

suitable members to whom a victim can be returned and who are willing to provide assistance, taking into consideration the views of the victim.⁴⁵² If the victim does not have the financial means to travel to the place from where he or she was trafficked, an accredited organisation must facilitate the return of the victim to the place in question.⁴⁵³

3.4.6 Conclusion

As a member State to the Palermo Protocol, South Africa has a duty to protect the victims of human trafficking and those who are vulnerable to human trafficking. As discussed above, the Department of Social Development provides for the National Policy Guidelines for Victim Empowerment, which defines a victim. The South African Trafficking Act makes reference to a child who is a victim of human trafficking; this can be found in section 18 (6) of the Trafficking Act. Additionally, the Trafficking Act also refers to an adult person who has been issued with a letter of recognition as provided for in section 19 (10).

The South African Trafficking Act rests the duty of identifying a victim with the South African Police Service whereby any information collected by SAPS is deemed essential to assist the victim. In addition, when a police official has the knowledge or ought to have reasonably known or suspected that an adult person is a victim of trafficking, the police official must deliver this individual to an accredited organisation as well as contact the Department of Social Development. The issue many victims face is that law enforcement does not provide the victims with the reassurance needed and many victims are deterred from stepping forward due to the mistreatment in the hands of law enforcement officials. Many identification issues are also prevalent. These issues include, but are not limited to, following the procedures set out to identify victims. This results in a lack of differentiating smuggling victims to human trafficking victims. The problem, however, rests in the Trafficking Act itself as the Act does not define smuggling and illegal immigration. The failure to distinguish between these victims leads to detention, deportation and arrest of victims.

As mentioned above, adult victims may be referred to an accredited organisation. These organisations focus on the safety of victim's amongst other offerings. Additionally, an accredited organisation must ensure a safe environment for those victims who have children. Further services may include offering a rehabilitation service and educational and skills

⁴⁵² The Prevention and Combating of Trafficking in Persons Act 7 of 2013, s34 (2) (a).

⁴⁵³ The Prevention and Combating of Trafficking in Persons Act 7 of 2013, s34 (2) (b).

