

National Monitoring and Report Mechanism to Address THB: the Role of National Rapporteurs, Vienna, 21 May 2007

Speech

Mrs. Dettmeijer-Vermeulen, Dutch National Rapporteur

Mrs Chairperson, Ladies and gentlemen,

First of all, I would like to thank you for the opportunity to tell you something about the institution of the Dutch National Rapporteur and to commend your organisation for organising this seminar where we can again focus on the importance of the appointment of national rapporteurs and exchange best practises.

You yourself mrs Chairperson indicated in February of this year that although on paper a lot has been achieved since 2000, a lot of challenges remain in almost all areas of our activities. One of those challenges as you pointed out is installing Rapporteurs in every country in order to collect and analyse data permitting to assess the scope of the problem and to function as a monitoring mechanism.

Like you mrs Chairperson, I am relatively new to this job. I started in October 2006, and I found a well equipped and very well functioning Bureau that is well known in the Netherlands as well as abroad. From the start I have found that one of the most important aspects of my function and my role as a rapporteur is the fact that I am an independent body and that I can give my findings and recommendations unrestricted. Before I became a Rapporteur, I have been a judge for over 20 years so this independency is like a second nature. I will go into the importance of this aspect later on and will then give you some examples.

I will highlight three aspects of the importance of a national rapporteur: the collecting of data, monitoring and the independent position of the Dutch National Rapporteur

INFORMATION

The first aspect of my work is to gather information. We all know how difficult it is to get accurate data. Nonetheless one of the key elements in a successful counter trafficking strategy is knowledge. Knowledge is power. Power as a dynamic concept to approach and tackle the problem efficiently, to improve the fight against it, in policy making and in the application of the law (or other regulations) in practice. Therefore, solid research and analysis is at the basis of effective anti-trafficking measures that a government should take. The first rapporteur in the Netherlands, Mrs Anna Korvinus, was appointed in 2000 by the government. As I said I succeeded her in October 2006.

I am assisted by a small bureau. It is our task to inform the government on all aspects of trafficking in human beings. This regards information on the nature and the scale, on perpetrators, on modus operandi, on victims, but also on more general themes like prevention, legislation, governmental policy and important developments in these fields, on the national as well as the international level. This information is gathered from all possible individuals and organisations, both state and non-governmental, that deal with the trafficking issue. In order to be able to do so my Bureau has access to all police and prosecutor's files and registrations, but also receives information from NGO's. As I said, accurate data are difficult to get, therefore to get the best results, it is preferable to get the data from all sources. The task of the rapporteur focuses on the gathering and dissemination of information, and should preferably be kept separated from operational tasks which, on a national level, could be fulfilled by a national public prosecutor. We report our findings in annual reports to the Dutch government, for which the Minister of Justice is acting as the coordinating Minister. Our reports thus contain qualitative and quantitative information on criminal investigation and prosecution, information in regard to prevention and on victim support and assistance. Aside from reporting about our findings, it is also our task to formulate recommendations to the government in order to improve in any and every way the policy and practice in the fight against trafficking. It is obvious that the information my Bureau collects serves as the foundation and justification of these recommendations.

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

Monitoring of counter-trafficking policy

In essence monitoring is reflecting upon your own activities and initiatives, in order to evaluate to which extent your set goals are reached. Monitoring of the combat against THB thus means measuring the effectiveness of the policy and the counter-trafficking activities pursued. In a Parliamentary democracy the controlling task of governmental policy and action is laid in the hands of Parliament. From this perspective, monitoring of counter-trafficking and victim assistance is the very task and responsibility of Parliament. In the Netherlands this task is in a way facilitated by the existence of a National Action Plan on THB. Following one of our - many - recommendations, the Dutch government drew up such a National Action Plan in 2004. This Plan contains concrete measures to be taken to improve the fight against trafficking, by whom and the timeframe wherein these should be accomplished. The Action Plan is updated regularly as a result of our reports as well as of NGO findings and is then also a discussion item in the Parliamentary debate on my reports. These Parliamentary debates are the effectuation of the controlling function of Parliament on the issue of THB. In performing this task, Parliament makes ample use of the reports and the information and considerations contained therein. And this is precisely the point where the Rapporteur comes into the process of monitoring the counter-trafficking policy. It took our Parliament some time to really fulfil this role and to react and discuss the Rapporteur's reports.

The Rapporteur and monitoring the governmental counter-trafficking policy

As follows from the preceding, from a formal point of view it is not the Rapporteur being the monitoring mechanism on the governmental counter-trafficking policy, but it is Parliament itself. The Rapporteur has, however, an important role to play in this monitoring having the task to provide information and advise the government, also when it comes to the mechanisms involved and the effects of the policy pursued. Based on these, it is Parliament that debates with the government on the state of affairs in the fight against THB.

After all, facts based debate will prove to be the most valuable, both in terms of commitment to the outcomes and of willingness to strive for further improvements. By making use of our information in the debates, Parliament can critically assess and evaluate the achievements of the governmental counter-trafficking policy. Our reports (and the fact that they are issued regularly), therefore function as an impetus both to the government and to Parliament to perform their respective tasks of fighting trafficking and monitoring the effectiveness of that fight.

Independent

In order to fulfil this role , and to prevent any semblance of partiality or prejudice, a rapporteur should preferably hold an independent position.

The fact that the Rapporteur and my staff members have an independent position is crucial. It forms the basis for an objective and non biased view on the developments and the pro's and the con's of the Dutch counter-trafficking policy and practice. A rapporteur is not , and should not be a political activist, but neither is he a government official; however, he or she can point out problems, and try to help find solutions (in between reports).

A rapporteur can thus function as a trait d'union between governmental institutions and ngo's and can get the various chain partners to cooperate and hopefully trust one other. I cannot stress enough that this is beneficiary to all chain partners involved.

Examples

I will give you a few examples of the advantage of my independent position.

On paper, and usually also in practice, provisions in the Netherlands for victims concerning the reflection period are more then adequate. The granted period is 3 months and has to be offered at the first sign of victimisation. Recently however our highest administrative court ruled that there was no objection to the victim spending this reflection period in detention as a result of being an illegal alien. In my opinion this is absolutely contrary to our international obligations concerning the protection of victims and even contrary to the intention of our own legislation. In my next report I will recommend that the government adept the regulations in order to prevent this situation for the future. In doing so I severely criticize our highest administrative court and I do think you have to be independent to do so.

I have also seen that in criminal proceedings it can be difficult for the victim to get to the support he/she needs. There is a distinct difference between a victim of trafficking and victims of other crimes. It is important that judges understand this, in evaluating their statements, in assessing their threatened position as well as in regard to their damages, material and immaterial. One of my recommendations will be that training of judges in this particular field is necessary. This too, a recommendation concerning the judiciary, can best be given by an independent rapporteur.

But also government, prosecution and police have been the target for recommendations in the past 6 years and it is my firm belief that much of the results gained have been due to the independent position of the rapporteur.

I would therefore like to applaud, Mrs Chairperson, your appeal to all countries to establish an independent official, tasked to provide the government with qualitative and quantitative information on (the scale and the nature of) the trafficking issue in the country.

As you no doubt know it is not only here that this issue is raised. Judging by the international attention placed on the appointment of national rapporteurs,(as for instance the EU) it seems to me that 10 years after the Hague Ministerial Declaration on European Guidelines for effective measures to prevent and combat trafficking in HB(as we now call it) it is time to put those intentions into practice.

The 1997 Hague Declaration encourages the co-operation of national rapporteurs on a regular basis. Information gathered in the respective countries, in ways fitted to the national situation, (for example using existing databases, and consultative structures), can then be uplifted to a higher level of aggregation. Additionally, criteria could be discussed for future reporting.

One word of warning however. The appointment of an independent national rapporteur is in itself not enough. He needs a staff and he needs access to all relevant data and the government will have to heed his recommendations. And even then, after 6 years of a Dutch National Rapporteur in our fifth report there will be 67 recommendations of which the overall drift will be that although THB now has a firm position on the agenda of all chain partners, the effort will even more have to be directed at the implementation, the putting into practice and the raising of public awareness.

Following the fifth report it is my intention to inter alia, do an in depth survey on the situation of the victim in the criminal proceedings, as this situation worries me, and I will investigate cases that have not been prosecuted. It is the rapporteur and his staff who decide the area's that are to be investigated. This too is an element of independency.

The fifth report will be presented and made public on June 15th. The English translation will follow within a few months. If you would like to receive a copy (and are not yet on our list) please feel free and give me your card and it will be sent to you

I am looking forward to meeting and working with my future colleague rapporteurs!

And I thank you for your attention