines clearly defined indicators that can be measured empirically, lack of efficient and proactive coordination from the government and the lack of lead agencies to carry out programme activities. Evidence of a lack of timelines is noted during the data gathering process, when a respondent answered the question on how their department has been working on programmes with no new NSF&AP in place by 2018? The respondent answered by stating that, not all of their departmental activities were based on the NSF&AP hence they have been operating using their own departmental strategies and programmes. This response further highlights the lack of ownership of the policy document and the lack of lead agencies that will follow up on stakeholder progress on the various programmes outlined in the strategy.

Unclearly defined roles for different stakeholders within the context of the policy hindered progress for efficient coordination due to confusion as to which organisation does what and the top down approach exercised by government when implementing the policy. Civil society was not consulted to get feedback on the progress on the ground which has led to the policy being put aside by several stakeholders. This resulted in several goals initially set out by the policy failing to materialise and thus not serving and fully protecting civil society in the country from the perpetrators of people trafficking.

The USTIP report is an issue that raises concern with the Swaziland's response to combatting people trafficking, while most developing countries are bullied by larger western states with an abundance of financial and technical resources into having their policies influenced by them. Development challenges such as the HIV/AID pandemic faced by the country and donor funding playing a significant role in the funding of health and development programmes, Swaziland prioritises the USTIP report over other regional and international body reports such as the UNODC Global Report on Trafficking in Persons.

The research has concluded that the USTIP report is not the correct document to use in gauging progress of governments' response to people trafficking but should rather use regional reporting yardsticks such as SADC organ, the African Union and the UNODC Global Report in Trafficking in Person, more so because the country signed a convention with the United Nations and not the a bilateral agreement with the United States. The fear of the loss of assistance mentioned earlier in chapter two has made countries like Swaziland hold the US TIP report in high regards, over and above international reports such as the United Nations Trafficking in Person Global Report.

The fear of loss of funding for government official, foreign aid assistance, HIV/AIDS funding and the U.S. government voting against Swaziland getting loans from institutions such as the International Monetary Fund and development banks has led the country to prioritise the U.S. TIP report and in essence the lack of financial, technical resources to deal with the many developmental challenges the country faces. The country has limited sway in relation to exogenous factors and is therefore influenced by the United States government through the tier ranking system it uses the USTIP report as a priority report.

All in all, a combination of factors led to the downgrade, a lack of resources to effectively implement the NSF&AP, lack of stakeholder ownership, non-alignment of policies and legislation, improper investigations and a policy network with dominant external forces. The developmental challenges such as high unemployment, lack of financial resources, stagnant economy, lack of technical skills and trying to balance traditional authority with modern government will always influence the composition of policy networks in the country and contribute to ineffective policies being developed and also good policies that cannot be effectively and efficiently implemented.

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