

WELCOME TO TURKEY

HUMAN TRAFFICKING IN TURKEY



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Trafficking in human beings

constitutes a violation of human rights and an offence to the dignity and the integrity of the human being.¹

PREFACE

As academicians and businesspeople who care about Turkey's problems and who would like to find solutions, we got together in 1988 and established the Human Resource Development Foundation (HRDF). While our programs in the areas of migration, reproductive health and social development continued, in the beginning of 2000, circumstances and requirements of Turkey led HRDF to take a firm stand on the issue of combating human trafficking.

Since then we have signed protocols with Ministry of Interior General Directorate of Security and General Commandership of Gendarmerie, and collaborated with Ministry of Foreign Affairs and other relevant ministries to continue our Combating Human Trafficking Program.

For almost ten years we have been working to support human trafficking victims, to protect their rights and to encourage the civil society and the state to collaborate in combating human trafficking. We have developed the first victim support program in Turkey and established the first shelter for victims of trafficking; we have provided trainings and organized workshops to improve the level of information among law enforcement and judiciary personnel; we have represented our country in international platforms, discussed our combating efforts, developed networks and partnerships. We are grateful to all who have supported HRDF in this endeavor.

We believe that informing parliamentarians and senior officials about country's emerging issues is not only the responsibility of state institutions but also of civil society organizations. Although not very widely known in Turkey, a great deal of effort has been made to combat human trafficking which is one of the issues in Turkey's agenda. Training sessions for relevant personnel were organized, Anti-Trafficking Hotline (157) was established, relevant conventions/protocols were signed and amendments in national legislation were made. Currently, preparation of "Human Trafficking Draft Law" is one of the important steps made in this endeavor.

It is very important that parliamentarians and senior officials prioritize the issues such as making necessary arrangements for successful prosecution, victim support and prevention; protection of victim rights and provision of support services to be able to combat human trafficking in a holistic way. Addressing these will require budget allocation and new legislation.

We place great value in sharing experiences we have gained in this field throughout the years with parliamentarians and officials and would like to continue in this direction with your support.

We are very pleased to share this book with you, which is prepared to gain your support in combating human trafficking and in protecting human rights of victims. We would like to thank everyone who contributed to the preparation of this book but particularly to survivors of trafficking who trusted us and have shared their stories and experiences with us. We hope that this book will be a brief and useful guide for you when reading, signing and ratifying national and international documents.

Hoping that, both citizens of Republic of Turkey and foreigners in this country could lead a life, enjoying their human rights.

Turgut Tokuş
HRDF President of Board

CONTENTS

INTRODUCTION	9
HUMAN TRAFFICKING IN TURKEY	11
Listening to the Women	13
Victims by Numbers	23
DEFINING THE PROBLEM	35
Human Trafficking	36
Human Smuggling	37
Victims of Human Trafficking	37
Are only Foreigners Victimized?	38
Female Victims	38
Labor Trafficking	39
Factors that Facilitate Human Trafficking	39
Effects of Human Trafficking on Victims	40
HUMAN TRAFFICKING AND INTERNATIONAL RESPONSE	43
Human Trafficking and International Priorities	44
United Nations Supplementary Palermo Protocol	44
Council of Europe Convention on Action against Trafficking in Human Beings	46
USA TIP Report	48
COMBATING HUMAN TRAFFICKING IN TURKEY	49
Task Force to Combat Human Trafficking	50
Legislation Revisions and Training of Officials	50
National Referral Mechanism in Turkey	52
Support Services for Victims	53
Domestic Victims in Turkey	55
HRDF's COMBATING HUMAN TRAFFICKING PROGRAM	57
PROBLEMS AND RECOMMENDATIONS	61
Victim Identification	64
Support Services for Victims	67
Access to Justice	70
BIBLIOGRAPHY	73
APPENDIX	
App 1. Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime	
App 2. Council of Europe Convention on Action against Trafficking in Human Beings	
App 3. Role of Parliamentarians in Combating Trafficking in Persons by UNODC	

INTRODUCTION

Human trafficking, in its shortest definition, is exploiting the labor of a person by means of deception or coercion. Human trafficking is one of the most serious crimes, committed against human beings and threatens human rights and social values.

Traffickers could target a country's own citizens as well as foreigners; however foreigners are at a disadvantage and therefore are easier targets. According to official statistics, great majority of identified victims in Turkey are foreign women.

It is not possible to separate human trafficking from migration phenomenon. Changing world system, political disengagements and increasing poverty have led to increases in migration flows. People fleeing political unrest, human rights violations, suppressive regimes and poverty have targeted other countries hoping for a better life.

Turkey was not left out of this situation and especially after 1980 became a stop for international migration flows. Migrants who arrived at Turkey were either asylum seekers and transit migrants or migrants who had come to settle or work in Turkey. Migration process, unfortunately, is a dangerous journey and for some, one of the risks is human trafficking.

Human trafficking is one of the most lucrative forms of organized crime. According to International Labor Organization (ILO), human trafficking generates \$32 billion annually. ILO also estimated that at any given time, about 2.4 million people are being exploited as a result of human trafficking globally. It is mentioned that human trafficking is the third largest source of profits for organized crime, behind drugs and arms trafficking.²

In the Global Report on Trafficking in Persons 2009, UNODC calculated that between 2003 and 2006, women comprised about two thirds of trafficking victims detected globally.³

Human trafficking, sometimes defined as "modern slavery" has become a global issue since the beginning of 1980s. Since then some important steps have been taken globally to combat trafficking, but these are not enough.

Parliamentarians and senior officials have the power to prevent human trafficking by raising awareness and curbing exploitative practices. You can adopt the legislations necessary to prosecute traffickers and protect the rights of victims. We believe that with your support, human trafficking could be stopped in Turkey.

In this book; you can find...

In the first chapter of the book, we have shared life stories of victims and their victimization process. It is followed by a victim profile which has been derived from the statistics obtained by interviewing victims who have participated in HRDF's support program. Following chapter contains definitions in human trafficking field as well as its impacts on victims and conditions that facilitate it. The chapter on the approach of international community to this phenomenon is followed by a chapter that provides brief information on the situation in Turkey and the state's efforts to combat human trafficking. After providing short information on HRDF's anti trafficking program, we have finalized the book with a chapter where we have discussed the issues that could arise during victim identification and victim support and have shared our recommendations. Additionally you can find three appendixes: first one is Palermo Protocol; second is Convention of European Council and last one is a summary of the UNODC Guideline, entitled "Role of Parliamentarians in Combating Trafficking in Persons".

Human Trafficking in Turkey



Turkey has become a destination country for people who leave their countries due to political and social unrest, poverty, unequal income distribution, gender inequality etc. in the hope for a better life. Especially after the collapse of the Soviet Union, political and economical changes in the region have caused poverty. As a result, many people have started seeking their livelihood abroad. Some of these, who decided to migrate to Turkey, have been falling prey to human traffickers.

Data on identification of victims of human trafficking in Turkey was first shared by the authorities in 2004. Majority of reported cases were foreign women who were being trafficked for sexual exploitation in Turkey. A total of 1247 victims of trafficking were identified by law enforcement officers between the years of 2004-2011. Statistics show higher victim identification in 2004-2006 followed by a decrease since 2007.

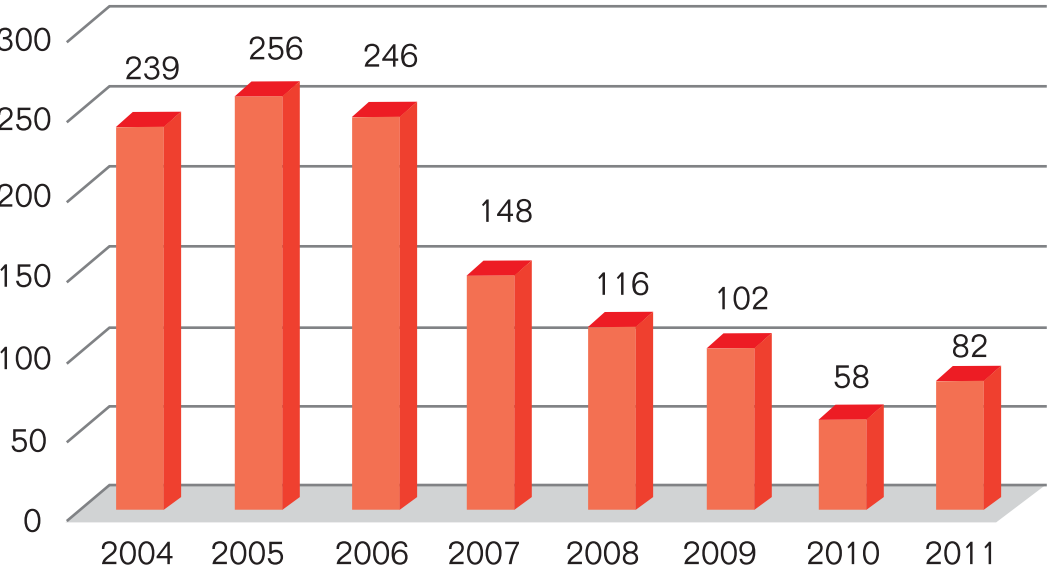


Table 1. Number of victims of human trafficking identified in Turkey by years (2004-2011) ⁴

When the countries of origin of trafficked persons were analyzed, a change is observed throughout time. During the 2004-2008 period, majority of the identified victims were from Moldova, Ukraine and Russia. However, especially after 2008, there has been an increase in the number of trafficking victims from Central Asian countries.

The negative conditions, particularly unequal income distribution in source countries, have pushed citizens abroad to seek income. The reasons of migration flows become more understandable when basic development indicators are evaluated to compare the economical and social development levels of these source countries. According to World Bank data (2011), GDP per capita in Turkey is \$10.410. This figure falls to \$900 in some of the source countries.⁵ Another important indicator, unemployment rate, is as high as 60% in some source countries. Maternal mortality rates are as high as ten times of the developed countries with rates reaching 80 in 100.000, revealing the deficiencies in public service provision. Some of the source countries have negative "net migration rates" which indicates that people leave their countries in the search for a better life.⁶

Listening to the women

Approximately 500 women have received services from HRDF's victim support program until the preparation of this book. In this section you will find excerpts from real life narratives of trafficked women. We believe that these narratives will help us to understand victims' fears, anxieties and how and why they have been trapped.

Majority of the foreign victims of human trafficking in Turkey have been deceived with false promises such as babysitting, cleaning and caretaking in the domestic sector. However they all have ended up being trafficked into the sex industry. Most of them have been threatened by debt bondage and violence. Some of those women have been victimized by people whom they did not know; others have been victimized by their acquaintances, including relatives and friends. Traffickers could be female or male, Turkish citizens or foreigners and recruiters could be relatives or friends. This gives an idea of the complex nature of human trafficking.

Decision to Migrate

Poverty, unemployment, gender inequality combined with family related problems could lead to human trafficking. Very often individuals who decide to migrate due to poverty, lack of social ties and security, do not even think that they might be deceived by human traffickers.

We live in a village, all together in one house with my sister, 3 brothers, their wives and children. When I got married, I went to my husband's family home as a bride. We were crowded there, too. We could not have a baby, therefore my husband divorced me. They said "nobody will ever marry you again". We need livelihood. There is no work in the village. There is work only for men in the factories. I did sawing but it is not enough to make a living. A relative of mine said that there is a friend who finds babysitting jobs in Turkey.

N. age 26, Central Asia

Most often, human trafficking starts with a false job promise. The jobs are mainly in the service sector. Recruiting for jobs like childcare, caring for the elderly and the sick, cleaning and serving, women are persuaded to migrate with false promises to earn more money than they could in their own country. Although women generally have doubts of promises of such high income, recruiters are often relatives and neighbors whom they trust. Therefore they disregard the potential risks and set out. Women come from both urban and rural areas. They take the chance and come to Turkey, with a hope for a better life; where they could support their children and parents with the income they earn in Turkey. Quite often, women realize that the promised jobs are false when they arrive in Turkey and find out that they were forced into prostitution.

... There are women migrating in other villages that I have heard of. Not in our village. I thought for two months. To go and earn money, to buy clothes for my children... There is no work here. There is some, but very little money. All people are going somewhere. Where is your husband? In Moscow. Where is your sister? In Cairo. Where is he? There. Where is she? Over there.

G. age 29, Central Asia

Migrant women are mostly unemployed or if employed have low incomes, over all they have little chance to find a job in their homelands. Divorced, widowed and single-parent women are potential target groups for traffickers. In short, women who already have difficult lives are victimized.

... It is very difficult for women to find job in my country... If you have land, you cultivate your own land. If not, no one can find work in somebody else's land. If you study, you can become a teacher but you have to have money to be able to go to school. I wanted to be a doctor, but my brother told me "you cannot go to school because we don't have money". So I was working as a hairdresser in my friend's shop in town. I could not earn money. A friend of mine said that they are looking for hairdressers in Turkey and that he wanted to take me there. My friend said "you should go because this chance can save your life". I did not know where Turkey was but I could be a hairdresser. I could look after my mom.

G. age 21, Africa

Victimization

Human trafficking is a process where an individual's labor is exploited while s/he is subjected to severe human rights violations. Restricting one's freedom, confiscating his/her income, subjecting one to violence and putting one's life in danger are various forms of violations.

One of the main methods of oppressing women is "debt bondage". Traffickers persuade women that they are indebted for the costs of flight tickets, visas and passports. These debts are much higher than actual costs. This debt bondage creates dependence on the traffickers. These impoverished women who were brought from one country to another through recruiters are terrified of these high debts. They are told of this debt when they arrive at Turkey, and are forced to pay it back. This pressure is the starting point for forced labor and/or sexual exploitation. Moreover, almost all trafficked women's passports are taken away. Women would not dare to escape without their passports thus their IDs and freedom are taken away.

... They took me to a house after they picked me from the airport. There were other women in the house. I was afraid. They took my passport and gave it to a man. I saw that money was exchanged between them. Then, men started to come to the house. I understood what was happening.

N. age 26, Central Asia

I said I won't do it. I cried. I did not eat or drink. Then the woman from my homeland, who took me here said: "you have \$6000 debt". She added: "you will do whatever we tell you to do. Now there is no babysitting job, but this job. You will work." I was forced to prostitution. I was forced to serve 18-20 clients a day. I was forced to work for 1,5 months to pay \$6000. Then they sold me to another man. One day he beat me up so badly... A client helped and I ran away.

N. age 26, Central Asia

Victims are forced to work because otherwise they are subjected to physical violence. Most of the time they cannot run away as they do not know the language and laws of the country and also have no idea where they are being held. They generally state that they do not know from whom they can seek help and are afraid to leave without their passport. Every victim's reaction against violence is different; some may display stronger resistance while others could give in.

Some victims fear seeking help from the police, because in their homelands they sometimes have more strained relationships with law enforcement. They could be anxious about deportation or being punished. Some victims believe that the working conditions may change and they may go back home at least with some money.

....."Does she know the "work"? K. said "no". "Doesn't the prostitute know?" he asked. "No" she doesn't K. replied. I was so scared that I pretended I was sleeping. I realized that there was no such thing as hairdresser. K. said "you will prostitute". I said "no". There was a fight. I said "I did not come from my country to do that. I would never ever do that". They told me "we bought ticket for you, we paid costs for you. Now you'll do as we tell". They took me to another house. The second pimp here said "men come here always. You go sleep with them". I said "no you cannot force me". I did not eat or drink anything. I cried. She said "I'll kill you". I said "I prefer to die".

G. age 21, Africa

Women are forced to prostitute in hotels and houses. Sometimes women are forced to find clients at discos and bars but most of the times clients are reached through pimps. Women cannot say "no" to clients because they are frightened and desperate. Sometimes clients are acquaintances of the traffickers and the pimps. If women ask clients for help, clients may pass the word to pimps and women could be beaten by the pimps.

... Every disco is connected to a hotel. Everybody knows everybody. Whenever a new "girl" arrives, her boss takes and shows her to disco and hotel owners. "This is my girl" the boss says. Every girl's boss is known. It is also known where you will go with the client. If you go to a different hotel, they don't let you in. They know you belong to so and so. You cannot enter another hotel. No escape, where can you go, everybody knows whose girl you are. You go to hotel with the client. Boss comes and collects the money. His men wait at the lobby.

S. age 23, Central Asia

Women who resist or who attempt to escape can be sold to other traffickers. The new trafficker adds the cost of sale to the debt bondage. Victims are forced to pay the new increased debt. This sale process is a method that breaks victim's resistance against violence.

Escape

Identified victims are women who have either escaped themselves or with the help of a client or rescued by law enforcement through raids and sometimes through calls to 157 Hotline. When low number of escape is questioned it becomes apparent that women are very much afraid of deportation. Identified victims of trafficking in Turkey are not deported; however women are not aware of this fact during their captivity. Fear of deportation and imprisonment are barriers to seeking help from police as well. The desperation of being without money to buy a return ticket back home is also an important problem for these women.

... Where can we go if we escape? S. (trafficker) took our passports. Even if we ran away and got to the airport and somehow got a ticket and return... I do not have an exit visa from my country.... This would cause a serious problem at the arrival in my country. You need money for the ticket. A lot of money is needed for us to reach home! \$1000 is necessary... I was afraid of deportation; otherwise I would have run to the police. If we were deported, my country police would detain us. If we could pay the debt, we would work as much as needed to be able to buy a ticket and get back home.

Despite all these, women who have escaped or rescued and have been identified as victims of trafficking have benefited from victim support that few NGOs provide. HRDF's support services are introduced in this book.

Most of the time, women are afraid of the stigma, exclusion and oppression in their homelands. It can be very difficult for them to explain what has happened to them. They feel the social and family pressure on themselves. The effects of human trafficking continue even after they return home.

... I feel shame, returning home. I talked with mom. She said "come". I feel ashamed. I would work as a babysitter, earn money and buy myself a house. But this did not happen. I feel ashamed. In my country, if a woman says "I was in Turkey", they know it all. They say "you stayed with men overnight, didn't you? You did not work as a babysitter".

D. age 24, Central Asia

Even though human trafficking is defined as one of the most severe human rights violations, services provided to victims of trafficking are still limited. Few victims are identified, and even fewer of them testify against their traffickers. As there are no durable solutions provided to victims in destination or home countries, they return back to poverty, desperation and inequality.

Victims by numbers

Information provided in this section has been obtained from the victims who have been provided with services under HRDF's Combating Human Trafficking Program. Interviews have been carried out with women willing to share their stories. Victim support program of HRDF is being implemented since 2004. For the purposes of this book, however, more recent information, gathered in 2008 - 2011 period was used. A total of 149 foreign female victims have been supported under the program during this period. The interviews were conducted respecting ethical principles and with the consent of the respondents. Obviously there were women who did not respond at all or women who preferred to answer some of the questions. Therefore, the information below comes from the data gathered from 120 to 136 respondents.

Demographics of the Victims

In this section, countries of origin, age, marital status, education and family structures of the victims have been examined.

Source Countries

Table 1 shows the nationalities of the victims identified during the 2008 - 2011 period. Thirty three percent of the identified female victims who have attended HRDF's program are from Uzbekistan. Turkmenistan citizens follow with 26%. Although the third largest group seems to be from Moldova, the reason for this percentage is that a large group of Moldavian women were identified in 2008. The number of Moldavian citizens as well as Ukrainian and Russian since has drastically declined.

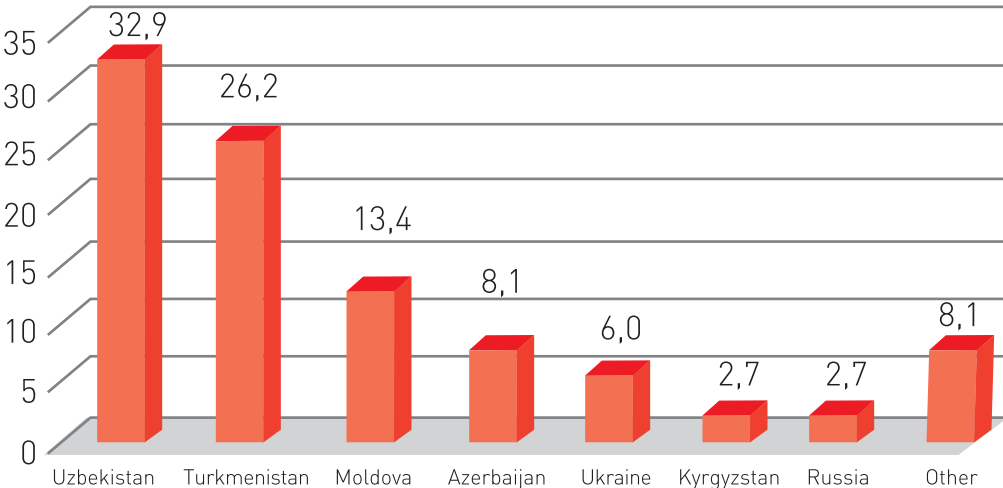


Table 1. Distribution of victims by citizenship

Often Young Women

Table 2 shows that more than half (54%) of the women enrolled at HRDF's program are very young (18-24 age). Five victims were below 18 at that time. "Minor victims" are the most vulnerable group among victims, because of their low resistance to trauma, increased punishment for the trafficker; and the need for special treatment during identification and service provision.

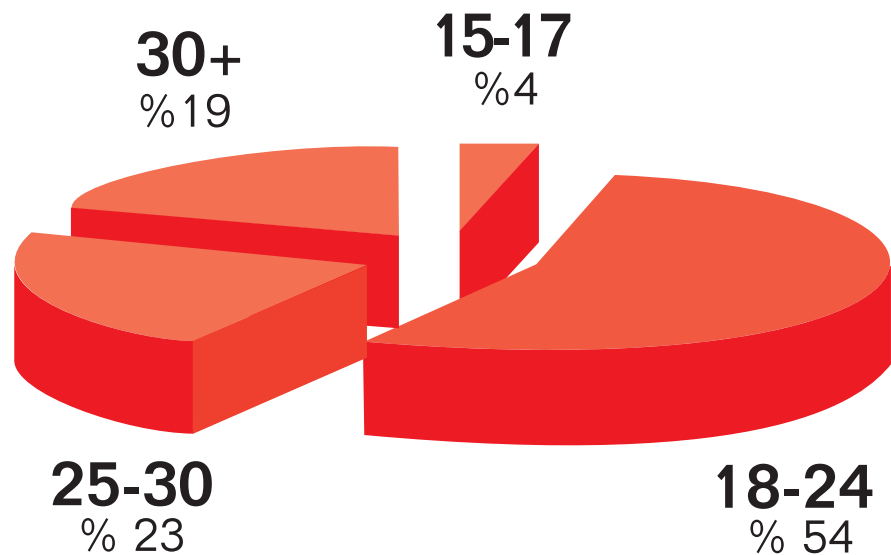


Table 2. Distribution of victims by age groups

Few has been able to complete their education

A little more than half (52%) of women who had the courage to come to a foreign country to work with little knowledge of the language, culture and regulations have either finished elementary school or are barely literate; and a little more than one third (38%) have completed high school education. Is almost impossible for these women with very little education to find a job to afford their lives.

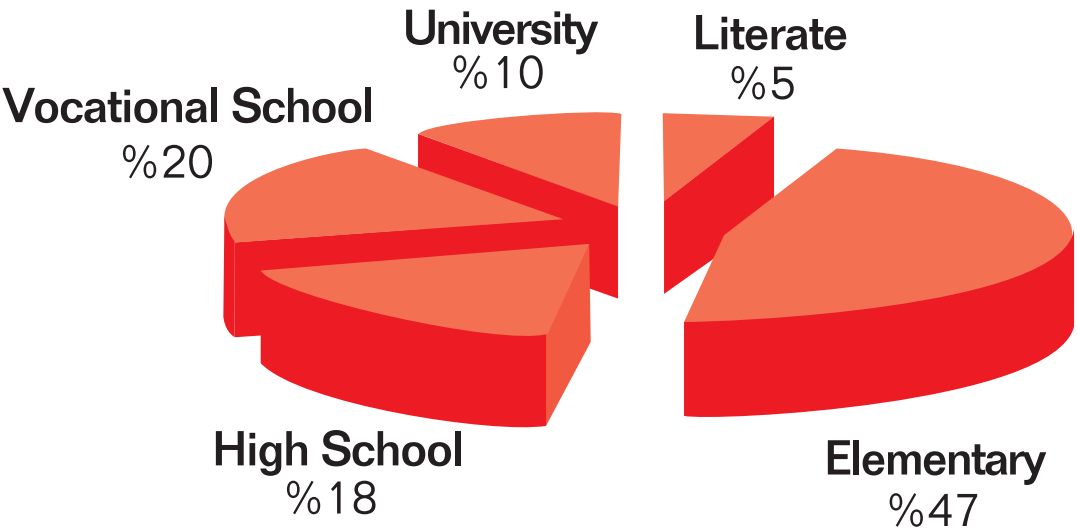


Table 3. Distribution of victims by the school last completed

Married with children

Almost half (46%) of the women were single and a significant part of them were either divorced or widowed (42%). These women come from countries where young age marriages are common. Statistics show that almost half (48%) of them have left their children behind with their grandparents when going abroad for work. Worried about their children they left behind, they feel obliged to earn money and send back home.

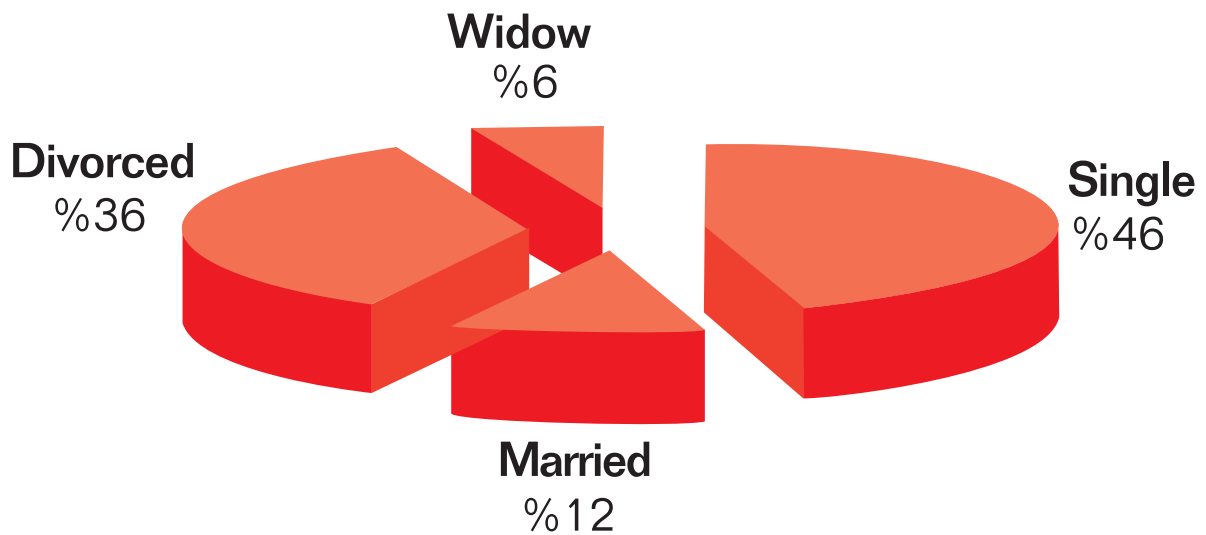


Table 4. Distribution of victims by marital status

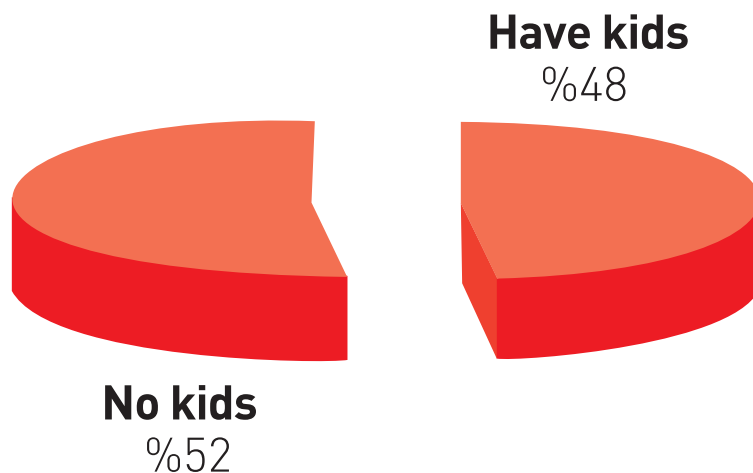


Table 5. Distribution of victims by having an offspring

Victims' childhood

Responses regarding victims' childhood reveal that more than half come from single parent families. Of these, half of them have either lost one parent or parents were separated before the victims were 15 years old. In countries with traditional cultures, the impoverished and single mothers have to move to relatives' houses with their children. The relatives who live in poverty themselves often do not welcome newcomers and newcomers are well aware of this. It is possible to say that the victims were deprived of peaceful and secure environment that a functional family could provide.

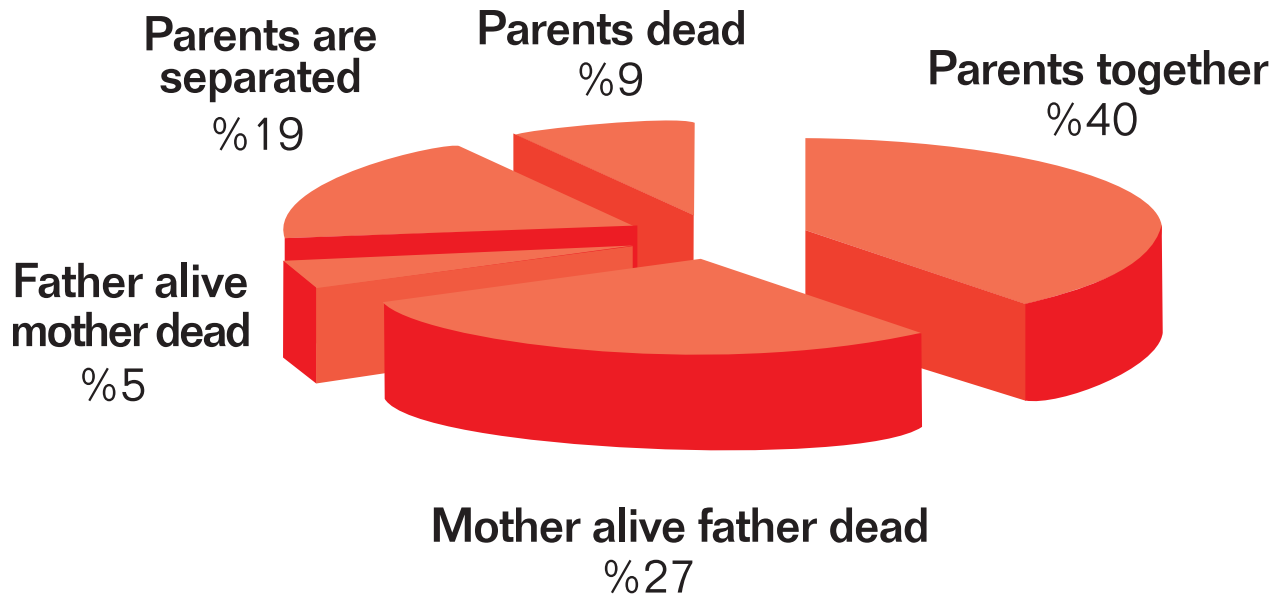


Table 6. Distribution of victims by their parents' cohabitation status

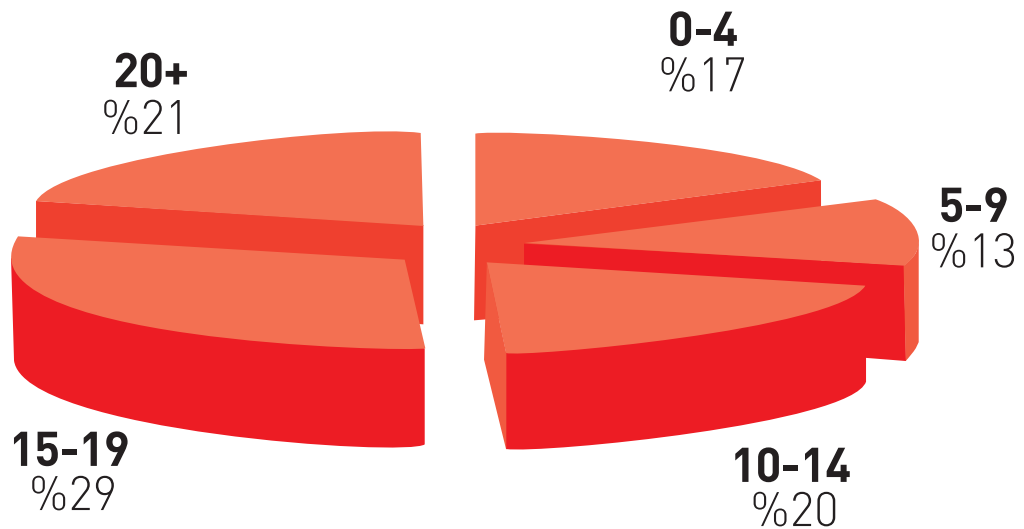


Table 7. Distribution of victims by the age they started to live with their single parents

Danger in the migration route

In this section, data on whether victims have come to Turkey before or not, who have deceived them and the promised jobs have been outlined.

Victims do not know Turkey!

For two third of the women interviewed, this was their first visit to Turkey. When their young age and inexperience are considered, their decision to migrate becomes more significant. On the other hand, it does not mean that a woman cannot be victimized if she has been to Turkey before.

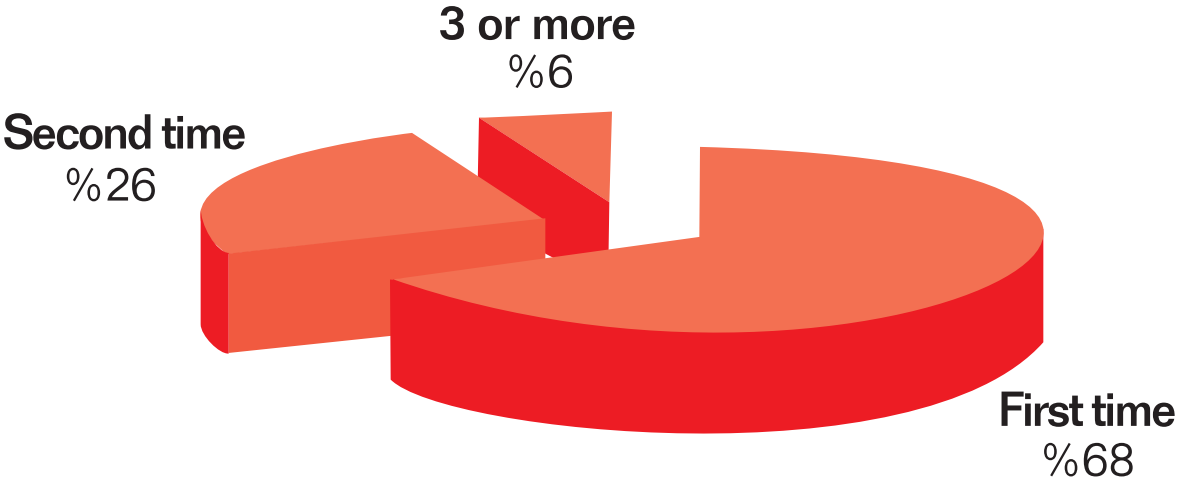


Table 8. Distribution of the victims by frequency of visits to Turkey

Recruiters

The interviews show that majority (77%) of women have been deceived with false promises of finding a job in Turkey by an acquaintance (a woman they knew or a boy/girl friend). This fact helps us to understand how these young and inexperienced women decided to migrate. People they trusted have deceived them with well paid and secure employment promises and helped them to go abroad.

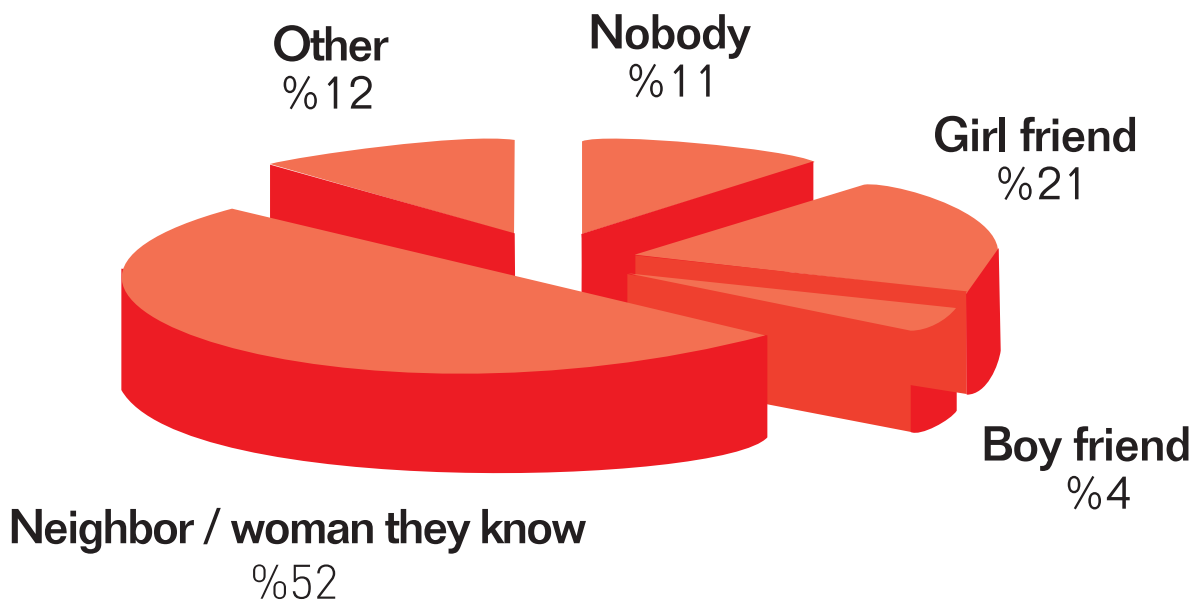


Table 9. Distribution of women by the type of recruiters

What kind of a job?

The jobs that are promised to victims often do not require any qualifications; nevertheless the mediators/traffickers imply that large amounts of money could be earned. Interviews show that almost half of (46%) victims have come to Turkey believing that they would be working as baby sitters or domestic workers. Only 11% of women knew that they would be working in the sex industry but these women have also been victimized. These women like the others have been subjected to violence and threats and they have worked without any freedom and have not earned any money.

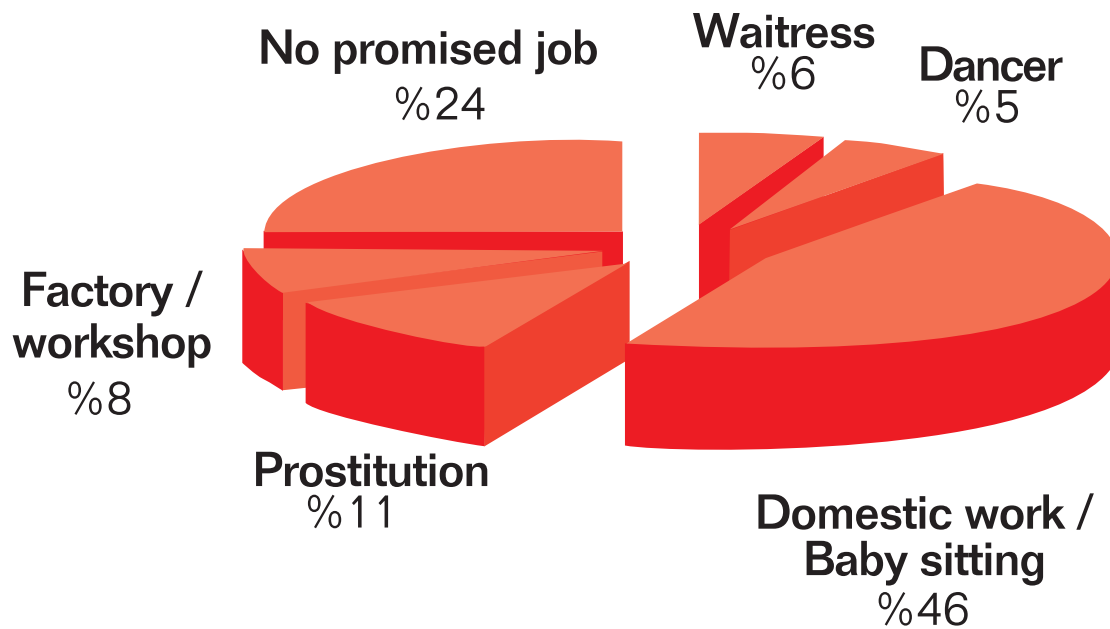


Table 10. Distribution of victims by the type of employment promised in Turkey

Conditions of Victimization

Respondents were asked several questions to explore their living conditions during their period in captivity. In this section responses regarding permission to call family or to go out alone and traffickers' reaction to victims' resistance were explored.

Connection with the life outside...

Occasionally, traffickers gave permission for victims to call their families back at home. The aim was to prevent their families to be suspicious about their situation in Turkey. Half (52%) of the respondents were able to call their families. However, these calls were made under traffickers' supervision. In many trafficking gangs, there is one woman from the source country who can follow victim's conversation in her mother tongue. On the other hand half of the women were totally prohibited to contact their families.



Table 11. Distribution of victims by the permission to call their families

Also it is understood that victims were not allowed to go out alone. Majority (89%) of women stated that they could not go out on their own. These women either had to work in the flats where they lived or they were accompanied between disco/bar and the flat by the traffickers.



Table 12. Distribution of victims by the permission to go out alone

I do not want!

Women were asked if they were able to tell the trafficker that they did not want to do this "job" and what reactions they got when they resisted. The chart below shows that almost half (42%) of them were subjected to violence and one third was repressed with threats and the rest felt so hopeless that they were persuaded with more lies and false promises.

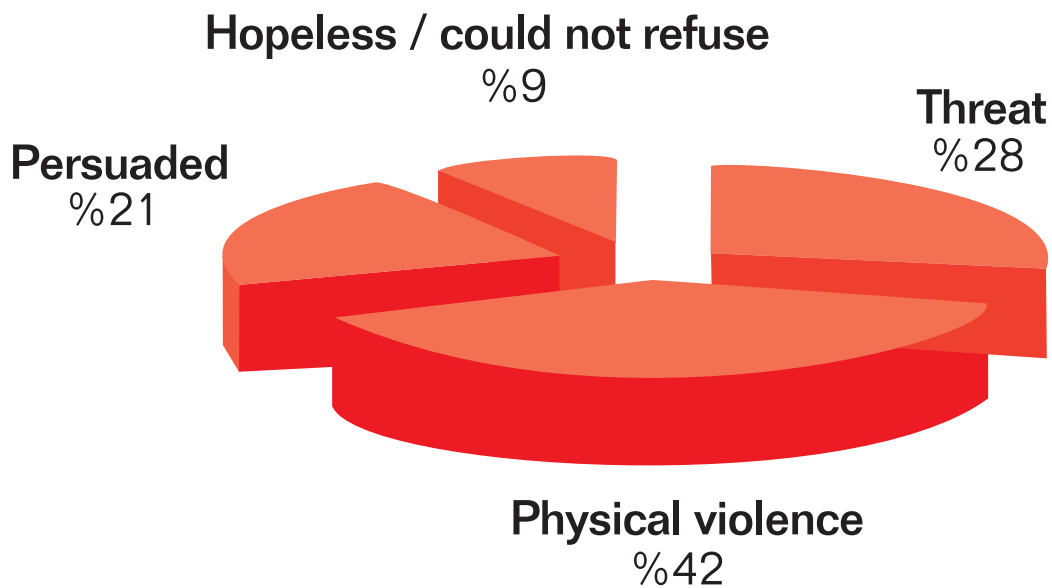


Table 13. Distribution of how victims were treated if resisted

Defining the Problem



Human Trafficking

Human trafficking includes different forms of exploitation. Forced prostitution of women and children, forced labor of women, men and children at factories, sweatshops and agriculture, domestic servitude, forced begging of children, forced burglary, and removing one's organs without consent are among them. Child marriages, kidnapping of boys and girls to become child soldiers, illegal adoption of children are also forms of trafficking.

In many international documents human trafficking is regarded as "modern day slavery" and is considered exploitation of the most vulnerable groups in the society.

Apart from being one of the most severe human rights violations, human trafficking is a global crime that negatively affects countries' national security and economical structure.

Trafficking victims are deceived by traffickers with false promises of legal and high-income employment in foreign countries. With these hopes, victims are removed from their homelands; they find themselves vulnerable, in dangerous conditions, in places they do not know.

The most common ways of controlling the victims are subjecting them to violence, restricting their freedom, forcing, seizing their ID and passports, debt bondage and threatening them and their families. As referred above, most of the time, victims' communication with their families are either forbidden or restricted. Victims feel ashamed and fear from detention and deportation. They are also afraid of trafficker's revenge if they file a complaint against them. Especially women fear the possible stigma and discrimination they will face back at home if their forced prostitution history is known by the community and this prevents them from seeking rescue. Trafficking is a covert phenomenon. We cannot easily identify it even if it happens in our environment.⁷

Human Smuggling

Human trafficking is often confused with human (migrant) smuggling. There is "consent" in the definition of human smuggling. It is assumed that a migrant who moves illegally across borders, consents to this action. However, there is either no consent in human trafficking or only deception.⁸

The relationship between a migrant and a smuggler ends once they arrive at their destination, whereas a trafficker continues to exert control over the victim to maximize their profit. Despite differences in the definitions, it is possible for human smuggling to turn into trafficking. In addition, it is important to note that human rights of smuggled individuals are often violated and they can be victimized during the process of smuggling.

Victims of Human Trafficking

All around the world, women, men and children can become target of human trafficking. Despite its prevalence, this is a crime difficult to prove and to document. It generally takes place undercover at informal and unregulated sectors and the victims of this crime hold back from giving testimony against perpetrators. This makes it difficult to gather data about human trafficking. However some estimates are made based on information provided by national law enforcement institutions and non-governmental organizations.

International Labor Organization estimates that, in 2002 - 2011 period, a total of 20.9 million people became victims of forced labor globally, trapped in jobs into which they were coerced or deceived and which they could not leave. The figure means that around three out of every 1,000 persons worldwide are in forced labor at any given time and 5.5 million of them are children.⁹

Are only foreigners victimized?

Human trafficking has long been perceived as a crime and as a form of exploitation that affects only foreigners. As the details of this crime become known, evidence that nationals of a country can be trafficked, too is revealed.

Therefore, in legislations and regulations, human trafficking crime should not be limited to "transnational" situations only, but also address internal trafficking as well. States usually limit the scope of the problem to transnational cases, leaving internally trafficked victims unprotected. This could result in perceiving human trafficking in a country as less of a problem than it really is.

Female Victims

Globally, women and young girls are trafficked more frequently. According to United Nations Office on Drugs and Crime, trafficking of women and girls for sexual exploitation make up 87% of all documented trafficking cases.¹⁰

In societies with persisting gender inequality, the risk of women's victimization increases. Comparatively limited access to opportunities and the cultural perception of a subordinate status lead women and young girls vulnerable to being trafficked.

There is a correlation between high rates of foreign female victims of trafficking and rise in women's migration. According to IOM data, 175 million people, today, live outside of their home countries and 50% of this migrant population is female.¹¹ In the past, majority of migrants were men; however nowadays more and more women take the risk of migrating alone. In this new global order where women are responsible for their and their families' livelihood, migrant women can be victimized by traffickers.

Labor Trafficking

In all countries, victims of labor trafficking (forced labor and involuntary servitude) are being identified less frequently than victims of trafficking for sexual exploitation. Various reasons are put forth to explain this lower identification. One of the main reasons is that both law enforcement and general public perceive human trafficking as "forced prostitution". For many years and in many countries, these two concepts have been used interchangeably. Therefore, even if a labor trafficking case is identified, it is generally taken as subject of a different law in that country. On the other hand, trafficking in the form of forced prostitution is a more visible and easily distinguishable crime. In order to attract potential clients, prostitution needs to be visible in the streets, in bars/hotels. Whereas, forced labor is hidden, it happens in the mines, forests, underground premises and inside homes. Therefore it becomes difficult to identify the victims of labor trafficking.

Factors that Facilitate Human Trafficking

Research shows that victims and their families are generally poor. People with low level of education, without any vocational skills and with few employment opportunities are under greater risk. Added to these factors, gender inequality, ethnic differences and political unrest create an environment suitable for traffickers to operate. As long as the factors that facilitate human trafficking remain unchanged, the measures to stop human trafficking are bound to have limited impact.

Poverty

People in poverty are more inclined to consent to work in jobs with high health and security risks and no social security. Traffickers promise easy money for work away from home. This does not mean that all poor people become victims of human trafficking but poverty combined with other factors like inequality and discrimination creates a suitable environment for traffickers.

Gender Inequality

Inequality that women and young girls face in legal and social structures set the ground for victimization. Cultures that treat women and girls as commodities create a perception that they are goods for sale. In many societies, girls are not sent to school but kept at home for domestic work; therefore they grow up without any education and vocational skills. There are cases where girls are abused in their own homes; they could take many risks to avoid abuse and domestic violence. For many women, finding employment outside her town or even abroad is a means for reaching a life without abuse and discrimination, besides earning money for the family. All factors resulting from gender inequality increase the risk of becoming a victim of trafficking.

Sexual Exploitation and Demand for Cheap Labor

Increased demand for cheap labor and sexual exploitation cannot be separated from human trafficking. Traffickers' aim of maximizing the profit, most of the times, precedes moral and humane values and lead to exploitation of persons under inhumane conditions. Approval of patriarchal system by the society makes the abuse of women and children by men acceptable. The fact that this type of behavior is not punished perpetuates this perception in the society.

Effects of Human Trafficking on Victims

Human trafficking is a violation of basic rights of individuals and has many devastating effects on the victims. These effects can be elaborated under psychological, physical and social effects.

Psychological Effects

Shame, guilt, loss of self confidence, sorrow and anger are frequently observed feelings of victims. Victims often feel betrayed; if the trafficker or the mediator is a person they know and trust, this feeling is more destructive. These feelings and the experience itself could lead to desperation, depression and post traumatic stress disorder. Some victims could end up using substance and/or alcohol or even could attempt suicide.

Physical Effects

Often sex trafficking victims are forced to have sexual intercourse without protection and are therefore at risk of being infected by sexually transmitted diseases including HIV/AIDS and getting unwanted pregnancies. Many victims have told that clients refuse to use condoms and they could not insist. Women and children who are forced to work as domestic laborers are also vulnerable to sexual exploitation. Victims who had to work under harsh conditions at factories, workshops or in agriculture could lose their health because of work related accidents, malnutrition, very hot or very cold weather and violence; they even could face death threats.

Social Effects

Victims of human trafficking have to deal with the consequences of this crime even after they are rescued. Especially, women who have been trafficked into sex industry face the risk of exclusion, stigmatization and violence from family members. Also, minor and young victims are under the risk of being deprived of education and other opportunities which would make them independent and productive individuals in the society. These people who are deprived of family and social support are under the risk of re-victimization.

Human Trafficking and International Response



Human Trafficking and International Priorities

Human trafficking concerns all countries in the world and states have responsibility to combat this crime. It is evident that states have to take joint decisions and actions to be effective in the fight against this crime, which frequently has a transnational character. International conventions regarding elimination of slavery and forced prostitution have started to emerge since the beginning of the 20th century. Among these are: International Convention of 4 May 1910 for the Suppression of the White Slave Traffic, International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children, International Convention of 11 October 1933 for the Suppression of the Traffic in Women of Full Age, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.¹²

Currently, there are international documents that are being prepared and opened for signature by structures like United Nations and European Union with the aim of combating trafficking and setting operating standard procedures to provide support to victims of trafficking.

Turkey supports anti-trafficking activities implemented by UN, OSCE, NATO, European Union, European Council, BSEC (Black Sea Economic Cooperation Organization). For example, OSCE has adopted the "Action Plan to Combat Trafficking in Human Beings" in 2003. OSCE Action Plan provides recommendations about criminal proceedings and victim support. Turkey is signatory to this and various other binding international documents.¹³

United Nations Supplementary Palermo Protocol

Human trafficking, for the first time, has been defined in international law in "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime" known as Palermo Protocol. This widespread definition has set the basis for many countries' national legislation.

The "Convention" and its supplementing "Palermo Protocol" was open for signature in 2000. This Protocol is regarded as a milestone, as it is the first international legally binding document that defines human trafficking comprehensively. It has set the ground for international action against human trafficking. It requires state parties to criminalize human trafficking in their national legislations and to combat this crime.

Definition of "Human Trafficking" in Palermo Protocol

- (a) "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, 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. 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 similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.

The aim of the Protocol is to prevent and combat trafficking with a special emphasis on women and children; to protect and support victims of this crime with due respect and strengthen cooperation among state parties to fulfill these objectives (full text of the Protocol can be found at the Annex 1 of this book).

"Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime" has been ratified by the Turkish Parliament on 30.01.2003 and then entered in force in Turkish legislation.¹⁴

Council of Europe Convention on Action Against Trafficking in Human Beings

Combating trafficking has been one of the main topics of EU strategy since the 1990s. As a step of these efforts, EU has launched the "Council of Europe Convention on Action Against Trafficking in Human Beings" for signature in 2005.¹⁵ (full text of the Protocol can be found at the Annex 2 of this book)

With Palermo Protocol as its starting point, the EU Convention takes into consideration other international and regional anti-trafficking documents as well. It aims to strengthen the protection efforts and to improve the standards established by former documents.

The most important aspect of the Convention is its emphasis on human rights violations. It recognizes that trafficking violates individual's honor and integrity. Therefore, it underlines the need for improved victim protection.

Secondly, the Convention mentions all forms of trafficking including transnational, national, organized and non-organized trafficking with regard to victim protection measures and international cooperation.

Thirdly, the Convention establishes a monitoring mechanism called GRETA that will be charged to ensure state parties' implementation of the Convention. This monitoring shall be conducted by an independent, elected group of experts called GRETA. Monitoring will be based on GRETA reports and decisions taken by state parties based on these reports.

Last but not least, the Convention emphasizes the importance of gender equality.

According to the Convention, state parties shall take necessary legal and other actions to provide victims with physical, psychological and social support. Such support shall include at the minimum, below aspects:

- a. standards of living capable of ensuring their subsistence, through such measures as appropriate and secure accommodation, psychological and material assistance;
- b. access to emergency medical treatment;
- c. translation and interpretation services, when appropriate;
- d. counseling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;

e. assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;

f. access to education for children ¹⁶

Turkey has signed the "Council of Europe Convention on Action against Trafficking in Human Beings" on 19 March 2009 in Strasbourg. It has not been ratified by the Turkish Parliament yet.

Human trafficking is one of the important topics under article 24 "Justice, Freedom and Security" Chapter of Turkey - EU accession negotiations. It is evaluated in the annual Progress Reports that are prepared by EU on Turkey. In the 2011 Progress Report, it has been mentioned that Turkey has obtained limited improvement in the fight against trafficking and that it should make more efforts to comply with EU Acquis¹⁷. After all, it is not possible to say that trafficking has ended in the EU territories. According to 2010 Anti-Trafficking Rapporteur of the European Parliament, "trafficking is modern day slavery and only a small number of victims could have been supported".

Other related international conventions that Turkey has ratified are also guiding Turkey's anti-trafficking efforts. Some of them are listed below:

- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Convention on the Rights of the Child
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
- European Convention on the Exercise of Children's Rights
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor
- Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence

USA Trafficking in Persons Report

US Department of State prepares annual "Trafficking in Persons Report" to its Congress according to Victims of Trafficking and Violence Protection Act (TVPA) of 2000. TVPA provides the tools to combat trafficking in persons both worldwide and domestically. In the TIP Report, the Department of State places each country onto one of three tiers based on the extent of their governments' efforts to comply with the "minimum standards for the elimination of trafficking" found in Section 108 of the TVPA. Among the minimum standards are: criminalization of human trafficking and prosecution of perpetrators by the governments; implementing commensurate punishments; making serious and continuous efforts to combat worst forms of this crime. The Tiers in TIP Reports are described below:

- Tier 1:** Countries who make efforts to address the problem and whose governments fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards.
- Tier 2:** 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.
- Tier 3:** Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so¹⁸

The US Government may apply some sanctions to Tier 3 countries: restricting foreign development support to actions except non-profit and non-humanitarian aids; cutting grants that would otherwise fund officials' participation to exchange programs in education and culture; President of US suspending credits outside of humanitarian, commercial and development areas allocated by US experts in international financial organizations.

Until 2005, Turkey had been placed in Tier 3 in TIP reports. It has been lifted to Tier 2 in 2005 by means of significant measures to address the problem¹⁹. Alongside with Turkish Government's efforts, HRDF's initiative as an NGO to combat trafficking and its first and pioneer victim support program in Turkey, has rendered this progress into Tier 2 possible.

Combating Trafficking in Turkey



National Task Force to Combat Human Trafficking

One of Turkey's most important initiatives to combat trafficking is the "National Task Force on Fight against Human Trafficking" (NTF) that has been established under the chairmanship of Ministry of Foreign Affairs in 2002. NTF evaluates the situation regarding trafficking with the participation of state institutions, inter-governmental organizations and nongovernmental organizations and generates policy recommendations. NTF has developed the "National Action Plan to Fight against Human Trafficking" (NAP) that has been approved and implemented by the Prime Ministry on 11 March 2003. The second National Action Plan (SNAP) has been prepared as an outcome of a project under Turkey- EU Financial Cooperation Program in 2008 and has been approved on 18 June 2008. The overall objective of SNAP consists of the achievement of relevant international standards to help eradicate human trafficking, strengthening the institutions working in this field, enhancing harmonization with EU acquis and implementation of sectoral action plans.²⁰

Legislation Revisions and Training of Officials

Human trafficking crime has first been regulated in Turkish Legislation in 2002 under 201/b article of Turkish Penal Code. With this regulation it was aimed to comply with the Palermo Protocol that Turkey had ratified. Human trafficking crime has been re-defined under article 80 of the new Turkish Penal Code that came into force on 1 June 2005. Perpetrators of this crime are charged with imprisonment up to eight to twelve years and a fine corresponding to 10,000 days. Article 80 also foresees that legal entities shall also be subject to security measures for such crimes. On 19 December 2006, article 80 has been amended by adding "forced prostitution" term to the law. This amendment enabled forced prostitution, which is most the common form of trafficking, to be punished under article 80.

Human Trafficking - Article 80 (Amendment: 6/12/2006 - 5560/3)

(1) Those who recruit, abduct, transport or transfer or harbour persons for the purpose of subjecting to forced labour or service, prostitution, enslavement or for removal of body organs, by getting their consent by means of threat, oppression, coercion or using violence, of abusing influence, of deceit or of abusing their control over or the vulnerabilities of these persons shall be sentenced to imprisonment up to eight to twelve years and a fine corresponding to 10,000 days.

(2) The consent of the victim shall be irrelevant in cases where the acts that constitute a crime are attempted with the intentions described in paragraph 1.

(3) In cases where minors below the age of eighteen are procured, abducted, transported or transferred or harboured with the intentions specified in paragraph one, the penalties foreseen in paragraph 1 shall still be applied to the perpetrator, even when no intermediary actions relating to the crime are committed.

(4) Legal entities shall also be subject to security measures for such crimes.

Besides Article 80, various laws such as "Law on Work Permits of Foreigners", "Turkish Citizenship Law", "Road Transport Law" have been revised.²¹

One important precondition in the fight against trafficking is officials' level of knowledge of the crime. Trainings on human trafficking have been conducted in cooperation with relevant institutions and organizations in Turkey since 2003. By means of trainings implemented by Ministry of Interior and Ministry of Justice, today many relevant state officials are aware of human trafficking crime. Inter-governmental organizations, international organizations and non-governmental organizations have contributed significantly to these trainings. However, the sustainability of trainings is crucial in a country like Turkey with a large population. More officials need to be reached through new training. Also curriculum of the trainings should be developed taking into consideration the changing modus operandi of trafficking crime.

National Referral Mechanism in Turkey

A National Referral Mechanism (NRM) is a co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons, coordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and to provide an effective way to refer victims of trafficking to services.²²

In Turkey, NRM starts with the identification of the victim of trafficking. At this point, General Directorate of Security and General Commandership of Gendarmerie has the crucial responsibilities. Victims are reached through routine law enforcement raids to hotels, bars and discos; denunciations to 157 hotline; SOS requests and by victims escaping and reaching to police premises themselves. After this first encounter, the potential victim is referred to the Foreigners' Bureau of the Provincial Security Directorate. After the law enforcement interview with the victim, identification is completed in cooperation with the General Directorate of Security. Identified victims of trafficking are referred to NGO support services. A safe repatriation program has started in 2004 by the cooperation between Ministry of Foreign Affairs, Ministry of Interior and IOM for the return of foreign victims to their home countries.

Victim Support Services

Shelter

Victim support services are indispensable from combating trafficking efforts. After law enforcement started to identify victims of trafficking in Turkey, HRDF extended its Combating Trafficking Program and opened the first shelter for foreign victims in Turkey. This marked the beginning of victim support services in Turkey. The second shelter was opened in Ankara by Women's Solidarity Foundation in 2005 and a station-shelter was opened in 2009 by Antalya Family Counselors Association in Antalya to serve potential victims. The referral to these independent NGO shelters is defined by protocols with Ministry of Interior. HRDF's Victim Support Program is elaborated in the following section.

Free Health Services

Victims of trafficking can receive health services free of charge at state hospitals. This right is secured by Ministry of Health circular (2004/62). Victims are referred to hospitals to receive medical checks and treatment after their referral procedure is completed by NGOs or law enforcement.

Safe Repatriation

According to the National Referral Mechanism, victims' safe repatriation is planned after they receive basic support services. IOM provides the victims with return tickets. Accommodation, health services and similar support may be provided to victims who are in need of continuous support back home.

Humanitarian Visa for Foreign Victims of Trafficking

Residence permit can be issued to victims who are not willing to go back home immediately for various reasons. Ministry of Interior circular dated 13.07.2006 allows victims for application to a six-month residence permit without fee.²³ Victims who fulfill certain criteria can officially apply to this residence permit called the "humanitarian visa". Specialized NGOs provide assistance to the victims during these procedures.

Helpline

157 Hotline that offers services in Russian, Romanian, English and Turkish languages is operated by IOM in cooperation with Ministry of Foreign Affairs. This helpline has been launched to support rescue of victims of trafficking. At the same time it operates to respond to other migrants' different inquiries. Promotion activities of the 157 hotline have been implemented after its launch in 2005. HRDF continues to publicize 157 in its information materials. A total of 168 victims of trafficking have been rescued by 157 calls during the period of 2005 - 2011.²⁴

Domestic Victims of Human Trafficking in Turkey

It is known that not only foreigners but also nationals of a country can be trafficked within its borders. HRDF has contacted woman's organizations in Turkey to inquire their experience of domestic trafficking victims. Representatives of some NGOs have stated that they have not encountered an identified victim of internal trafficking. However it was stated that they hear from other women that there are domestic victims. As human trafficking is a crime which is difficult to identify, it is highly likely that women are reluctant to talk about it because of shame, fear or self blame. It is evident that identifying a domestic victim of trafficking can be as hard as identifying a foreign victim.

In 2011 US TIP Report, facts on internal trafficking is acknowledged not only in Turkey but also in all countries. According to the same report, there is evidence that internal trafficking affects not only countries with large territories where income inequality is high but also smaller and wealthier European countries. It is not possible for Turkey to be immune from this phenomenon.

There have been trials in Turkey of children in forced labor. There are also rumors that Turkish workers are transferred to former Soviet Union countries and their labor is exploited in such a way that it becomes a trafficking crime. However, no such research exists of the scale and scope of internal trafficking and of Turkish citizens being victimized abroad; therefore there is insufficient data on national victims and forms of exploitation. Consequently, there are no specialized services for national victims of trafficking. It is an issue that needs more attention.

HRDF's Combating Trafficking Program



Human Resource Development Foundation

Human Resource Development Foundation established in 1988, have prioritized its activities on contributing to the solution of problems stemming from irregular population movements and eliminating the factors that hinder social development.

HRDF is one of the internationally accredited executing agencies of United Nations Population Fund since 1997 and has a special consultative NGO status with the UN Economic and Social Council since 2002. HRDF received tax exemption status with the Cabinet Decree in 2001.

In this period of Turkey's fast urbanization, cities became industrial centers and mass migration movements started to change the social structure. Reproductive health area was one of the areas that was influenced by this new era of vast changes. Consequently new needs arose in this area. Founded by academicians working in the reproductive health area, fulfilling these new needs became a priority for HRDF. In the following years programs to support empowerment of women with a focus on gender equality were also included in HRDF priority areas.

Global changes have affected all countries and one of the results was increased migration movements. Turkey has been influenced by these changes and thus turned into a country of immigration from a country of emigration. Assessing the needs in this area, HRDF has developed and implemented programs in the migration area since 2000s, targeting asylum seekers, refugees and human trafficking victims.

Combating Trafficking Program

HRDF's interest in the issue began in 2000s when human trafficking as a problem started to be visible in Turkey. HRDF experts first attended international meetings and conducted study visits to understand the scope of the problem in Turkey and in the region. After building its capacity in the area, HRDF developed the first NGO program to combat trafficking in Turkey in 2003. Two factors have been influential in HRDF's decision to work in this area. Most important factor is that, like in many other countries, human trafficking has become one of the main human rights violations in Turkey.

Secondly, HRDF believed that a successful anti- trafficking program could be implemented based on the experience of previous relevant programs. The complex and multi-faceted nature of human trafficking requires a cooperative action by governmental and non-governmental organizations. For the effective operation of its program, HRDF has signed Protocols with General Directorate of Security (4 September 2003) and General Commandership of Gendarmerie (14 June 2004). HRDF is a member organization to National Task Force to Combat Trafficking.

Components of HRDF's Anti-Trafficking Program

Victim Support

HRDF established the first shelter for victims of human trafficking in Turkey in 2004. Services listed below are provided to female victims of trafficking upon their consent at HRDF's Istanbul Shelter.

- accommodation
- psychological counseling
- legal information
- translation
- referral to health services
- sexually transmitted infections counseling
- accompaniment when needed
- humanitarian visa application
- counseling on resolving other personal issues
- Repatriation support

495 victims of trafficking have received support services under HRDF's program during November 2004 - September 2012 period. Personal data of the supported victims are kept confidential.

Funding for the program has been problematic, starting from the first years; HRDF has been running the program with funding received from several sources obtained with great difficulty. There have been times when HRDF has continued the program with its own limited resources because there was no external funding.

Information and Awareness Raising

Besides victim support services, HRDF implements activities to raise the awareness of law enforcement officers, other service providers and the general public on human trafficking and advocates for the rights of victims.

HRDF organized the first human trafficking training for law enforcement and judiciary officials that was conducted by an NGO in Turkey in 2004. In the following years, HRDF has:

- Provided trainer support to law enforcement and judiciary trainings
- Organized workshops for law enforcement units
- Conducted trainings to NGOs
- Organized seminars to foreign women at risk of trafficking in their own languages as part of prevention efforts
- Prepared brochures, posters and booklets to inform service providers, risk groups and general public
- These materials have been distributed to their respective target groups. Russian and Turkish brochures have been distributed to all provincial Foreigners' Branches with the support of General Directorate of Security.
- Public awareness raising brochures and multi lingual stickers in six languages promoting 157 Hotline have been distributed directly to the target groups in hot spots.

Networking

HRDF has been representing Turkey at international meetings since 2004. HRDF experts have been sharing Turkey's anti-trafficking experience and at the same time improving HRDF's program in line with international standards and best practices. HRDF is currently member to national and international anti-trafficking networks. International joint projects and publications have been realized in this context.

HRDF memberships:

- CTCS- Network to End Commercial Sexual Exploitation of Children (Turkey)
- ARIADNE - Network against Trafficking in Human Beings in South-eastern and Eastern Europe
- ENPATES - The European NGOs Platform against Trafficking, Exploitation and Slavery
- GAATW - The Global Alliance against Traffic in Women

Problems and Recommendations



This section is based on nearly a decade of HRDF's anti trafficking experience, discussions with victims, challenges faced during implementation of the program and solutions proposed.

This section does not aim to cover human trafficking with all its aspects. Consistent with the main theme of the book, this section tries to suggest ways of protecting human rights and victim rights of trafficking victims while providing more comprehensive victim support.

It is important to answer three basic questions before starting the discussion.

1. Who is the victim of human trafficking?

Anybody who is **suspected to be a human trafficking victim** should be considered a victim.

2. Why should the victim be provided with support?

For the victim to be able access services that s/he needs is a **basic human right**. States are responsible to protect the rights of foreigners in their country as well as their own citizens. It is also a duty of the states to protect the internationally accepted "victim rights". A service that respects victims' human rights enables their physical and mental rehabilitation and helps them to take right decisions regarding their own future.

3. How should victim support services be provided?

At its most basic, comprehensive service provision should include security, accommodation, psycho-social and legal support. Victims' needs should be considered holistically. The victim should be treated as an individual with rights and not as someone to be pitied. Female and minor victims' situation and their unique needs should be given special consideration and **all** these services should be provided with their consent.

Accurate identification, timely and comprehensive victim support, could facilitate victims testifying against their traffickers. Following pages list issues arising during victim support and puts forward recommendations on how these can be resolved. We hope that parliamentarians and senior officials will take these observations and suggestions into consideration.

Victim Identification

Problems

- Difficulty in identification due to the nature of the crime
- “Ideal victim” perception
- Moral prejudices
- Language barrier
- Limited public awareness
- Limited participation of NGOs in anti trafficking activities

Recommendations

Regular trainings for law enforcement officers

There is a visible decline in the number of identified victims in Turkey in the last few years. It is important to provide regular and quality training on human trafficking to law enforcement officers throughout Turkey. Teaching about human trafficking should become a part of teaching curriculum of the police academies and not be limited only to in-service trainings.

Training program with dynamic content

Human trafficking can be understood only within a wider perspective. The training program should not be limited to definitions of human trafficking and its modus operandi but also should include subjects like human rights, violence against women, gender inequality and its consequences and internationally accepted victim rights. Training program should also cover the changing methods of traffickers throughout the years and the interrelation of these changes with victimization typologies and victim identification. Experiences of the NGOs working in this field should be considered both during the preparation of the curriculum and delivery of the trainings.

Establishing expert identification teams

Besides providing regular trainings for relevant officers, expert identification teams should be established. In addition to law enforcement officers, these teams should include interpreters in relevant languages and experts in dealing with trauma (social workers who have worked with victims, NGO workers etc).

Changing the perception of "ideal victim"

It is a fact that officials responsible for victim identification could develop a perception of "ideal victim" not only in Turkey but also in other countries. Officers who get used to victims with similar features could overlook victims with different characteristics. When the features of identified victims are analyzed, most of them are foreign women and most of them are trafficked into the sex industry. At the time of rescue, majority of these women may seem desperate. On the other hand men or citizens of that country can also be victims of trafficking. Or a woman who is rescued from forced prostitution may not seem desperate and wretched because people's reaction to trauma can be different. And lastly it should be noted that trafficking crime can be committed in sectors other than sex industry. Not to have a perception of an ideal victim should be included in law enforcement trainings.

Increasing public awareness

Human trafficking is not a widely known crime in our society. Some awareness has been created in recent years, improving this may make it difficult for traffickers to exploit other's labor. Also with increased denunciations it will be easier for law enforcement officers to reach and rescue victims. Last but not least, increasing the awareness of several groups who are under risk could prevent domestic and international trafficking. It is critical to engage in campaigns to improve public awareness using media channels to reach big masses.

Expanding the activities of civil society organizations

Civil society organizations should be encouraged to become more widely involved in anti- trafficking struggle. Prevention campaigns, providing information and support to potential victims and early identification of victims through counseling centers could be taken up as new activities.

Support Services for Victims

Problems

- Slow referral to the support services
- Problems in providing seamless services to victims
- Problems in services provided to minor victims
- Limited communication among GOs and NGOs
- Lack of long term support to victims

Recommendations

Referring victims to the services immediately

Referring rescued victims to support services within a short time, if possible the same day of rescue, should be a priority of the national referral mechanism. Otherwise human rights of victims will be violated. From rescue to repatriation, victims should be provided with a residence permit. This would give the victim a feeling of security. Victim rights should be introduced and respected from these initial stages.

Provision of seamless, easy to access, quality support services

Victim support includes security, accommodation, access to health services, expert psychologist and translator or social workers who s/he can speak in her mother tongue. These services are being provided by civil society organizations in Turkey. There have been times when these services were stopped because of lack of funding. In order to sustain the victim support services; state should allocate a regular budget for NGOs.

Special support for minor victims

"Minor victims" are children younger than 18 and they are under statutory protection. These victims should be referred to special services for minors. Relevant institutions in Turkey should develop special mechanisms for minor victims in collaboration with the expert NGOs working in this field.

Improving the communication between GOs and NGOs

Civil society organizations that provide services to victims should be informed about the relevant details of ongoing investigations and also any judicial processes to be able to provide a comprehensive support service. Victims ask questions regarding these processes directly to NGO workers and often NGOs are not able to answer these questions. It is important to appoint a focal person who will build contacts between NGOs and relevant GOs like law enforcement and judiciary units. It is also desirable that NGOs are provided training regarding the relevant issues by law enforcement and judiciary units.

Careful planning of safe repatriation

Safe repatriation of victims who wish to go back to their home country should be arranged as soon as possible. However, it should be borne in mind that for some victims, repatriation may not be "safe". Some of them may prefer to go to another country rather than their own due to reasons such as family/community pressure, threats from traffickers etc. Special conditions of these individuals should be assessed and they should be sent to a third country of their choice if they are able to enter without violating their travel rights.

Provision of long term support

For victims who do not wish to go back to their country immediately but prefer to stay in Turkey and work, necessary residence and work permits should be issued. In addition, mechanisms should be developed to provide them with long term accommodation, vocational courses, language courses and financial aid.

Victims' Access to Justice

Problems

- Lack of legal support for the victim
- Lack of supportive laws and regulations
- Low prevalence of victims acting as witnesses

Recommendations

Legal support for the victim

To be able to prosecute traffickers, it is critical that victims who wish to testify in court should be provided with a range of support, including legal representation. Mechanisms should be developed for victims to access legal aid, sustained in coordination with other support services. Joint working with the local Bar Associations can be a part of the solution.

Encouraging victim to testify

To be able to arrest and prosecute traffickers, victim testimonials are important. However victims receive threats from their traffickers not to testify. A safe environment should be created where a victim can think calmly before the trial. Also providing security during the trial is a condition that should be met. It is important to provide a qualified interpreter and an accompanying NGO representative she / he knows personally. Required conditions should be provided for the victims who wish to stay in Turkey to be able to participate at the trials.

Raising awareness of judiciary personnel

It is important that human trafficking crime and all the related details are known by prosecutors and judges. The training program should not only include definitions regarding human trafficking and modus operandi but subjects like human rights, violence against women, gender inequality and its consequences and internationally accepted victim rights and perception of ideal victim.

Legal amendments

Legislations should be harmonized with the international norms. For example, "Compensation for victims" is an important legal issue in anti-trafficking field. There are models where victims are given compensation from the confiscated property of the traffickers and also there are other models where a budget from state funds is allocated to victims. Legal arrangements such as compensation and others will also act as dissuasive factors for the traffickers.

Human trafficking is a crime that concerns all countries and states have responsibility to fight this crime. Source country governments have to take responsibility to reduce the income gap among their citizens, to respect human rights, to strive for gender equality and to provide quality public services. On the other hand destination countries should employ preventive measures to eliminate human trafficking such as increasing legal migration possibilities, protecting migrants' human rights, decreasing the demand for cheap labor and regulating informal sector as well as improving support for the victims.

In the hope that our parliamentarians and senior officials will make it their priority to prevent this crime and to protect victims' human rights.

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Appendix

- App 1.** Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime
- App 2.** Council of Europe Convention on Action against Trafficking in Human Beings
- App 3.** Role of Parliamentarians in Combating Trafficking in Persons by UNODC



**Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children,
supplementing the United Nations Convention against Transnational Organized Crime**

**Adopted and opened for signature, ratification and accession by General Assembly
resolution 55/25 of 15 November 2000**

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights, Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows :

I. General provisions

Article 1

Relation with the United Nations Convention against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2

Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3

Use of terms

For the purposes of this Protocol:

- (a) "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, 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. 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 similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

Article 4

Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5

Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6

Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

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- (a) Appropriate housing;
 - (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - (c) Medical, psychological and material assistance; and
 - (d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. 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.

Article 7

Status of victims of trafficking in persons in receiving States

1. In addition to taking measures pursuant to article 6 of this 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.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

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- (a) To prevent and combat trafficking in persons; and
- (b) To protect victims of trafficking in persons, especially women and children, from revictimization.
2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.
5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10

Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:
- (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
- (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
- (c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.
2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.
2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the

denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12

Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14

Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18

Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19

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1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
 2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20

Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness whereof, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

Council of Europe Convention on Action against Trafficking in Human Beings

CETS No. 197 - Action against Trafficking in Human Beings, 16.V.2005 9

Preamble

The member States of the Council of Europe and the other Signatories hereto,
Considering that the aim of the Council of Europe is to achieve a greater unity between its members;
Considering that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being;
Considering that trafficking in human beings may result in slavery for victims;
Considering that respect for victims' rights, protection of victims and action to combat trafficking in human beings must be the paramount objectives;
Considering that all actions or initiatives against trafficking in human beings must be non-discriminatory, take gender equality into account as well as a child-rights approach;
Recalling the declarations by the Ministers for Foreign Affairs of the Member States at the 112th (14-15 May 2003) and the 114th (12-13 May 2004) Sessions of the Committee of Ministers calling for reinforced action by the Council of Europe on trafficking in human beings;
Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its protocols;
Bearing in mind the following recommendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (97) 13 concerning intimidation of witnesses and the rights of the defence; Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and Recommendation Rec (2001) 16 on the protection of children against sexual exploitation; Recommendation Rec (2002) 5 on the protection of women against violence;
Bearing in mind the following recommendations of the Parliamentary Assembly of the Council of Europe: Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member states; Recommendation 1450 (2000) on violence against women in Europe; Recommendation 1545 (2002) on a campaign against trafficking in women; Recommendation 1610 (2003) on migration connected with trafficking in women and prostitution; Recommendation 1611 (2003) on trafficking in organs in Europe; Recommendation 1663 (2004) Domestic slavery: servitude, au pairs and mail-order brides;
Bearing in mind the European Union Council Framework Decision of 19 July 2002 on combating trafficking in human beings the European Union Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and the European Union Council Directive of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;
Taking due account of the United Nations Convention against Transnational Organized Crime and the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children with a view to improving the protection which they afford and developing the standards established by them;
Taking due account of the other international legal instruments relevant in the field of action against trafficking in human beings;
Taking into account the need to prepare a comprehensive international legal instrument focusing on the human rights of victims of trafficking and setting up a specific monitoring mechanism,
Have agreed as follows:

Chapter I - Purposes, scope, non-discrimination principle and definitions

Article 1 - Purposes of the Convention

1 The purposes of this Convention are:

- a to prevent and combat trafficking in human beings, while guaranteeing gender equality
- b to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution;
- c to promote international cooperation on action against trafficking in human beings.

2 In order to ensure effective implementation of its provisions by the Parties, this Convention sets up a specific monitoring mechanism.

Article 2 - Scope

This Convention shall apply to all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime.

Article 3 - Non-discrimination principle

The implementation of the provisions of this Convention by Parties, in particular the enjoyment of measures to protect and promote the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 4 - Definitions

For the purposes of this Convention :

a "Trafficking in human beings" 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, 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. 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 similar to slavery, servitude or the removal of organs;

b The consent of a victim of "trafficking in human beings" to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

c The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in human beings" even if this does not involve any of the means set forth in subparagraph (a) of this article;

d "Child" shall mean any person under eighteen years of age;

e "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article.

Chapter II - Prevention, co-operation and other measures

Article 5 - Prevention of trafficking in human beings

1 Each Party shall take measures to establish or strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings.

2 Each Party shall establish and/or strengthen effective policies and programmes to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.

3 Each Party shall promote a Human Rights-based approach and shall use gender mainstreaming and a child-sensitive approach in the development, implementation and assessment of all the policies and programmes referred to in paragraph 2.

4 Each Party shall take appropriate measures, as may be necessary, to enable migration to take place legally, in particular through dissemination of accurate information by relevant offices, on the conditions enabling the legal entry in and stay on its territory.

5 Each Party shall take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them.

6 Measures established in accordance with this article shall involve, where appropriate, non-governmental organisations, other relevant organisations and other elements of civil society committed to the prevention of trafficking in human beings and victim protection or assistance.

Article 6 - Measures to discourage the demand

To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures including:

a research on best practices, methods and strategies;

b raising awareness of the responsibility and important role of media and civil society in identifying the

demand as one of the root causes of trafficking in human beings;

c target information campaigns involving, as appropriate, inter alia, public authorities and policy makers;

d preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being.

Article 7 - Border measures

1 Without prejudice to international commitments in relation to the free movement of persons, Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in human beings.

2 Each Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with this Convention.

3 Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4 Each Party shall take the necessary measures, in accordance with its internal law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5 Each Party shall adopt such legislative or other measures as may be necessary to permit, in accordance with its internal law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Convention.

6 Parties shall strengthen co-operation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 8 - Security and control of documents

Each Party shall adopt such measures as may be necessary:

a To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

b To ensure the integrity and security of travel or identity documents issued by or on behalf of the Party and to prevent their unlawful creation and issuance.

Article 9 - Legitimacy and validity of documents

At the request of another Party, a Party shall, in accordance with its internal law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in human beings.

Chapter III - Measures to protect and promote the rights of victims, guaranteeing gender equality

Article 10 - Identification of the victims

1 Each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention.

2 Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations. Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2.

3 When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age.

4 As soon as an unaccompanied child is identified as a victim, each Party shall:

a provide for representation of the child by a legal guardian, organisation or authority which shall act in

the best interests of that child;

b take the necessary steps to establish his/her identity and nationality;

c make every effort to locate his/her family when this is in the best interests of the child.

Article 11 - Protection of private life

1 Each Party shall protect the private life and identity of victims. Personal data regarding them shall be stored and used in conformity with the conditions provided for by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

2 Each Party shall adopt measures to ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.

3 Each Party shall consider adopting, in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms as interpreted by the European Court of Human Rights, measures aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures.

Article 12 - Assistance to victims

1 Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:

a standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;

b access to emergency medical treatment;

c translation and interpretation services, when appropriate;

d counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;

e assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;

f access to education for children.

2 Each Party shall take due account of the victim's safety and protection needs.

3 In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.

4 Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education.

5 Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.

6 Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.

7 For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a consensual and informed basis, taking due account of the special needs of persons in a vulnerable position and the rights of children in terms of accommodation, education and appropriate health care.

Article 13 - Recovery and reflection period

1 Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorise the persons concerned to stay in their territory.

2 During this period, the persons referred to in paragraph 1 of this Article shall be entitled to the measures contained in Article 12, paragraphs 1 and 2.

3 The Parties are not bound to observe this period if grounds of public order prevent it or if it is found

that victim status is being claimed improperly.

Article 14 - Residence permit

- 1 Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:
 - a the competent authority considers that their stay is necessary owing to their personal situation;
 - b the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.
- 2 The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.
- 3 The non-renewal or withdrawal of a residence permit is subject to the conditions provided for by the internal law of the Party.
- 4 If a victim submits an application for another kind of residence permit, the Party concerned shall take into account that he or she holds, or has held, a residence permit in conformity with paragraph 1.
- 5 Having regard to the obligations of Parties to which Article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

Article 15 - Compensation and legal redress

- 1 Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings in a language which they can understand.
- 2 Each Party shall provide, in its internal law, for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law.
- 3 Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators.
- 4 Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in Article 23.

Article 16 - Repatriation and return of victims

- 1 The Party of which a victim is a national or in which that person had the right of permanent residence at the time of entry into the territory of the receiving Party shall, with due regard for his or her rights, safety and dignity, facilitate and accept, his or her return without undue or unreasonable delay.
- 2 When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary.
- 3 At the request of a receiving Party, a requested Party shall verify whether a person is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving Party.
- 4 In order to facilitate the return of a victim who is without proper documentation, the Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving Party shall agree to issue, at the request of the receiving Party, such travel documents or other authorisation as may be necessary to enable the person to travel to and re-enter its territory.
- 5 Each Party shall adopt such legislative or other measures as may be necessary to establish repatriation programmes, involving relevant national or international institutions and non governmental organisations. These programmes aim at avoiding re-victimisation. Each Party should make its best effort to favour the reintegration of victims into the society of the State of return, including reintegration into the education system and the labour market, in particular through the acquisition and improvement of their professional skills. With regard to children, these programmes should include enjoyment of the right to education and measures to secure adequate care or receipt by the family or appropriate care structures.
- 6 Each Party shall adopt such legislative or other measures as may be necessary to make available to victims, where appropriate in co-operation with any other Party concerned, contact information of structures that can assist them in the country where they are returned or repatriated, such as law enforcement

offices, non-governmental organisations, legal professions able to provide counselling and social welfare agencies.

7 Child victims shall not be returned to a State, if there is indication, following a risk and security assessment, that such return would not be in the best interests of the child.

Article 17 - Gender equality

Each Party shall, in applying measures referred to in this chapter, aim to promote gender equality and use gender mainstreaming in the development, implementation and assessment of the measures.

Chapter IV - Substantive criminal law

Article 18 - Criminalisation of trafficking in human beings

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct contained in article 4 of this Convention, when committed intentionally.

Article 19 - Criminalisation of the use of services of a victim

Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings.

Article 20 - Criminalisation of acts relating to travel or identity documents

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the following conducts, when committed intentionally and for the purpose of enabling the trafficking in human beings:

- a forging a travel or identity document;
- b procuring or providing such a document;
- c retaining, removing, concealing, damaging or destroying a travel or identity document of another person.

Article 21 - Attempt and aiding or abetting

1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 18 and 20 of the present Convention.

2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, an attempt to commit the offences established in accordance with Articles 18 and 20, paragraph a, of this Convention.

Article 22 - Corporate liability

1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that a legal person can be held liable for a criminal offence established in accordance with this Convention, committed for its benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- a a power of representation of the legal person;
- b an authority to take decisions on behalf of the legal person;
- c an authority to exercise control within the legal person.

2 Apart from the cases already provided for in paragraph 1, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.

3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.

4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

Article 23 - Sanctions and measures

1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 18 to 21 are punishable by effective, proportionate and dissuasive sanctions. These sanctions shall include, for criminal offences established in accordance with Article 18 when committed by natural persons, penalties involving deprivation of liberty which can give rise to extradition.

2 Each Party shall ensure that legal persons held liable in accordance with Article 22 shall be subject to

effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.

3 Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences established in accordance with Articles 18 and 20, paragraph a, of this Convention, or property the value of which corresponds to such proceeds.

4 Each Party shall adopt such legislative or other measures as may be necessary to enable the temporary or permanent closure of any establishment which was used to carry out trafficking in human beings, without prejudice to the rights of bona fide third parties or to deny the perpetrator, temporary or permanently, the exercise of the activity in the course of which this offence was committed.

Article 24 - Aggravating circumstances

Each Party shall ensure that the following circumstances are regarded as aggravating circumstances in the determination of the penalty for offences established in accordance with Article 18 of this Convention:

- a the offence deliberately or by gross negligence endangered the life of the victim;
- b the offence was committed against a child;
- c the offence was committed by a public official in the performance of her/his duties;
- d the offence was committed within the framework of a criminal organisation.

Article 25 - Previous convictions

Each Party shall adopt such legislative and other measures providing for the possibility to take into account final sentences passed by another Party in relation to offences established in accordance with this Convention when determining the penalty.

Article 26 - Non-punishment provision

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

Chapter V - Investigation, prosecution and procedural law

Article 27 - Ex parte and ex officio applications

1 Each Party shall ensure that investigations into or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, at least when the offence was committed in whole or in part on its territory.

2 Each Party shall ensure that victims of an offence in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their State of residence. The competent authority to which the complaint is made, insofar as it does not itself have competence in this respect, shall transmit it without delay to the competent authority of the Party in the territory in which the offence was committed. The complaint shall be dealt with in accordance with the internal law of the Party in which the offence was committed.

3 Each Party shall ensure, by means of legislative or other measures, in accordance with the conditions provided for by its internal law, to any group, foundation, association or non-governmental organisations which aims at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence established in accordance with Article 18 of this Convention.

Article 28 - Protection of victims, witnesses and collaborators with the judicial authorities

1 Each Party shall adopt such legislative or other measures as may be necessary to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for:

- a Victims;
- b As appropriate, those who report the criminal offences established in accordance with Article 18 of this Convention or otherwise co-operate with the investigating or prosecuting authorities;
- c witnesses who give testimony concerning criminal offences established in accordance with Article 18 of this Convention;
- d when necessary, members of the family of persons referred to in subparagraphs a and c.

2 Each Party shall adopt such legislative or other measures as may be necessary to ensure and to offer various kinds of protection. This may include physical protection, relocation, identity change and assistance in obtaining jobs.

3 A child victim shall be afforded special protection measures taking into account the best interests of the child.

4 Each Party shall adopt such legislative or other measures as may be necessary to provide, when necessary, appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for members of groups, foundations, associations or non-governmental organisations which carry out the activities set out in Article 27, paragraph 3.

5 Each Party shall consider entering into agreements or arrangements with other States for the implementation of this article.

Article 29 - Specialised authorities and co-ordinating bodies

1 Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against trafficking and the protection of victims. Such persons or entities shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. Such persons or the staffs of such entities shall have adequate training and financial resources for their tasks.

2 Each Party shall adopt such measures as may be necessary to ensure co-ordination of the policies and actions of their governments' departments and other public agencies against trafficking in human beings, where appropriate, through setting up co-ordinating bodies.

3 Each Party shall provide or strengthen training for relevant officials in the prevention of and fight against trafficking in human beings, including Human Rights training. The training may be agency-specific and shall, as appropriate, focus on: methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers.

4 Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements.

Article 30 - Court proceedings

In accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 6, each Party shall adopt such legislative or other measures as may be necessary to ensure in the course of judicial proceedings:

a the protection of victims' private life and, where appropriate, identity;

b victims' safety and protection from intimidation,

in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children's needs and ensuring their right to special protection measures.

Article 31 - Jurisdiction

1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:

a in its territory; or

b on board a ship flying the flag of that Party; or

c on board an aircraft registered under the laws of that Party; or

d by one of its nationals or by a stateless person who has his or her habitual residence in its territory, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State;

e against one of its nationals.

2 Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1 (d) and (e) of this article or any part thereof.

3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in this Convention, in cases where an alleged offender is present in its territory and it does not extradite him/her to another Party, solely on the basis of his/her nationality, after a request for extradition.

4 When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

5 Without prejudice to the general norms of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with internal law.

Chapter VI - International co-operation and co-operation with civil society

Article 32 - General principles and measures for international co-operation

The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

- preventing and combating trafficking in human beings;
- protecting and providing assistance to victims;
- investigations or proceedings concerning criminal offences established in accordance with this Convention.

Article 33 - Measures relating to endangered or missing persons

1 When a Party, on the basis of the information at its disposal has reasonable grounds to believe that the life, the freedom or the physical integrity of a person referred to in Article 28, paragraph 1, is in immediate danger on the territory of another Party, the Party that has the information shall, in such a case of emergency, transmit it without delay to the latter so as to take the appropriate protection measures.

2 The Parties to this Convention may consider reinforcing their co-operation in the search for missing people, in particular for missing children, if the information available leads them to believe that she/he is a victim of trafficking in human beings. To this end, the Parties may conclude bilateral or multilateral treaties with each other.

Article 34 - Information

1 The requested Party shall promptly inform the requesting Party of the final result of the action taken under this chapter. The requested Party shall also promptly inform the requesting Party of any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly.

2 A Party may, within the limits of its internal law, without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.

3 Prior to providing such information, the providing Party may request that it be kept confidential or used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.

4 All information requested concerning Articles 13, 14 and 16, necessary to provide the rights conferred by these articles, shall be transmitted at the request of the Party concerned without delay with due respect to Article 11 of the present Convention.

Article 35 - Co-operation with civil society

Each Party shall encourage state authorities and public officials, to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention.

Chapter VII - Monitoring mechanism

Article 36 - Group of experts on action against trafficking in human beings

1 The Group of experts on action against trafficking in human beings (hereinafter referred to as "GRETA"), shall monitor the implementation of this Convention by the Parties.

2 GRETA shall be composed of a minimum of 10 members and a maximum of 15 members, taking into account a gender and geographical balance, as well as a multidisciplinary expertise. They shall be elected by the Committee of the Parties for a term of office of 4 years, renewable once, chosen from amongst nationals of the States Parties to this Convention.

3 The election of the members of GRETA shall be based on the following principles:

- a they shall be chosen from among persons of high moral character, known for their recognised competence in the fields of Human Rights, assistance and protection of victims and of action against trafficking in human beings or having professional experience in the areas covered by this Convention;
- b they shall sit in their individual capacity and shall be independent and impartial in the exercise of their functions and shall be available to carry out their duties in an effective manner;
- c no two members of GRETA may be nationals of the same State;
- d they should represent the main legal systems.

4 The election procedure of the members of GRETA shall be determined by the Committee of Ministers,

after consulting with and obtaining the unanimous consent of the Parties to the Convention, within a period of one year following the entry into force of this Convention. GRETA shall adopt its own rules of procedure.

Article 37 - Committee of the Parties

1 The Committee of the Parties shall be composed of the representatives on the Committee of Ministers of the Council of Europe of the member States Parties to the Convention and representatives of the Parties to the Convention, which are not members of the Council of Europe.

2 The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention in order to elect the members of GRETA. It shall subsequently meet whenever one-third of the Parties, the President of GRETA or the Secretary General so requests.

3 The Committee of the Parties shall adopt its own rules of procedure.

Article 38 - Procedure

1 The evaluation procedure shall concern the Parties to the Convention and be divided in rounds, the length of which is determined by GRETA. At the beginning of each round GRETA shall select the specific provisions on which the evaluation procedure shall be based.

2 GRETA shall define the most appropriate means to carry out this evaluation. GRETA may in particular adopt a questionnaire for each evaluation round, which may serve as a basis for the evaluation of the implementation by the Parties of the present Convention. Such a questionnaire shall be addressed to all Parties. Parties shall respond to this questionnaire, as well as to any other request of information from GRETA.

3 GRETA may request information from civil society.

4 GRETA may subsidiarily organise, in co-operation with the national authorities and the "contact person" appointed by the latter, and, if necessary, with the assistance of independent national experts, country visits. During these visits, GRETA may be assisted by specialists in specific fields.

5 GRETA shall prepare a draft report containing its analysis concerning the implementation of the provisions on which the evaluation is based, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems which have been identified. The draft report shall be transmitted for comments to the Party which undergoes the evaluation. Its comments are taken into account by GRETA when establishing its report.

6 On this basis, GRETA shall adopt its report and conclusions concerning the measures taken by the Party concerned to implement the provisions of the present Convention. This report and conclusions shall be sent to the Party concerned and to the Committee of the Parties. The report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned.

7 Without prejudice to the procedure of paragraphs 1 to 6 of this article, the Committee of the Parties may adopt, on the basis of the report and conclusions of GRETA, recommendations addressed to this Party (a) concerning the measures to be taken to implement the conclusions of GRETA, if necessary setting a date for submitting information on their implementation, and (b) aiming at promoting co-operation with that Party for the proper implementation of the present Convention.

Chapter VIII - Relationship with other international instruments

Article 39 - Relationship with the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime
This Convention shall not affect the rights and obligations derived from the provisions of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime, and is intended to enhance the protection afforded by it and develop the standards contained therein.

Article 40 - Relationship with other international instruments

1 This Convention shall not affect the rights and obligations derived from other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention and which ensure greater protection and assistance for victims of trafficking.

2 The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

3 Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular

subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties. (1)

4 Nothing in this Convention shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

Chapter IX - Amendments to the Convention

Article 41 - Amendments

1 Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member States of the Council of Europe, any signatory, any State Party, the European Community, to any State invited to sign this Convention in accordance with the provisions of Article 42 and to any State invited to accede to this Convention in accordance with the provisions of Article 43.

2 Any amendment proposed by a Party shall be communicated to GRETA, which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3 The Committee of Ministers shall consider the proposed amendment and the opinion submitted by GRETA and, following consultation of the Parties to this Convention and after obtaining their unanimous consent, may adopt the amendment.

4 The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5 Any amendment adopted in accordance with paragraph 3 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

Chapter X - Final clauses

Article 42 - Signature and entry into force

1 This Convention shall be open for signature by the member States of the Council of Europe, the non member States which have participated in its elaboration and the European Community.

2 This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which 10 Signatories, including at least 8 member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

4 In respect of any State mentioned in paragraph 1 or the European Community, which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 43 - Accession to the Convention

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties to this Convention and obtaining their unanimous consent, invite any non-member State of the Council of Europe, which has not participated in the elaboration of the Convention, to accede to this Convention by a decision taken by the majority provided for in Article 20 d. of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

2 In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 44 - Territorial application

1 Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2 Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following

the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 45 - Reservations

No reservation may be made in respect of any provision of this Convention, with the exception of the reservation of Article 31, paragraph 2.

Article 46 - Denunciation

1 Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

Article 47 - Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State signatory, any State Party, the European Community, to any State invited to sign this Convention in accordance with the provisions of Article 42 and to any State invited to accede to this Convention in accordance with the provisions of Article 43 of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Articles 42 and 43;
- d any amendment adopted in accordance with Article 41 and the date on which such an amendment enters into force;
- e any denunciation made in pursuance of the provisions of Article 46;
- f any other act, notification or communication relating to this Convention,
- g any reservation made under Article 45.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Warsaw, this 16th day of May 2005, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, to the European Community and to any State invited to accede to this Convention.

UNODC and IPU Recommendations for Parliamentarians

UNODC and Inter-Parliamentary Union (IPU) has jointly prepared the "Combating Trafficking in Persons: A Handbook for Parliamentarians"¹ to encourage parliamentarians to take an active part in stopping human trafficking under the framework of UN.GIFT (UN Global Initiative to Fight Human Trafficking²).

Prepared in 2009, this Handbook offers guidance to parliamentarians to pass laws that strengthen the fight against human trafficking in their countries and to adopt the best practices regarding the issue.

As an Annex to our book that summarizes trafficking in Turkey and contains recommendations on victim support, here we are presenting you a summary of recommendations under six headings as they appear in the Combating Trafficking in Persons: A Handbook for Parliamentarians that has been jointly prepared by UNODC and IPU. This will be an example from international platform.

Role of parliamentarians in ensuring compliance with the international legal framework to combat trafficking in persons

- Sign, ratify and accede, without reservations, to the Trafficking in Persons Protocol and to international human rights conventions
- Review existing laws to ensure the consistency and conformity of domestic legislation with the Trafficking in Persons Protocol and international human rights conventions
- Enact laws that implement the international standards embodied in the Trafficking in Persons Protocol and international human rights law
- Amend domestic legislation that may conflict with the Trafficking in Persons Protocol and international human rights law
- Monitor the government's fulfillment of its obligations under the Trafficking in Persons Protocol and international human rights law
- Establish a parliamentary committee on human trafficking or human rights in general to oversee and guide government policies on the protection of trafficking victims

Role of parliamentarians in defining trafficking in persons in national legislation

- Gain familiarity with and understand the definition of human trafficking in all forms provided by the Trafficking in Persons Protocol
- Understand and address the three key elements of trafficking in persons - act, means and purpose - in national legislation
- Understand and clearly distinguish the crime of human trafficking from other forms of organized immigration crime, including the smuggling of migrants
- Address trafficking in persons and smuggling of migrants in separate Legislation

Role of parliamentarians in criminalizing and penalizing all forms of trafficking in persons

- Enact criminal laws that make trafficking in persons a crime
- Enact criminal laws that criminalize all forms of trafficking in persons
- Enact criminal laws that recognize individual trafficking and organized trafficking
- Enact criminal laws that cover both domestic and international trafficking in persons
- Enact criminal laws that provide for serious penalties commensurate with the gravity of the crime
- Mainstream gender issues in all relevant anti-human trafficking policies, legislation and proceedings
- Adopt or amend existing procedural codes to reflect a human rights approach to the treatment of

victim witnesses during court proceedings and to protect the security and privacy of victim witnesses

- Adopt or amend existing procedural codes to reflect and respond to the special needs of child victim witnesses
- Enact legislative, policy and other measures targeting demand for trafficking in persons, whether for sexual, labour or other forms of exploitation
- Enact laws that punish public officials for engaging in, facilitating or allowing trafficking in persons to take place
- Ensure that cases of corruption connected to trafficking in persons are investigated and prosecuted
- Promote broad accountability and transparency of government institutions by engaging in regular evaluations of governance, with the participation of both governmental and non-governmental actors
- Consult with anti-corruption ombudspersons, task forces, commissions, auditing agencies, concerned international organizations and civil society to monitor levels of corruption in the country, especially in connection with trafficking in persons

Role of parliamentarians in recognizing trafficked persons as victims entitled to internationally recognized human rights

- Incorporate human rights principles into all anti-trafficking and related legislation
- Adopt a human rights-based approach that recognizes the trafficked person as a victim who is entitled to basic human rights
- Develop, enact and finance policies seeking to identify victims of trafficking
- Ensure that victims of trafficking are provided with the rights enumerated under the bill of rights of trafficking victims, including:
 - The right to safety
 - The right to privacy
 - The right to information
 - The right to legal representation
 - The right to be heard in court
 - The right to compensation for damages
 - The right to assistance
 - The right to seek residence
 - The right to return
- Enact legislation ensuring that the special rights, needs and vulnerabilities of child victims of trafficking are taken into account and that children are provided with the additional necessary protection
- Enact legislation that mandates protection for family members of victims of trafficking
- Enact legislation providing for the principle of non-criminalization of victims of trafficking
- Enact legislation for the establishment of specialized centres to house the victims and provide them with assistance
- Support organizations and agencies that provide safe transit and reintegration assistance
- Adopt special measures to protect and promote the rights of women victims of trafficking, taking into account the fact that they may be victimized twice over, as women and as trafficked persons
- Enact legislation providing for mechanisms to properly screen potential victims of trafficking who may not identify themselves as such

Role of parliamentarians in preventing trafficking in persons

- Enact comprehensive anti-trafficking legislation, which includes provisions on prevention
- Adopt a comprehensive legal framework in which all laws are harmonized with anti-trafficking policies
- Enact laws that promote equality of opportunity, ensure gender equality and strive to create social safety nets for the most vulnerable members of society
- Enact laws aimed at enhancing child protection, including enforcing birth registration laws and reviewing laws addressing violence against children

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- Enact laws regulating registration of marriages and promoting birth registration
 - Encourage the private sector to develop and enact codes of ethical conduct concerning victims of trafficking, child sex tourism and all forms of exploitative labour
 - Expand liability for acts of trafficking to all those involved in the trafficking infrastructure, including in particular:
 - Legal persons
 - Public persons
 - Private persons
 - Enact obligations of disclosure so as to monitor and regulate the activities of agencies facilitating international activities that may be abused by traffickers or that may participate in trafficking schemes, especially employment agencies, international marriage brokers and international adoption agencies
 - Establish the liability of legal persons and stipulate dissuasive penalties to discourage the use of exploited labour by the private sector
 - Create incentives to encourage the private sector to forgo the use of exploited labour, such as by enacting tax breaks for corporations adhering to ethical standards
 - Adopt initiatives seeking to target demand for trafficking in persons, whether for sexual or labour exploitation
 - Enact laws that punish public officials for engaging in, facilitating or allowing trafficking in persons to take place
 - Ensure that cases of corruption connected to trafficking in persons are investigated and prosecuted
 - Promote broad accountability and transparency of government institutions by engaging in regular evaluations of governance, with the participation of both governmental and non-governmental actors
 - Consult with anti-corruption ombudspersons, task forces, commissions, auditing agencies, concerned international organizations and civil society to monitor levels of corruption in the country, especially in connection with trafficking in persons

Role of parliamentarians in promoting international cooperation to combat trafficking in persons

- Develop appropriate legislation providing for comprehensive jurisdictional bases for investigation and prosecution in trafficking cases
- Review domestic legislation and the corpus of bilateral and multilateral treaties on extradition and mutual legal assistance to ensure that trafficking in persons is adequately covered and that the mechanisms in place for international cooperation in criminal matters are modern and effective
- Consider recognition of the Organized Crime Convention as a legal basis for extradition and mutual legal assistance
- Develop and ratify bilateral and multilateral agreements for mutual legal assistance and extradition, as required; such agreements should provide for cooperation in investigating and prosecuting trafficking in persons
- Develop and ratify bilateral and multilateral agreements to protect, assist and repatriate victims of trafficking
- Develop and ratify bilateral and multilateral agreements to promote law enforcement cooperation against trafficking in persons
- Ensure that internationally recognized labour rights are part of any free trade agreement approved
- Develop and ratify bilateral and multilateral agreements to address the root causes of human trafficking

Role of parliamentarians in monitoring and reporting on anti-human trafficking activities

- Establish a special parliamentary committee on combating trafficking in persons
- Appoint a national rapporteur to monitor the development and implementation of national measures to prevent human trafficking

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- Request research and data collection on the scope of the problem of trafficking and best practices to combat the phenomenon
 - Investigate specific violations of the rights of victims of trafficking and enquire into remedies and assistance
 - Ensure timely and complete reporting to the Conference of the Parties to the Organized Crime Convention
 - Request information from the government agencies concerned with combating trafficking in persons
 - Oversee implementation of foreign policy dealing with international cooperation in the field of combating trafficking
 - Monitor and evaluate the implementation of national action plans dealing with combating trafficking in persons
 - Allocate the funds needed to implement programmes aimed at combating trafficking, including assisting victims of trafficking
 - Pass resolutions and declarations to condemn trafficking in persons and call for greater efforts to combat the phenomenon within parliament

Role of parliamentarians in enhancing the role of civil society

- Increase public debate and discussion of the issue of trafficking in persons
- Consult civil society in hearings and other oversight forums
- Hold public hearings at which members of civil society can offer their opinions on ways and means of combating trafficking
- Engage survivors of trafficking in persons in formulating policy frameworks for victim identification and protection
- Encourage government agencies concerned with combating trafficking in persons to cooperate and establish partnerships with civil society organizations
- Mobilize public opinion and public support to back government policies for combating trafficking in persons
- Lead public awareness campaigns to raise awareness of trafficking in persons

1 Combating Trafficking in Persons, A Handbook for Parliamentarians, Inter-Parliamentary Union and UNODC, produced under UN.GIFT. For the On-Line source of the Handbook:
http://www.unodc.org/documents/human-trafficking/UN_Handbook_engl_core_low.pdf
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2 UN.GIFT - http://www.unodc.org/documents/human-trafficking/UN_Handbook_engl_core_low.pdf