The EU Mutual Learning Programme in Gender Equality

Combatting trafficking in women and girls for the purpose of sexual exploitation
Spain, 30-31 October 2018

Comments Paper - Malta

The information contained in this publication does not necessarily reflect the position or opinion of the European Commission or the Member States. The Commission cannot guarantee the accuracy of the information contained therein.
This publication is supported by the European Union Rights, Equality and Citizenship Programme (2014-2020).

This programme is implemented by the European Commission and shall contribute to the further development of an area where equality and the rights of persons, as enshrined in the Treaty, the Charter and international human rights conventions, are promoted and protected.

For more information see: http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm
Solution to human trafficking: Gender Perspective is the way forward

Lara Dimitrijevic
Women’s Rights Foundation

Introduction

Globalisation and neo-liberalism have created a fast overturn of human movement that have likewise created room for exploitation exposing women and children to being trafficked for purposes of sexual exploitation. Demand for prostitution and pornography has increased the demand of trafficking of human beings for sexual exploitation. The UNODC Global Report Trafficking in Persons estimates that 71% women and girls are being exploited yearly, affirming the demand across the globe, commodifying women and children as cheap commodities in global market.

1. Relevant country context

1.1 Country Profile

Human trafficking for sexual exploitation is no new phenomenon in Malta. Malta continues to remain a country of destination for victims of trafficking in human beings (THB). Between 2012 to 2016, from a total of 67 identified victims of trafficking, 75% were female of which 24 were victims of trafficking for the purpose of sexual exploitation. One of the identified victims was a child.

Throughout the years there has been a visible increase in demand for prostitution that has become more organised with the disguise of businesses that are operating in actual fact as brothels. Street prostitution has decreased; however, this was not due to a decrease in demand. Business incentives and a fast growing economy has opened the door for criminal punters to become ‘business men’. Throughout the years, Malta is also being a destination for sex tourism. What was known as being the nightlife area, today this has been taken over by gentlemen’s clubs and strip clubs. These places are being advertised publicly as ‘fun night for boys’ and stag parties. Women and girls are being recruited to lure men into these clubs. Massage parlours advertising ‘happy ending’ continue to mushroom all over the island and a number of websites advertising women for escort services and ‘other’ services.

The nationalities of women being brought to Malta vary, from Nigeria to Russia, Moldova, Ukraine, China, Thailand, Colombia, Venezuela, Nepal and countries within the European Union such as Romania, Bulgaria and Hungary. The ages also vary as do the ethnic minorities, including Roma.

1.2 Legislation

Trafficking of persons is a criminal offence as expounded in the Criminal Code. The definition of trafficking is based on the Council of Europe Convention on Action against Trafficking in Human Beings and Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims. Amendments to the law, now
acknowledge that trafficking for the purpose of prostitution and production or performance of pornography as an offence of THB. This offence carries up to 12 years imprisonment.

Acts related to prostitution are regulated by the White Slave Traffic Act. Although prostitution is not illegal, soliciting and loitering is. It is also illegal to run a brothel or a premise for the purposes of prostitution or to live of the profits of someone else’s earning from acts related to prostitution. If found guilty, punishment varies from 6 months to 2 years imprisonment and a fine not exceeding Eur 465.87.

With the transposition of the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, the Victims of Crime Act includes provisions on assistance of services and compensation to victims of trafficking. It needs to be noted however, that victims of trafficking for purposes of sexual exploitation cannot claim compensation because prostitution is not considered employment. They may claim moral damages due to recent amendments; however, access to judicial means is not easily accessible. Victims of trafficking are entitled to legal advice in terms of the Victim of Crime Act and legal representation in criminal proceedings, however it is not clear whether this entitlement is extended to other matters such as suing for moral damages.

1.3 National Action Plan

In 2011, Malta set up a legal and institutional framework to combat trafficking of persons. An Anti-Human Trafficking Monitoring Committee and Stakeholder Task Force were convened including NGO representatives. The Anti-Trafficking Committee is responsible for drawing up and monitoring of the anti-trafficking policies and national action plan and is composed of the permanent secretary of the Ministry for Home Affairs and National Security, the permanent secretary for the Ministry for the Family, Children’s Rights and Social Solidarity, the Commissioner of Police, Attorney General and a member from civil society.

The Stakeholders Task Force is a multi-agency team composed of members from national authorities, including police and 2 NGOs whose responsibility is to coordinates anti-trafficking efforts and draws up the national action plan. The budget of Eur20,000 is allocated to the monitoring committee, while a further annual budget of Eur333,500 is given to the national agency responsible for assistant victims of trafficking. Following the second review by GRETA, it was pointed out that this amount is inadequate to cover all the actions needed to combat trafficking of persons.

Prevention measures have taken place over the years. 30 seconds television clips highlighting various form of trafficking, including sexual exploitation, encouraging the public to report suspected cases. Training was also provided to various stakeholders, including police, labour inspectors, identity Malta, health professionals and adjudicators.

2. Policy debate

The current legislature has embarked on dealing with the reform required on matters related to prostitution and human trafficking. Prostitution for purposes of sexual exploitation has been acknowledged as systematic abuse. The reforms are still
under discussion. Whilst the Nordic Model is not being excluded, the government is looking at various models that could be introduced and tailor made to cater for the local scenario.

In a recent conference on ‘Combatting Human Trafficking Today’, the Parliamentary Secretary for Reforms, Citizenship and Simplification of Administrative Processes said that “human trafficking has no place in our society. We aim to better the lives of the victims and not treat them as criminals. This is a multi-million euro industry and there will surely be unscrupulous people who will try to stop us tackling human trafficking. But we will not be intimidated”. Stakeholders, including civil society are being consulted and the team set up dealing with the reforms have also had an exchange with foreign countries to learn about best practices employed in other countries. On a more positive note, it is welcoming to see that massage parlours and gentlemen’s clubs will also be taking into the consideration for the upcoming reforms, since to date that were being dealt with separately. The government is also currently working a nationwide campaign to raise awareness on human trafficking so as to educate further the public about the signs of trafficking and encourage reporting.

3. Good practice examples

The Prime Minister has publicly acknowledged that exploitation of human beings is on the increase. This is indeed a step in the right direction. Although at present the trend seems to be that forced labour and domestic servitude are more common, it is not being excluded that lack of robust legislation has led to massage parlours and gentlemen’s clubs are exploiting women and girls for purposes of sexual exploitation. Political commitment in curbing and combatting trafficking is a step in the right direction. The approach taken by consulting all stakeholders is a positive step to ensure a comprehensive legislative and policy strategy to deal with the matter.

Extensive training has been provided to professionals responsible to giving assistance and protection of victims. Through the project ‘Looking Beneath’, IOM was brought on board to provide training to over 150 staff of national agencies and 2 NGOs. This was an opportunity to strengthen capacity building of a broad range of stakeholders so as to be better equipped to identify, support and protect identified victims of trafficking. The training ensured to include members of the judiciary, prosecution, police, border control officials, Maltese diplomatic and consular staff as well as members of Identity Malta. Leaflets were also developed in 5 languages aimed at providing foreigners who come to work in Malta with information related to their rights as labour migrants, including rights at work place and different types of contracts.

A previous project, ‘Launching Initiatives Supporting Malta’s Efforts to Suppress Trafficking (LIMES)’ looked at enhancing efforts to combat trafficking. The project established a National Referral Mechanism, enhance co-operation between government and civil society, created Standard Operating Procedures to refer cases of trafficking, provided information through television campaign and produced information material for victims of trafficking and support tools for service providers.
4. Transferability aspects

Spain has introduced a comprehensive approach to tackling sexual exploitation as a form of trafficking of person such that has specifically created a comprehensive plan to combat trafficking of women and girls for sexual exploitation. By the very fact that it took a gender approach, they are acknowledging the reality that women and girls are victims of sexual exploitation.

Spain recognises prostitution as a form of gender-based violence, ingrained in a patriarchal structure of male power and control over women. It understands that prostitution affects women’s physical and psychological health. It further highlights that it is affecting those most vulnerable that continue to be exploited by criminals that are being disguised as business men.

Recent trends in Malta indicate that the demand for activities related to prostitution are on the increase. As mentioned above, this cannot only be seen by the large amount of massage parlours opening all over the country, but also a general attitude to prostitution. Gender mainstreaming is also lending itself to wiping out the fact that women and girls continue to remain for the large part, victims of trafficking for sexual exploitation.

There is a general lack in gender sensitivity. By way of example, despite the laws dealing with human trafficking address sexual exploitation, the White Slave Traffic Act is in principle intended to punish those that are exploiting those working in prostitution. However, recent cases are indicating more and more that women being exploited for reasons mentioned above, are also being prosecuted thus going against the spirit of local legislation and international obligations.

5. Conclusions and recommendations

Despite the effort and work that has been done, Malta is still lacking in taking on a gender approach. This can be achieved in the following ways:

1. Integrate reforms of human trafficking and prostitution.

Prostitution cannot be viewed as being a separate issue from matters related to human trafficking. In order to tackle eradication of sexual exploitation, reforms related to prostitution have to deal with the elements of exploitation. Prostitution and activities related to it have become ‘normalised’. This has affected and blurred the link between human trafficking for sexual exploitation and prostitution. Measures to tackle eradication of sexual exploitation need to factor in demand and hold the buyers accountable, whilst protecting and empowering the victim. It further needs to address legislative and policy gaps that are giving way to criminals hiding behind the guise of business men.

2. Comprehensive data collection that includes a gender element.

Data continues to remain sparse. Yet, the number of massage parlours, gentlemen’s clubs, and women that are being arraigned for activities related to prostitution are in themselves indicative that women continue to be groomed and/or brought for the high demand of men to exploit women. There needs to be a comprehensive data collection on both victims and traffickers, so as to have an accurate picture of human trafficking trends.
3. National action plan to include special measures to tackle sexual exploitation

Despite the fact that the latest human trafficking trends appear to indicate that forced labour and domestic servitude are more common forms of exploitation, not enough is being done to tackle sexual exploitation. As stated above, women being brought to Malta for activities related to prostitution indicate that the majority of the women are coming from developing countries. In a recent arrest of women found working in private premises as prostitutes, all women arraigned informed the court that they had no choice but to do such work as they have families to provide for back in their country of origin. Furthermore, these women are not being assessed whether they are potential victims of trafficking but are to the contrary being prosecuted for living off the proceeds of prostitution although prostitution is not illegal.

4. Training to include recognising and understanding the needs of victims of trafficking for sexual exploitation

The projects highlighted above targeted mostly trafficking for forced labour and domestic servitude. Sexual exploitation merits a separate specialised training taking into account that harmful impact that it has on its victims.

5. Create an infrastructure and logistics to support women victims of sexual exploitation and those that want to leave prostitution.

Malta still does not have shelters for victims of trafficking. Women victims of sexual exploitation are placed in accommodation with victims of domestic violence, without taking into account that their needs are different to those who suffered domestic abuse. There are no exit programmes for women that want to leave prostitution. At present there is only one drop in day centre ‘Dar Hosea’ that is available for women working in prostitution that provides them with basic needs and safe space to rest. This is not enough to support women that want to exit, nor is it accessible to those that are trafficked.

Bibliography

Criminal Code, Chapter 9, Laws of Malta.

Subsidiary Legislation 9.12, Criminal Injuries Compensation Scheme Regulations


White Slave Traffic Act, Chapter 63 , Laws of Malta.

Websites:
https://malta.iom.int/looking-beneath
https://malta.iom.int/launching-initiatives-supporting-malta%E2%80%99s-efforts