

Public Consultation on the “Prevention of Human Trafficking Bill”

Aim

Mr Christopher de Souza, Member of Parliament for Holland-Bukit Timah GRC, and the Inter-Agency Task Force on Trafficking in Persons (“the TIP Taskforce”), are seeking feedback from the public on the proposed Private Member’s Bill to prevent human trafficking.

Background

2 In November 2013, Mr Christopher de Souza announced in Parliament his intent to introduce a draft Private Member’s Bill on the prevention of human trafficking. This would be a dedicated piece of legislation to criminalise the trafficking of persons for the purpose of sexual exploitation, labour exploitation and exploitation by the removal of organs.

3 The TIP Taskforce has since been working closely with Mr de Souza on this Bill, which is aligned with the Taskforce’s efforts to constantly review our laws relating to human trafficking.

TIP in Singapore

4 Trafficking in persons (TIP) is a serious transnational crime which exploits the vulnerable. As people move across borders in search of economic opportunity, this creates opportunities for traffickers to lure individuals into exploitative situations with promises of good jobs and financial gain.

5 As defined by the UN Protocol to Prevent, Suppress and Punish TIP, especially Women and Children (“the TIP Protocol”), TIP is a crime which involves three components – the act (e.g. transporting, harbouring), the means (e.g. through coercion or threat), and the purpose (for exploitation). TIP can take forms such as sex trafficking, labour trafficking or exploitation by the removal of organs.

6 The Singapore government works with stakeholders in a four-pronged approach to proactively combat TIP. These four prongs are Prevention, Prosecution, Protection and Partnerships.

- a. **Prevention.** We actively train our frontline officers to identify victims and traffickers at our borders. We also work with Non-Governmental Organisations (NGOs) on referral of cases and victim identification on the ground. In addition, we have co-funded conferences to help businesses better appreciate the implications of TIP in their supply chain management, and initiatives to heighten the general public awareness of TIP for crime reporting.
- b. **Prosecution.** Currently, we have provisions in various statutes (e.g. Penal Code, Children and Young Persons Act, Employment of Foreign Manpower

Act, Employment Act, Employment Agencies Act, Women's Charter and the Human Organ Transplant Act) to criminalise acts that may be related to human trafficking. These laws are reviewed regularly for relevance. At the whole-of-Government level, there are also specialist and dedicated enforcement and prosecution teams to deal with TIP cases.

- c. **Protection.** We take a victim-centric approach in dealing with persons who may have been victimised by TIP. The Government partners civil society organisations and other entities to provide accommodation, food, medical care, counselling and other services (including facilitating temporary employment through the Temporary Job Scheme) to victims of TIP.
- d. **Partnerships.** TIP is a transnational crime. Tackling it effectively requires proactive collaboration with other countries and stakeholders. We continue to develop close partnerships with regional and international partners and work with them to tackle TIP.

More information on this approach, as well as specific initiatives undertaken by the TIP Taskforce, can be found in the National Plan of Action Against Trafficking in Persons 2012 – 2015, launched in March 2012 (“the National Plan of Action”), which has been included as a reference document.

Need for Dedicated Legislation for Human Trafficking

7 One of the TIP Taskforce's initiatives under the National Plan of Action was to review all of Singapore's legislation related to TIP, to ensure that Singapore's legislation adequately addresses the complexity of TIP crimes and that penalties are commensurate with the crimes. Under the current legislative framework, there is no definition of TIP. Crimes related to TIP are found in different pieces of legislation, such as the Women's Charter and the Children and Young Persons Act. However, these different pieces of legislation were enacted for different purposes at different times and not to address TIP as a specific phenomenon. This can result in gaps and inconsistencies in how we deal with TIP.

8 Having dedicated legislation for the crime of TIP will allow us to have a comprehensive framework for tackling TIP, adopt consistent definitions and penalties, and deal with TIP offences squarely. We will also be able to use this legislation to empower agencies with necessary intervention levers to combat TIP offences.

Key Principles

- 9 There are four key principles that undergird the proposed legislation:
 - a. Serve as a **deterrent piece of legislation**. Penalties should adequately reflect the severity of TIP offences.

- b. Offer greater protection to victims and be **gender neutral**. Both men and women should be considered victims if in the same situation.
- c. **Consent of the victim not be an impediment to enforcement**. Even if the victim agrees to being exploited, the perpetrator should still be taken to task if the elements of TIP are present.
- d. Catch **acts of trafficking that occur within Singapore** (even if a trafficked person only transits through Singapore) and **acts of trafficking perpetuated by Singaporeans overseas**.

Specific Proposals for Consultation

A. DEFINITION OF TRAFFICKING IN PERSONS

Proposals

- We intend to introduce the following definition for trafficking in persons, as based on the UN TIP Protocol –

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, of deception, of the abuse of power or of a position of vulnerability 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.

- As referred to above, this definition consists of 3 components:
 - a. the **act** (recruitment, transportation, transfer, harbouring or receipt of persons);
 - b. the **means** (the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person); and
 - c. the **purpose** (for exploitation).

Questions

- *What do you understand by human trafficking, and how would you define it?*
- *Is the UN definition comprehensive enough to cover all forms of what we may deem trafficking in persons?*

B. ISSUES SPECIFIC TO LABOUR TRAFFICKING

Proposals

- Under the UN TIP Protocol the “exploitative purpose” component includes “forced labour or services, slavery or practices similar to slavery, servitude”. We will refer to TIP acts for the purpose of these types of exploitation broadly as “labour trafficking”.
- The intent is for the Bill to criminalise acts such as:
 - Selling, buying and hiring of persons for the purpose of labour trafficking.
 - Abducting persons for the purpose of labour trafficking.

Questions

- *What are some acts which should be considered labour trafficking? What are some acts that should not fall into this category?*

C. ISSUES SPECIFIC TO SEX TRAFFICKING

Proposals

- Under the UN TIP Protocol, the “exploitative purpose” component includes “the exploitation of the prostitution of other or other forms of exploitation”. We will refer to TIP acts for the purpose of these types of exploitation broadly as “sex trafficking”.
- The intent is for the Bill to criminalise acts such as:
 - Buying, selling, and having possession of a person for the purposes of sexual exploitation.
 - Abducting a person to compel the person into sexual exploitation.

Questions

- *What are some acts that should be considered sex trafficking? What are some acts that should not fall into this category?*

D. ISSUES SPECIFIC TO EXPLOITATION BY THE REMOVAL OF ORGANS

Proposals

- Under the UN TIP Protocol, the “exploitative purpose” component includes “the removal of organs”. We will refer to TIP acts for the purpose of this type of exploitation as “organ trafficking”, although it is important to note that TIP refers to the trafficking of the *persons* and not trafficking of organs themselves.
- The Human Organ Transplant Act (HOTA) currently prohibits and criminalises organ trading. The new Bill will provide for enhanced penalties for persons involved in the removal of organs from trafficked persons, as well as the buying or selling of trafficked persons for the purpose of exploitation by the removal of their organs.

Questions

- *What are some acts that should be considered exploitation of trafficked persons by the removal of organs? What are some acts that should not fall into this category?*

E. ISSUES SPECIFIC TO CHILD TRAFFICKING

Proposals

- For the purpose of the Bill, **persons under 18** will be considered children. Trafficking in children will not require the “means” component to be made out, i.e. proving the “act” and “purpose” components will be sufficient to classify it an act of trafficking. Trafficking in children will also attract aggravated penalties, commensurate with the vulnerability of the victim and the heinousness of the crime.

Questions

- *How should we prevent more heinous types of trafficking such as child trafficking?*

F. VICTIM PROTECTION

Proposals

- Victim protection is a key pillar of Singapore’s work to combat trafficking in persons. Detection, in particular, is central to effective remedy, and is particularly important if we intend to catch trafficking cases passing through Singapore.
- It is not our intent to hardwire too many protection measures in the law that would limit administrative discretion of agencies. However, we are considering including “prosecution-related” protection measures in the Bill, such as providing for temporary shelter and trials in camera for trafficked victims.

Questions

- *What protection measures are necessary for victims of trafficking? Which of these would be relevant in the local context and why? Which of these should be legislated and why?*

Period of Consultation

10 We encourage all interested parties to share with us your views on the topics provided for consultation, as outlined above. This will allow us to better understand the needs of trafficked victims and challenges that may be faced in enacting this piece of legislation. The consultation exercise will last for one month, from **19 March 2014 to 18 April 2014**.

Feedback Channels

11 We seek your full support in following these guidelines to ensure that the consultation exercise is productive and focused:

- a. Identify yourself and the organisation you represent (if any), as that would help us understand the impact of the proposed changes to different interested parties.
- b. Make your comments clear and concise.
- c. Identify the specific topic you are commenting on, and focus your comments on how we can improve the proposal or make it clearer.
- d. As far as possible, explain your points with illustrations and examples.

12 Your feedback is important to us and we encourage you to submit your feedback through this email address: TIP_Bill@mha.gov.sg as it will reach us faster and speed up the process of consideration.

13 Alternatively, you can also send your comments through the following channels:

- Post to:
Attn: Joint Operations Management, Joint Operations Division (TIP Bill)
Ministry of Home Affairs
New Phoenix Park
28 Irrawaddy Road
Singapore 329560

14 Please send us your comments by 18 April 2014, 5 p.m. Comments received after the deadline may not be in time for incorporation into the final version.

Summary of Responses

15 All feedback received will be taken into consideration in our development of the Bill to prevent human trafficking. However, we regret that we will not be able to separately address or acknowledge every comment we receive. Instead, we will consolidate and publish a summary of the key comments received, together with our responses, on the REACH website after the consultation exercise closes. The summary will maintain confidentiality of the feedback received and we will not disclose the identity of person(s) providing the feedback.

16 Thank you.

References

Singapore National Plan of Action Against Trafficking in Persons