

INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS: THE CASE OF  
INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM) AS PART OF  
COUNTER TRAFFICKING EFFORTS IN TURKEY

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## **ABSTRACT**

### **INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS: THE CASE OF INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM) AS PART OF COUNTER TRAFFICKING EFFORTS IN TURKEY**

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**Master of Science in Eurasian Studies**

**Supervisor: Assoc. Prof. Dr. Ayşegül AYDINGÜN**

**Nov. 2008, 130 pages**

Trafficking in persons is a phenomenon that threatens not only basic human rights but also source, passage and destination countries; therefore, it rightfully draws international attention. Being a global threat, it necessitates cooperation and intervention. The aim of the thesis is to analyze anti-trafficking efforts in Turkey by focusing on a particular international initiative. To this end, the International Organization for Migration (IOM) is selected as a case and its activities in Turkey are mentioned with the ultimate goal of questioning its effectiveness in the process of fighting against trafficking in persons.

The thesis examines the phenomenon of trafficking in persons with a conceptual analysis by dwelling upon the objectives, function and perspective of the IOM. It concentrates on the IOM, which actively assists the Turkish government in every aspect of migration and in combating human trafficking with a particular focus on trafficking in women through the counter-trafficking program implemented in 2004. The thesis also aims at evaluating whether international and local actors take effective actions that cover both the prevention and punishment of trafficking in women, and the protection of victims' rights. The binding international legal instrument on the subject matter, the UN Trafficking Protocol of 2000, will be referred to and different approaches to the evaluation of the problem will be mentioned so as to present the focal points of the varying goals.

Keywords: trafficking in persons, women trafficking, victim of trafficking, International Organization for Migration (IOM), Turkey, IOM and combating trafficking.

## ÖZ

### ULUSLARARASI ÖRGÜTLER VE İNSAN HAKLARI: TÜRKİYE’DE İNSAN TİCARETİ İLE MÜCADELE KAPSAMINDA ULUSLARARASI GÖÇ ÖRGÜTÜ (IOM) ÖRNEĞİ

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İnsan ticareti temel insan haklarını tehdit etmekte ve aynı zamanda kaynak, transit ve hedef ülkeler için tehdit oluşturmaktadır. Bu sebeple de uluslararası boyutlarda dikkat çeken bir suçtur. Global bir tehdit olarak algılanan insan ticareti işbirliği ve müdahaleyi zorunlu kılmaktadır. Tez çalışmasında amaç, Türkiye’de insan ticareti ile mücadele kapsamında yürütülen çalışmaları belli bir uluslararası girişime odaklanarak incelemektir. Bu maksatla Uluslararası Göç Örgütü (IOM) örnek olarak seçilmiş ve örgütün insan ticareti ile mücadele sürecindeki etkinliğini sorgulamak amacıyla Türkiye faaliyetleri ele alınmıştır.

Tez, IOM'in amaları, iřleyiři ve perspektifi zerinde durarak insan ticareti hadisesini kavramsal bir analizle incelenmektedir. alıřma kapsamında, Trkiye ofisi aracılıęı ile 2004 yılından bu yana uygulanan insan ticareti ile mcadele programı vasıtasıyla, kadın ticareti zelinde insan ticareti ile mcadele konularında Trk hkmetine yardımcı olan IOM'e odaklanılmıştır. Aynı zamanda, uluslararası ve yerel aktrlerce kadın ticareti ile mcadele kapsamında nleyici, cezalandırıcı ve maędur haklarını gzetir nitelikte etkili nlemlerin alınıp alınmadıęı da deęerlendirilmektedir. Konu ile ilgili baęlayıcı uluslararası yasal belge olan Birleřmiř Milletler (BM) İnsan Ticareti Protokol'ne deęinilecek ve sorunun deęerlendirilmesinde ne ıkan farklı hedeflerin odak noktalarını ortaya koyabilmek amacıyla eřitli yaklařımlara yer verilecektir.

Anahtar Szckler: insan ticareti, kadın ticareti, insan ticareti maęduru, Uluslararası G rgt (IOM), Trkiye, IOM ve insan ticareti ile mcadele.

*To my family,  
for their endless love and encouragement*



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## CHAPTER 1

### INTRODUCTION

#### 1.1 Background

Trafficking in persons is a form of slavery taken on a shape under the conditions of the 21<sup>st</sup> century. The purpose of trafficking in persons may include forced labour or services, servitude or the removal of organs, slavery or slavery like practices as sexual exploitation that leap up in recent years.<sup>1</sup> It is indicated that victims are trafficked into many different activities; however, commercial sex industry is the sector that creates the highest demand and generates the highest profits.<sup>2</sup> As observed, it is not concentrated in particular geographic areas. This activity is becoming wider in range and has effects on both origin and destination countries. Consequently, actions are taken against the phenomenon in national and international level seeking to call for comprehensive measures by genuine political commitment that would enable the various stake-holders to cooperate as a vigilant force against the problem of trafficking in persons.<sup>3</sup>

Intergovernmental organizations have a significant and a must role in counter trafficking activities. The current United Nations (UN) Trafficking Protocol of 2000 (one of the two

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<sup>1</sup> See Appendix 3, Article 3/a. United Nations (UN), “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime”, UN, 2000, p. 2.

<sup>2</sup> Pierella Paci, *Gender in Transition*, World Bank, May 2002, p. 71.

<sup>3</sup> Vitit Muntarbhorn, “Combating Migrant Smuggling and Trafficking in Persons, Especially Women: The Normative Framework Re-Appraised”, *Migration and International Legal Norms*, T. A. Aleinikoff & V. Chetail (eds.). T. M. C. Asser Press. The Netherlands, 2003, p. 152.

Palermo Protocols<sup>4</sup>); *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, appears as an important international instrument on the subject matter. The Protocol has a significant role in addressing aspects of trafficking and indicating protection of victims' human rights.

In the fight against trafficking in persons, especially women trafficking; other intergovernmental organization stands in the forefront: International Organization for Migration (IOM). As a significant actor in the field of migration, Organization's activities cover a wide range of service areas. In accordance with the aim of the thesis the focus is mainly on the trafficking policy domain within the context of Organization's activities in Turkey.<sup>5</sup>

IOM defines trafficking in persons by referring to Trafficking Protocol of the *UN Convention against Transnational Organized Crime* and accept the Convention and its Protocols (the Trafficking Protocol and the Smuggling Protocol) as binding legal instruments<sup>6</sup> not only because Organization is in close cooperation in its actions with the United Nations (UN) and its dependent establishments but also because it is the most detailed international instrument on this subject.<sup>7</sup> Nevertheless, although the UN Trafficking Protocol of 2000 includes measures to protect human rights of victims, from the time of negotiations of the Protocol has been highly contested by activists and academics for not requiring sufficient sensitivity on the protection of rights of victims.<sup>8</sup> That is why the question of what constitutes a right based approach and the extent to

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<sup>4</sup> United Nation adapted the Convention against Transnational Organized Crime in 2000 in Palermo, Italy. Two protocols had been decreed: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and Children and the Protocol against the Smuggling of Migrants by land, Sea and Air.

<sup>5</sup> Although it is known that in Turkey men are also trafficked, the number of women and girls are significantly high. IOM concentrates on women trafficking.

<sup>6</sup> IOM (International Organization for Migration), "Types of Irregular Migration", online available at <http://www.iom.int/jahia/Jahia/pid/674>, 16.06.2008.

<sup>7</sup> Çetin Arslan, İlker Temel, Yusuf Aydın, Furkan Şen, Koray Doğan, Pinar Bacaksız, *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, p. 20.

<sup>8</sup> Vitit Muntarbhorn, "Combating Migrant Smuggling and Trafficking in Persons, Especially Women: The Normative Framework Re-Appraised", *Migration and International Legal Norms*, T. A. Aleinikoff & V. Chetail (Eds.). T. M. C. Asser Press. The Netherlands, 2003, pp. 156 and Suzanne Williams, Rachel Masika "Editorial" *Gender and Development*, Vol. 14, No.1: 2-9, Routledge, March 2002, p. 4.

which the human rights based approach is effectively adopted by organizations and state authorities, becomes a critical point in actions aimed at combating trafficking.

In that respect, the thesis seeks to analyze counter trafficking activities implemented by the IOM because, as stated above, it is a leading organization having operational activities in many countries within the context of migration. Therefore, besides governmental efforts in Turkey regarding counter trafficking, the thesis focuses on the IOM and the binding Trafficking Protocol of 2000 to question the effectiveness of the Organization's activities in connection with the interpretation of the Trafficking Protocol. The thesis firstly, examines the objective of the IOM and the phenomenon of trafficking in persons with a conceptual analysis. It then continues with a situation analysis by selecting Turkey as a case to examine the role of Organization in shaping state policies; specifically on the protection of human rights of the victims of trafficking.

## **1.2 Scope and Objective**

The Trafficking Protocol of 2000 not only sought to form a universally approved definition to trafficking in persons but also took a step to deal with various elements of trafficking such as crime prevention and combat trafficking in persons (by paying particular attention to women and girls), victim protection, and assistance of victims and cooperation among States Parties to meet those objectives.<sup>9</sup> Nevertheless, this binding legal instrument, states, international organizations and NGOs had varying viewpoints and different formulas in taking the due action to combat the phenomenon. At this juncture, several questions arouse such as: - Is the effective action against trafficking in persons that will cover both prevention and punishment of trafficking and protection of the rights of victims taken by the actors; IOM in this case? - What is the approach of the binding international legal instrument on trafficking and how is it interpreted by the IOM and – What constitutes human rights based approach to human trafficking? In this

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<sup>9</sup> See Appendix 3, Article 2. United Nations (UN) "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime", United Nations, 2000, p.2

thesis, all of these questions will be answered. Firstly, the approach embodied by the Trafficking Protocol will be examined and activities of the IOM, its approach on trafficking, its policies on combating trafficking and Organization's interpretation of the Protocol will be mentioned to make clear the objective and the role of the Organization. In order to reach the projected goal for the thesis, it would be helpful to give an illustrative case and to select a particular state, and then to question effectiveness of the actions taking by the Organization through its regional programs.

### 1.3 Argument

Although, it is critically important that the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* is "the first serious attempt by the international community to invoke the international law in its battle against transnational organized crime"<sup>10</sup>, it has deficiencies. As explained in details in the second chapter, there exist open-end Articles in the mentioned Protocol which give States the judgment of the necessary action concerning important measures<sup>11</sup> and that make binding components unclear for Member States. Besides, the interpretation of the Protocol is varying. It means that the meaning of the Articles seems to be open to different interpretation according to the needs.

Deficiencies of the Trafficking Protocol that is mentioned in chapter two and chapter three are also related to the characteristic of the Protocol which adopts an approach having an organized crime focus. As it is stated by Vitit Muntarbhorn the anti-crime measures of the Protocol is not sufficient enough to protect the rights of the victims of trafficking.<sup>12</sup> The changes made in the Trafficking Protocol of 2000, which is mentioned

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<sup>10</sup> Anne Gallagher, "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analyses", *Human Rights Quarterly*, 23.4: 975-1004, 2001, p. 976.

<sup>11</sup> See Appendix 3, Articles 6 and 7.

<sup>12</sup> Vitit Muntarbhorn, "Combating Migrant Smuggling and Trafficking in Persons, Especially Women: The Normative Framework Re-Appraised", *Migration and International Legal Norms*, T. A. Aleinikoff & V. Chetail (eds.). T. M. C. Asser Press. The Netherlands, 2003, pp 156 and Suzanne Williams, Rachel Masika "Editorial" *Gender and Development*, Vol. 14, No.1: 2-9, Routledge, March 2002, p. 4.



in chapter two, gave the Protocol an organized crime focus and thus created deficiencies by facilitating the orientation of its Articles by the actors aimed at combating trafficking. As a result, the previous concept of the Protocol that has human rights based focus on the phenomenon completely changed.

Differences in state priorities and relativity in cultures make, in practice, the universal character of human rights not applicable in the same context. Furthermore, in some cases may threaten its survival. Therefore, a change in direction of the expression to fit the current need or the relativist approach may have been preferred to reach the goal. The changes made in the Trafficking Protocol of 2000 can be deciphered as to be made not to threaten the prevention and the punishment of trafficking in persons with a global alliance.

As emphasized in the study of Netkova Bistra:

...the majority of efforts to combat trafficking in women and girls, prior to the Protocol did not include the human rights approach. They did include strategies to remove the root factors: poverty, inequality, and ongoing discrimination against women. Moreover, they also failed to take into consideration the human rights of the victims of trafficking or, at least, to recognize that the practice of trafficking affected the human rights of trafficking at all stages of trafficking<sup>13</sup>

Because the Trafficking Protocol has a binding force on the states signed in and the IOM, the action taking against it focuses on crime and migration or a combination of it. Furthermore, there are realities in terms of national policies and laws, and donor's requirements that negatively impact the human rights based approach to anti-trafficking.<sup>14</sup> The thesis aims to point out that the Trafficking Protocol facilitates the shortcomings emerging on combating the crime of trafficking

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<sup>13</sup> Bistra, Netkova, "Human Rights and Trafficking in Women", unpublished PHD Thesis, Rijks Universiteit Groningen, 2007, p.91.

<sup>14</sup> La Strada International, *Anti-trafficking Activities towards Safe Migration Perspective: Role of NGOs as Watchdogs and Service Providers*, NGO Platform Report, September 2006, p. 12.

There are also difficulties in the implementation of the Trafficking Protocol. Most importantly, as in the example of the Article 3 of the Protocol; *Use of Term*, which defines what trafficking in persons shall mean and who will be accepted as the victim of trafficking. In practice, it is difficult to make law enforcement offices adapt this article. It is stressed that the IOM has to ensure that its collaborating partners understand the usage of the Palermo definition.<sup>15</sup> However, the Palermo definition of trafficking in persons is another problematic issue making minds confused since the Protocol underlines the transnational nature of the crime. But, the crime may have a national character as well. Another important point is that the main components forming offence (exploitation and abuse) can be materialized by criminal organizations in different ways. To illustrate, in Turkey, identified human trafficking incidents mostly cover forced prostitution and forced labour of the victims. However, people voluntarily engage in prostitution to save money and make a living are excluded from the scope of the crime. But, it was observed that some of these people that were aware what they will do, fall into the hands of the traffickers shortly after they came to Turkey.<sup>16</sup>

IOM has a migration focus on the subject matter, and as it is stated above, Organization defines trafficking in women by referring to the Trafficking Protocol of the *UN Convention against Transnational Organized Crime* and adopts the Convention and its two Protocols (the Trafficking Protocol and the Smuggling Protocol) as binding legal instruments. At that point, the thesis' main argument is that there exist multiple approaches tackling with trafficking in women as crime based approach and migration based approach. However, in order to be effective in the fight against trafficking in persons and to prevent the victimization of women through traffickers there is also a need to place human rights based approach at the centre of all efforts or at least to combine this approach with the current perspective. Within the scope of the crime, personal rights to liberty of the victims are severely violated and the material and physical integrity of the victim is disturbed by abusing the vulnerability. As stated in the work of Çetin Arslan et al.: "the victims usually suffer physical and spiritual pains and

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<sup>15</sup> Ibid.

<sup>16</sup> EGM, Asayış Dairesi Başkanlığı, *İnsan Ticareti Raporu*, 2004, p. 5.

irreparable damages to their bodily integrity (spiritual and physical)”. Related to this fact, “the crime of trafficking in persons is best understood as a multi-faceted crime, protecting more than one legal interest.”<sup>17</sup> Another argument of the thesis is that: there are shortcomings in the IOM activities in Turkey that lies behind the lack of gender and women rights based perspective on the subject matter. The latter argument is based on Organization’s own claims of being a humanitarian agency having a migration based approach to the problem of trafficking in women. That is to say, despite the fact that IOM respects the rights of victims, Organization does not have a role in the promotion of rights of victims since the Organization deals with the issues as a problem of migration management. Therefore, many victims are disregarded by not defining as the victim of trafficking.

On the other hand, it is not argued that the Organization completely neglect human rights dimensions of combating trafficking in persons, however, as stated by the IOM itself: “IOM takes a comprehensive approach to trafficking in persons within the wider context of managing migration”<sup>18</sup> and as stated by Caroline Wennerholm and Eva Zillen: IOM is “a humanitarian and migration organization rather than a gender- and rights based organization”. Therefore, the focus of the IOM becomes operational activities that have a humanitarian mandate. Nevertheless, in practice they do not have the women’s rights in focus,<sup>19</sup> nor they have the priority of promoting gender equality. As a matter of fact, Organization is rather supporting rights of migrants whose rights have been violated than lobbying for the increase of the rights of migrants.<sup>20</sup>

Migration approach does focus on combating violence it rather focuses on combating illegal entry. Thus, wittingly or unwittingly, combating human trafficking becomes transformed into combating (illegal) migration and as argued by Marjan Wijers and

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<sup>17</sup> Çetin Arslan et al., *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, p. 28.

<sup>18</sup> IOM (International Organization for Migration), “Counter-Trafficking”, online available at <http://www.iom.int/jahia/Jahia/pid/748>, 16.06.2008

<sup>19</sup> Caroline Wennerholm and Eva Zillen, *IOM Regional Counter-Trafficking Programme in the Western Balkans*, Department for Central and Eastern Europe, Sida Evaluation 03/37, June 2003, p. 81.

<sup>20</sup> Ibid.

Marieke van Doorninck; the prevention of trafficking in persons takes the mean of “to prevent the entry of possible victims.”<sup>21</sup> Moreover, this approach rather serves the interests of the states than those of women.<sup>22</sup> In the thesis, the objective of the IOM on the subject is mentioned and the focal point in its activities is tried to be clarified.

As it is stressed in the chapter two, Organization has a migration based approach and its attempts to prevent the crime, punish traffickers and protect victims’ rights have a basis relevant to that approach. However, as recommended by the United Nations Office of the High Commissioner for Human Rights (OHCHR), the protection of human rights should have primacy:

The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.

Furthermore,

Anti-trafficking measures shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, and of migrants, internally displaced persons, refugees and asylum-seekers.<sup>23</sup>

The thesis focuses on the analysis of the IOM activities; particularly in Turkey, together with the analyses of the Trafficking Protocol on the ultimate goal of questioning Organization’s regional programs’ effectiveness on the protection of rights of the victims of trafficking.

Main statement of the thesis is that IOM is effective to the extent that its activities in Turkey are to be examined with crime based and migration based approach. On the other hand, in spite of the Organization’s significant efforts to combine human rights based approach with its activities, there are still shortcomings in taking effective precautions if the human rights dimensions and the gendered nature of the phenomenon are to be taken

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<sup>21</sup>Marjan Wijers, Marieke van Doorninck. *Only rights can stop wrongs: A critical assessment of anti-trafficking strategies*, Paper presented at EU/IOM STOP European Conference on Preventing and Combating Trafficking in Human Beings, 18-22 September 2002, p. 4.

<sup>22</sup> Ibid., p.5.

<sup>23</sup> United Nations Office of the High Commissioner for Human Rights (UNOHCHR), “Recommended Principles and Guidelines on Human Rights and Human Trafficking”, Addendum to the Report of the United Nations High Commissioner of Human Rights to the United Nations Economic and Social Council E/2002/68/Add.1, 2002, p.1.

into consideration. However, the deficiencies that will be understandable while reading the thesis are not only related to the IOM's approach to the issue, but these deficiencies are most likely related to the Trafficking Protocol's binding clauses and Turkish government's response to the phenomenon. The thesis supports the argument stating that a coordinated multidisciplinary and multidimensional regional approach is of utmost importance in counter-trafficking activities. Furthermore, it is argued that a comprehensive policy response towards trafficking shall take human rights and victim-centred approach because "only in this way the design of adequate policies in the field of prevention, protection and prosecution can be ensured and the human rights of victims and witnesses fully protected."<sup>24</sup> In order to take efficient measures in crime prevention, prosecution of the traffickers and protection of victims, there exist national approaches and international standards setting by international actors such as European Union (EU), Council of Europe, Organization for Economic Co-operation and Development (OECD) and UN Trafficking Protocol of 2000. Turkey is currently in the process of EU membership appliance and therefore needs to harmonize those aforementioned international standards to establish effective anti-trafficking policies and the IOM has a guiding role in Turkey to meet the challenge of combating trafficking in women.

#### **1.4 Organization of the Chapters**

This thesis is composed of five chapters. The first chapter is an introductory one and addresses the background, the scope, the objective, and the argument of the thesis.

The second chapter seeks to clarify the role and the objective of the International Organization for Migration in the area of trafficking in persons and to examine the concept of human trafficking. Within this context, the chapter focuses on the IOM perspective comprising human trafficking, its gender mainstream and the correlation between the IOM and the United Nations (UN). In order to clarify the usage of the term

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<sup>24</sup> "Chair's Summary", Joint conference of UNODC and Budapest Process with the Organization of the Black Sea Economic Cooperation (BSEC) on "Trafficking in Human Beings in the Black Sea Region", October 2007, pp. 1-2.

trafficking in persons; especially women and girls, the focal point is the UN Trafficking Protocol.

The third chapter covers the concept of human rights within the frame of trafficking in women. The debates on the human rights dimension of women trafficking within the context of the current international instrument, the UN Trafficking Protocol of 2000, are mentioned. Then, an examination of the different approaches aimed at combating trafficking follows.

The fourth chapter focuses on counter trafficking activities in Turkey and IOM regional program. Turkey's policy stance in the fight against the phenomenon and IOM's contribution is examined.

The fifth chapter is the final chapter of this work and tries to wrap up all the stated shortcomings in the counter trafficking efforts from the IOM actions to the Trafficking Protocol, its implementation and state policies. It argues that the state policies, the deficiencies of the binding protocol together with the lacking gender based and human rights based approach on trafficking in women shape IOM intervention, but at the same time, these components are the major obstacles to take effective action.

## CHAPTER 2

### INTERNATIONAL ORGANIZATION FOR MIGRATION AND THE CONCEPT OF TRAFFICKING IN PERSONS

#### 2.1 Introduction

The chapter gives the description of the Organization to clarify the role and objective of the International Organization for Migration (IOM) in the area of trafficking in women. The deep motive of the Organization's objective is examined by focusing on IOM's own claims on its mission. Thereafter, the concept that trafficking in women involves is mentioned. In this way, differentiated intervention methods to combat trafficking in women are examined.

Within this context, the chapter begins with a brief look to the international systems of present international migration regime in accordance with irregular migration and trafficking. Then, IOM perspective comprising human trafficking, its gender mainstream and the correlation between the IOM and the United Nations (UN) is examined. In order to clarify the usage of the term trafficking, the focal point is the UN Convention against Transnational Organized Crime of 2000 (CTOC); particularly the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* (known as Trafficking in Persons Protocol, or TIPP).

Thereafter, main challenges in defining trafficking in persons are analyzed. Thus; after bringing to light the role and the objective of the IOM, and after determining the concept of trafficking and the difficulties in the implementation of effective laws and policies in practice, it would be relevant in the fourth chapter to examine the scope and effectiveness of the counter trafficking activities initiated by the IOM with its agencies in Turkey.

## **2.2 Brief Look to the International Systems of Present International Migration Regime in Relation with Irregular Migration and Trafficking**

As pointed out by Widgren,<sup>25</sup> basic international systems in present international migration regime can be, from a principal point of view, considering as having five elements. The first element has been developed since 1919 and has been kept intact by International Labour Organization (ILO) to preserve the rights of migrant workers. The second one which protects and assists refugees was in the mandate of the United Nations High Commissionaire for Refugees (UNHCR) that was undergone to a transformation to reach its present legal basis codified in the 1951 Geneva Convention. The third element can be given as emerged in 1951 to resettle displaced persons, refugees and migrants. The international system dated back 1951 was, for the first time, composed at the focus on Europe with an international convention in Brussels in which Belgium and United States were the initiators. Thereafter, the Provisional Intergovernmental Committee for the Movements of Migrant from Europe (PICCMME) was created and this committee then became the Intergovernmental Committee for European Migration (ICEM) which, in 1980, has finally changed its name as the Intergovernmental Committee for Migration (ICM) in recognition of its increasing global role.<sup>26</sup> The third international system, known as ICM, then became the International Organization for Migration (IOM) upon

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<sup>25</sup> Jonas Widgren, "Multilateral Co-Operation to Combat Trafficking in Migrants and the role of International Organizations", paper presented at the Eleventh IOM Seminar International Response to Trafficking in Migrants and the Safeguarding of Migrant Rights, Geneva: 26-28 October 1994, p. 4.

<sup>26</sup> Ross de Ruiter, "Research Project Investigating the Effectiveness of the International Organization for Migration Mission Romania, in Counter-Trafficking Policy, with Respect to the Accession to the European Union in 2007", Master of International Public Management and Public Policy Erasmus University, Rotterdam, July 2006, p. 33.



the amendment and ratification of the 1953 constitution in 1989. Thus the Organization has undergone a transition within itself from logistics agency to migration agency.

The fourth element had a goal of facilitating free circulation of manpower by making international arrangements in various parts of the world in the 1950s and it had a regional character. The ultimate goal of this element was the de-regularization of the migration barriers within a region to the mutual benefit of national economies (In the north, these kinds of arrangements were provided by OEEC; now OECD).<sup>27</sup> Lastly, the fifth element was the joint state efforts to harmonize entry policies so as to combat irregular migration. In Europe, by the mid-1980 this element of the multilateral co-operation took an operational shape with the construction of today's EU machinery on migration and asylum and took formal status in 1993 with the incorporation under the Third Pillar of the Maastricht Treaty.<sup>28</sup>

## **2.3 International Organization for Migration as a 21<sup>st</sup> Century Intergovernmental Organization**

### **2.3.1 IOM and Its Mission Statement**

Due to the current migration trends there are many multilateral activities at present that give priority to the international migration. About 25 intergovernmental organizations and many sub-groups involve in different activities in relation with international migration.<sup>29</sup> International Organization for Migration (IOM) is one of the intergovernmental organizations working to provide responses to the growing migration challenges of today.

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<sup>27</sup> Jonas Widgren, "Multilateral Co-Operation to Combat Trafficking in Migrants and the role of International Organizations", paper presented at the Eleventh IOM Seminar International Response to Trafficking in Migrants and the Safeguarding of Migrant Rights, Geneva: 26-28 October 1994, p. 3.

<sup>28</sup> Ibid., p. 4.

<sup>29</sup> Jonas Widgren, "Multilateral Co-Operation to Combat Trafficking in Migrants and the role of International Organizations", *Eleventh IOM Seminar International Response to Trafficking in Migrants and the Safeguarding of Migrant Rights*, Geneva: 26-28 October 1994, p. 4.

International Organization for Migration (IOM) is an actor providing services and advice to governments and migrants with international funds.<sup>30</sup> IOM is not a typical intergovernmental organization because it is not regional, but it deals with a single issue as a typical one would do. Organization deals with migration covering a wide range services such as migration and development, regulating migration, migration health, movement, emergency and post-crises migration management in Africa and the Middle East, The Americas, Asia and Oceania, and Europe. It is made up of three principle organs: the Council, the Executive Committee, and the Administration. Its structure is highly decentralized and service-oriented.<sup>31</sup>

IOM defines itself as being the leading intergovernmental organization in the field of migration that works in close contact with governmental, intergovernmental and non-governmental partners. IOM constitution recognizes the link between migration and economic, social, and cultural development, as well as the right of freedom of movement. “IOM is committed to the principle that humane and orderly migration benefits migrants and society” and “Organization works to help ensure the orderly and humane management of migration.”<sup>32</sup>

In accordance with its purpose, IOM defines its mission as: “assisting in meeting the growing operational challenges of migration management, advancing the understanding of migration issue, encouragement of the social and economic development through migration, and upholding the human dignity and well-being of migrants.”<sup>33</sup> To fulfil its mission, IOM acts with its partners in the international community. This partnership has increased from 67 states in 1998 to 122 Member States in 2008.<sup>34</sup> A further 18 states hold observer status. Organization has offices in over 100 countries, including Turkey. Turkey has been a member of the IOM since November 2004 and has ratified a bilateral

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<sup>30</sup> See Appendix 1 for the Purposes and Functions of the IOM given in the IOM Constitution.

<sup>31</sup> See Chart 1 for IOM Administrative Structure 2008, online available at official IOM website: [www.iom.int](http://www.iom.int), 11.06.2008.

<sup>32</sup> IOM (International Organization for Migration) *The International Organization for Migration in Brief*, IOM, 2008b, p. 1.

<sup>33</sup> Ibid. p.2.

<sup>34</sup> IOM (International Organization for Migration), *IOM – Facts and Figures*, IOM, 2008a, p. 1.

agreement on the legal status, privileges and immunities of the IOM's diplomatic mission to Ankara.<sup>35</sup>

Goals of the IOM include the promotion of the international cooperation on migration issues, assistance in the search of practical solutions to migration problems and providing humanitarian assistance to migrants in need.<sup>36</sup> Furthermore, its strategic priority in the area of migration is to contribute to the increased dialogue between migration stakeholders at bilateral, regional and global levels. This strategic priority is enhancing another strategic priority: strengthen governmental capacity to monitor and manage migration flows.<sup>37</sup> Nevertheless, as the chapter points out the focus of the IOM is operational.

Organization explains its work by dividing into four areas: migration and development, facilitating migration, regulating migration and forced migration.<sup>38</sup> By asserting that “the relationship between countries of origin and their overseas communities is key to successful development”,<sup>39</sup> IOM defines its goal in the field of migration and development as to harness the development of potential of migration for individual migrants and societies. Organization seeks to promote international policy dialogue, policy-oriented research and programs that reinforce the administrative and management capacity of governments. Activities that migration and development program include are giving as: improving remittance management, building human capital through labour migration programs, return and reintegration of qualified nationals, capacity building for governments and empowerment of migrant women.<sup>40</sup> Related to the fact that Organization accepts mobility as an essential feature of today's world, it seeks to ensure

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<sup>35</sup> Online available at IOM web sites: <http://www.iom.int> and <http://www.countertrafficking.com>.

<sup>36</sup> IOM (International Organization for Migration) *The International Organization for Migration in Brief*, IOM, 2008b, p. 1.

<sup>37</sup> IOM (International Organization for Migration), “Policy and Research”, online available at <http://www.iom.int/jahia/Jahia/lang/en/pid/6>, 16.06.2008

<sup>38</sup> See Chart 2.

<sup>39</sup> IOM (International Organization for Migration) *The International Organization for Migration in Brief*, IOM, 2008b, p. 1.

<sup>40</sup> Ibid.

that “facilitating migration for work can be a win-win proposition”,<sup>41</sup> and to adapt this statement “IOM provides policy and technical advice to governments on the regulation of migrant labour and other migratory movements”, and applies “programs to assist governments and migrants with selection/recruitment, language and cultural orientation, consular services, training, reception, integration and return” to facilitate migration.<sup>42</sup> As part of the IOM works, Organization assists governments to develop and implement migration policy, legislation and administrative mechanism. For this purpose, services such as technical assistance and training for governmental migration managers on border management, visa systems, regulating entry and stay, and collecting and using biometric information, are provided by the IOM. Furthermore, a broad range of programs to combat trafficking and smuggling in human beings can be offered by the IOM. Programs for the facilitation of the voluntary return and reintegration of the displaced and stranded persons as well as other migrants are implemented by the IOM taking into consideration the needs and concerns of local communities.<sup>43</sup> In the area of forced migration, IOM works by actively assisting refugee population during and after emergencies. Besides, IOM helps to find solutions for internally displaced persons (IDPs), former combatants, victims of ethnic engineering and populations in transition or recovery environments. Furthermore, Organization has programs and expertise in post-war claims and compensation.<sup>44</sup>

IOM does not have a role in the policy development, it is an operational organization. “IOM trains according to its organizational needs. It is rather for others to further develop policies and meet other needs; IOM is not doing that as they are strictly working after the legal framework in the country they operate in.”<sup>45</sup>

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<sup>41</sup> Ibid., p. 1.

<sup>42</sup> Ibid., p. 2.

<sup>43</sup> Ibid., p. 2.

<sup>44</sup> Ibid.

<sup>45</sup> Carolina Wennerholm, and Eva Zillen *IOM Regional Counter-Trafficking Programme in the Western Balkans*, Department for Central and Eastern Europe, Sida Evaluation 03/37, 2003, p. 81.

Even though IOM persistently highlights that in all areas Organization adheres to its core principle embedded the fact that migration must be managed for the benefit of all<sup>46</sup>, IOM activities as a whole have been criticized by several groups defining itself as being anti-racist such as migrant organizations and NGOs as serving the interest of the rich countries instead of taking the needs of refugees and migrants truly into account. These critics have also moved to the arena of political scientists questioning; “the extent to which intergovernmental organizations have an independent influence on world politics on oppose to functioning as a conduit for the foreign policy of powerful states”.<sup>47</sup>

By accepting as the best start in launching a campaign against the international regime of migration control, IOM is targeted by a campaign conducted by No Border Network. The No Border Network’s campaign against the IOM, namely *IOM Watch*, supports the idea arguing that since migration is a fact its autonomy cannot be regulated by states and transnational organizations.<sup>48</sup> Furthermore, in their Counter-Bulletin published in 2002, Organization interprets IOM counter-trafficking projects as the exploitation of “the theme of women trafficking in a simplified manner” to use it “as a justification for fighting migration as a whole” by the name of migration management and fight against illegal migration.<sup>49</sup>

Moreover, this Organization argues that the IOM does not simply inform or gives recommendations with its publications but actively takes part in politics in the countries where it is present. No Border Network supports its argument with the example of IOM activities in Turkey and IOM’s suggestions to Turkey for the prevention of the crossing in Iranian-Turkish border. The IOM recommendations given in the IOM Counter-Bulletin are as follows<sup>50</sup>:

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<sup>46</sup> IOM (International Organization for Migration), *Overview of the 1035 Facility: Support to IOM Developing Member States and Member States with Economy in Transition*, 2006, IOM, p. 1.

<sup>47</sup> Shirley V. Scott, *International Law in World Politics*, Lynne Rienner Publishers Inc., 2004, p. 35.

<sup>48</sup> No Border Network, *Campaign to Combat Global Migration Management*, IOM Counter-Bulletin, 2002, p. 1.

<sup>49</sup> Ibid., p. 3.

<sup>50</sup> Ibid., p. 1.

- cooperation with international organizations on the voluntary return of transit and irregular migrants into their states of origin,
- punishment of the transformation of migrants by the Turkish law,
- creation of an exchange of information between the Turkish authorities and the governments of origin-states to prevent irregular migration, and to fight against transportation, and
- tightening of the border-controls in Turkey.

Based on the suggestions given above No Border Network argues that “IOM presents itself as an agency of the European interest, which consists in the transferral of its migration control outposts ever further and subsequently in the expansion of the European border-regime”.<sup>51</sup>

Besides this critic of No Border Network, IOM is also criticized by Human Rights Watch (HRW) and Amnesty International (AI) both of whom have an observer status within the IOM. However, when the counter-trafficking attempts are concerned the critics are mild. For instance, although HRW states that research on trafficking in human being has revealed that IOM counter-trafficking operations have made a positive contribution in many parts of the world, HRW accuses IOM to complicit in situations that threaten people’s human rights in many countries and urges IOM to live up to its commitments by observing international human rights and refugee protection norms in its operations. On the other hand, HRW adds that concerns have arisen in respect of possible conflicts between IOM’s obligations to Member States and argues that IOM response to trafficking in persons that has to be entitled a victim-focused assistance plan, fails to protect victims adequately.<sup>52</sup>

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<sup>51</sup> No Border Network, “About the International Organization for Migration: the International Organization for Migration an Agency for the Transnational Migration Management”, online available at [www.noborder.org/iom/display.php?id=178](http://www.noborder.org/iom/display.php?id=178)

<sup>52</sup> Human Right Watch, “The International Organization of Migration and Human Rights Protection in the Field: Current Concerns”, IOM Governing Council Meeting 86<sup>th</sup> Session, 2003, p. 9

Besides aforementioned critics, it is referred to the lack of an analysis of the link between gender and trafficking.<sup>53</sup> In fact, IOM has several attempts in a direction that reflects its perspective on gender; however, it is an agency having a migration regulation priority and its gender perspective is linked with the IOM statements on its purposes. As stated by Caroline Wennerholm and Eva Zillen: IOM is “a humanitarian and migration organization rather than a gender- and rights based organization”.<sup>54</sup> In brief, the focus of IOM is operational, and therefore it has a humanitarian mandate. IOM is rather supporting rights of migrants whose rights have been violated than lobbying for the increase of the rights of migrants. In practice they do not focus on women rights.<sup>55</sup>

### **2.3.2 The Perspective of IOM in Connection with Trafficking in Persons**

Trafficking in persons as an illegal form of migration is a concern of the IOM for the purposes set out for managing migration. Organization regards tightening of the immigration system that is used as a part of a legitimate response by states to irregular migration, and that has an impact of pushing people into the hands of smugglers and traffickers, and highlights that smuggling can quickly lead to exploitation and trafficking.<sup>56</sup> As a result, security will be undermined due to the links with organized crime, violence, and corruption. The reasons for the increasing number of migrants in an irregular situation are stated to have a link with the push factors in countries of origin such as poverty, unemployment and crisis and pull factors in countries of destination such as higher wages, job opportunities and safety. Furthermore, absence of frameworks and mechanisms for regular migration to address the labour shortages of expanding economies, and limitation in the development of a capacity to effectively manage migratory flows in transit and destination countries caused by inadequate or inconsistent

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<sup>53</sup> Ibid., p. 11.

<sup>54</sup> Carolina Wennerholm, and Eva Zillen *IOM Regional Counter-Trafficking Programme in the Western Balkans*, Department for Central and Eastern Europe, Sida Evaluation 03/37, 2003, p. 81.

<sup>55</sup> Ibid.

<sup>56</sup> IOM (International Organization for Migration), “Irregular Migration: Background”, online available at <http://www.iom.int/jahia/Jahia/pid/536>, 16.06.2008.

development assistance programming are mentioned to address the increased number of irregular migrants.<sup>57</sup>

IOM defines trafficking in persons by referring to the Trafficking Protocol of the *UN Convention against Transnational Organized Crime* and accepts the Convention and its two Protocols; the Trafficking Protocol and the Smuggling Protocol, as binding legal instruments.<sup>58</sup> It is stated that to understand the nature of women trafficking, it is important to apply the definition given in the Palermo Protocol of Trafficking and prevent misconception that is held by some authorities. It is stated that in the regional counter-trafficking efforts, an operational definition of who is a victim of trafficking is developed.<sup>59</sup> The ones who lodge a claim for return during the interviews are considered to be the victim of trafficking and, in practice, other victims who don't want to return to their home country are not considered as the victims of trafficking by authorities and key actors like police. The problem emerges when the authorities are “*de facto*” using this so-called operational definition by excluding a significant number of trafficked women and girls from the analysis of the target group. This misunderstanding is related to the limitations of the IOM regional program that focuses on assisting voluntary returns of the trafficked women and girls by not evaluating a real alternative for those who do not want to return to their home country. It is stressed that the IOM needs to ensure that its collaborating partners understand the usage of the Palermo definition.<sup>60</sup>

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<sup>57</sup> IOM (International Organization for Migration), “Workshops for Policy Makers Background Document, MC/INF/257”, IOM, November 2002, p. 3.

<sup>58</sup> IOM (International Organization for Migration), “The Nature of Human Trafficking”, online available at <http://www.iom.int/jahia/Jahia/pid/676>, 16.06.2008

<sup>59</sup> Caroline Wennerholm and Eva Zillen, *IOM Regional Counter-Trafficking Programme in the Western Balkans*, Department for Central and Eastern Europe, Sida Evaluation 03/37, June 2003, p. 74.

<sup>60</sup> Ibid.



### 2.3.3 The Perspective of the IOM in Connection with Gender in Counter-Trafficking Activities

IOM states that “gender analyses is necessary in order to understand the causes and the consequences of trafficking in persons”<sup>61</sup> and “gender should be considered as an important indicator when trying to support the victims of trafficking.”<sup>62</sup> In February 1995, a Working Group on Gender Issues (WGGI) which will take stock of IOM’s achievements and shortcomings on gender-related issues was established. In November 1995, IOM Staff and Program Policy were adopted by the IOM Council. As the policy goals it is stated that “IOM is committed to ensuring that particular needs of all migrant women are identified, are taken into consideration and are addressed by IOM projects and services” and that “equality of opportunity and treatment of men and women is a guiding principle of IOM”.<sup>63</sup>

Afterward, in November 2006, an evaluation report was issued, and it is noted in the report that IOM gender policy is relevant to international standards, its Constitution and its activities. The implementation of gender policy was successfully done by the Organization; however, the report showed that there is still a need for improvement. Recommendations added in the report go as follows:

- (i) In order to clarify the concept of gender implied in some IOM programs and activities, WGGI should further refine the Gender & Migration Fact Sheet posted on IOM's web site, which is at present a factual presentation of gender inside IOM's Services, often targeting mainly women, but without a clear strategy on how better to integrate gender components into the services and take into account conceptual and institutional frameworks when necessary. The main policy objectives, formally adopted ten years ago in 1995, should accordingly be revised and submitted to the IOM Council for acceptance under a new resolution. A global revision of IOM policy should also include a more precise strategy for staffing policy implementation, focused on its compatibility with and acceptance by

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<sup>61</sup> IOM (International Organization for Migration), *Essentials of Migration Management: Trafficking in Persons*, 2008, p. 27.

<sup>62</sup> IOM (International Organization for Migration), “The Nature of Human Trafficking”, online available at <http://www.iom.int/jahia/Jahia/pid/676>, 16.06.2008.

<sup>63</sup> IOM (International Organization for Migration), *Gender Mainstreaming in IOM*, IOM, 1998, p. 4

local culture. New sub-divisions, targets, timetables and success indicators could be included in the revision.

(ii) The Human Resources Management Department, in collaboration with WGGI, should refine its method of analyzing and presenting staffing and gender data, taking into account that concepts such as equality and gender balance can be intuitively understood but not necessarily correctly analyzed, or unanimously praised but culturally not well accepted. Understanding the reasons for the weak participation of men and further encouragement of formal engagement of men is strongly recommended, taking into account that their participation is an important precondition for change and improvement, and that giving the erroneous impression of a women's club does not benefit anybody.

(iii) Major achievements have been made with the existing structures and the way gender was institutionalized in IOM was effective; however, it is time to re-examine the composition and role of the WGGI and Gender Focal Points (GFPs), the accountability of IOM Senior staff starting from the highest level at HQ and in the field and the resources allocated to gender, particularly human resources. Member States and Donors see gender as an important aspect of migration and IOM leadership can be reinforced with their support. Revision of the policy and strategy can contribute to achieving that leading role.<sup>64</sup>

Even though attempts are made in a direction of reflecting the perspective of the IOM on gender, it is an agency having a migration regulation priority and its gender perspective is linked with the IOM's statements on its purposes.

#### **2.3.4 The Link between the IOM and the United Nations**

IOM is in close cooperation with the United Nations (UN) in its actions and its dependent establishments. IOM growing relationship with the UN led to the granting of Observer Status by the General Assembly to IOM on 16 October 1992. The cooperation between the UN and the IOM determined when a Cooperation Agreement was signed on 25 June 1996 and concluded with the adaptation of the Resolution A/RES/51/148 by the General Assembly on 13 December 1996. With the Cooperation Agreement, its 10

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<sup>64</sup> IOM (International Organization for Migration), "Report by the Working Group on Gender Issues on Gender Mainstreaming in the Organization", Conference Room Paper/24, 94th Session of the Council, Geneva, November 2007, p. 1.

articles have become effective, and parties (the United Nations and the International Organization for Migration) accepted the need for closer cooperation between the UN and the IOM “in matter of common interest” by acknowledging that:

...the purposes of the United Nations are, inter alia, to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms, and to be a centre for harmonizing the actions of nations in the attainment of these common ends

The parties further acknowledged that:

... the International Organization for Migration, committed to the principle that humane and orderly migration benefits migrants and society, is mandated under its Constitution to assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and work towards effective respect of the human dignity and well-being of migrants<sup>65</sup>

The task that covers fosterage of productive cooperation between the IOM and the United Nations system was charged to the Office of the Permanent Observer to the United Nations. Thus, preliminary focus of the Office became IOM’s relations with the principle organs of the United Nations based in New York. Most importantly, IOM’s cooperation with the United Nations on economic, social, humanitarian and administrative fields and United Nations’ consideration of migration-related issues would be followed up by the Office. Furthermore, IOM, as the UN partner, participated in the Inter-Agency Committee that is said to be the primary mechanism for inter-agency coordination of humanitarian assistance.

## **2.4 The Usage of the Term ‘Trafficking in Persons’ in Counter-Trafficking Activities**

Today, by agreeing the fact that trafficking in human being is a growing problem, international organizations and governments work to make a precise definition of trafficking and strive to develop appropriate and specific measures to combat with such

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<sup>65</sup> See Appendix 2 for the Cooperation Agreement between the UN and IOM.

activities. Policies and programs were established at both international and national level aimed at raising public awareness about its nature and scope.<sup>66</sup>

The first effort to combat trafficking in persons is the *International Agreement on the Suppression of the White Slave Traffic* of 1904 that was ratified by sixteen European States. The main objective of this document is given in the IOM report<sup>67</sup> as the protection of victims of the human trafficking; on the other hand, it is added in the report that the document lacked any measure to punish traffickers and the reason for not being so much effective and an active instrument is explained by referring to the lack of measures on punishments. As a response to this omission *International Convention for the Suppression of White Slave Trafficking* of 1910 was signed. Afterwards, the 1921 *Convention for the Suppression of the Traffic in Women and Children* and the 1933 *International Convention for the Suppression of the Traffic in Full Age* were signed. The latter Convention of 1933 had a nature that allows punishment of the traffickers when they bring women into another country for the purpose of prostitution, irrespective of whether she has given her consent. In other words, with this Convention the element of bringing a woman in another country for the purpose of prostitution was the essential qualification for the existence of trafficking in women. Consequently, unlike the previous conventions, coercion no longer was an essential element of the offence since the recruitment and the transport of women from one to another for prostitution had become punishable by law, even it has occurred with the consent of those women.

Thereafter, as the first UN attempt that address trafficking in persons and exploitation of prostitution, *UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* was approved by the General Assembly of the UN in resolution 312 (IV) of 2 December 1949. This Convention was the combination of the four conventions mentioned above.

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<sup>66</sup> Sema Erder and Selmin Kaska, *Irregular Migration and Trafficking in Women: The Case of Turkey*, IOM, December 2003, p. 13.

<sup>67</sup> Çetin Arslan, İlker Temel, Yusuf Aydın, Furkan Şen, Koray Doğan, Pınar Bacaksız, *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, p. 13.

The definition of trafficking in women and girls needed to be broadened after the 1949 *Convention for the Suppression of the Trafficking in Persons and Exploitation of the Prostitution of Others* which brought prostitution and trafficking into the same legal framework and which opened a way for the punishment of these kinds of exploitations through the prostitution of others, even with their consent.<sup>68</sup> The 1949 Convention was explicitly addressing the exploitation of the trafficked persons and this Convention not only considered forced prostitution as a matter of international concern but included the voluntary recruitment and exploitation of voluntary prostitution, which had previously been seen as a strictly internal jurisdiction concern.

Hence, the Convention of 1949 gains an abolitionist approach of prostitution that criticizes the regulation of prostitution and the interference from the authorities in regulating prostitution.<sup>69</sup> The limited interest to the Convention can be related to this characteristic and its weak enforcement provision.<sup>70</sup> The Convention hadn't had a universal characteristic since prostitution of others is not punishable at each state and therefore the interest for the Convention of 1949 remained weak. The broader definition of trafficking then covered other forms of exploitation such as forced marriage and forced labour.<sup>71</sup>

Later on, in 2000, United Nations adapted the Convention against Transnational Organized Crime; also known as the Palermo Convention, and two Protocols; Palermo Protocols: *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*<sup>72</sup>; and *Protocol against the Smuggling of Migrants by Land, Sea and Air*.

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<sup>68</sup> United Nations (UN) "Universal Declaration of Human Rights", General Assembly Resolution 217A (III) of December 1948.

<sup>69</sup> Conny Rijken, *Trafficking in Persons: Prosecution from a European Perspective*. The Netherlands, Asser Press, The Hague 2003, p. 56.

<sup>70</sup> Ibid., pp. 57.

<sup>71</sup> Suzanne Williams and Rachel Masika, "Editorial" *Gender and Development*, Vol. 14, No.1: 2-9, Routledge, March 2002, p. 3.

<sup>72</sup> See Appendix 3.

Thus, with the Convention against Transnational Organized Crime and the two Protocols adopted by the United Nations in Palermo Italy, “the first serious attempt by the international community to invoke the international law in its battle against transnational organized crime”<sup>73</sup> has been represented under the jurisdiction of the United Nations Office of Drug and Crime. The first Protocol of the *Convention against Transnational Organized Crime*, Trafficking Protocol, entered into force in 2003 and by the end of 2006 the protocol: as the most detailed international instrument on this subject<sup>74</sup>, had signed by 117 states and had been ratified by 111 countries.<sup>75</sup>

*The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*; the Trafficking Protocol, was an attempt to make a universally agreeable definition of trafficking. The Protocol includes an Article (Article 3, Use of Terms) defining trafficking in persons:

- (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;

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<sup>73</sup> Anne Gallagher, “Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analyses”, *Human Rights Quarterly*, 23.4: 975-1004, 2001, p. 976.

<sup>74</sup> Çetin Arslan, İlker Temel, Yusuf Aydın, Furkan Şen, Koray Doğan, Pınar Bacaksız, *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, p. 20.

<sup>75</sup> UNODC (United Nations Office on Drugs and Crime) (2007) *Annual Report 2007*, p. 18.

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

## **2.5 Analysis of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime**

The Trafficking Protocol covers effective steps to prevent and combat trafficking in persons; particularly trafficking in women and children. Besides prevention and combat trafficking in persons by paying particular attention to women and children, the aim of the Protocol is cited in Article 2 as to protect victims of trafficking with full respect for their human rights and to promote cooperation among States Parties.<sup>76</sup>

The key points of the Protocol are mentioned by Raymond and Muntarbhorn<sup>77</sup> as follows: the Trafficking Protocol not only serves the need for an accepted international definition of trafficking but also States Parties are to adopt an agreed-upon set of prosecution, protection and prevention mechanisms on which to base national legislation against trafficking and which can serve as a basis for harmonizing various country laws and legislation to criminalize trafficking. The definition of trafficking in persons provides a comprehensive coverage of criminal means by which trafficking takes place including force, coercion, abduction, deception or abuse of power, and less explicit means, such as abuse of a victim’s vulnerability. Exploitation of prostitution is considered as a part of trafficking and the Protocol acknowledges that much trafficking is for the purpose of prostitution and for other forms of sexual exploitation. Moreover, besides coercion and force, abuse of authority became punishable as a part of trafficking.

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<sup>76</sup> United Nations (UN), “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime”, United Nations, 2000, Article 2

<sup>77</sup> Janice G. Raymond, *Guide to the New Trafficking Protocol*. North Amherst, MA: Coalition Against Trafficking in Women, 2001, pp. 4, and Vitit Muntarbhorn, “Combating Migrant Smuggling and Trafficking in Persons, Especially Women: The Normative Framework Re-Appraised”, *Migration and International Legal Norms*, T. A. Aleinikoff & V. Chetail (eds.). T. M. C. Asser Press. The Netherlands, 2003, p. 155.

The key element in the process of trafficking is given in the Protocol as the exploitative purpose, rather than the movement across a border.<sup>78</sup>

An act to deal with trafficking problem was applied in a global level. Because organized criminals such as traffickers, smugglers, pimps, brothel keepers, forced labour lords, enforcers, and gangs are powerful forces, organized cooperation of police, immigration authorities, social service agencies and NGOs needed to be encouraged. For this purpose, measures to prevent trafficking and to promote cooperation are to be adopted according to related Convention; e.g., media campaigns, information exchanges and training, border controls, and security of travel documents. Comprehensive policies, programs and other measures to prevent and combat trafficking in persons, and to protect victims of trafficking from revictimization are to be established by the States Parties.<sup>79</sup> Through the instrument of this Protocol, trafficked persons; especially women that are forced in prostitution and child labours, are no longer viewed as criminals, but they are treated as victims of a crime and a wide range of measures to protect the human rights of the victims is provided; e.g., legal, assistance, counselling, shelter, and medical help in appropriate cases. Furthermore, measures to permit the victim to remain in the territory of the transit and destination country are to be considered in appropriate cases. In relation to the States Party of which the victim is a national or has a right of permanent residence, safe return of the victim to state is to be facilitated. All victims of trafficking in persons are to be protected, not just those who can prove force.<sup>80</sup> The consent of a victim of trafficking is irrelevant,<sup>81</sup> if the means set forth in subparagraph (a) have been used.

This Protocol is the first UN instrument calling upon countries to take measures or strengthen legislative or other measures to discourage the demand that fosters all forms of exploitation of women and children resulting in being trafficked.<sup>82</sup> The Trafficking

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<sup>78</sup> See Appendix 3, Article 3.

<sup>79</sup> See Appendix 3, Articles 9 and 10.

<sup>80</sup> See Appendix 3, Art.3a and b.

<sup>81</sup> See Appendix 3, Art. 3b.

<sup>82</sup> Ibid., Articles 5 and 9.



Protocol receives a contractive comment of the emphasis on protection and assistance of the victims of trafficking in persons at least in comparison with the other Protocol signed in the Palermo Convention; *Protocol against the Smuggling of Migrants by Land, Sea and Air*.<sup>83</sup>

Although this Protocol was not accepted as the ideal one and criticized by advocates of the opinion of 'there is no distinction between forced and voluntary prostitutions', with the Palermo Convention and the two Protocol determined on Palermo Convention, the distinction between trafficking and the smuggling have been underlined and with the Trafficking Protocol; which came into force on 25 December 2003, an international definition of human trafficking was made under the Article 3. In the end, the point of 'force' and 'consent'; that had caused discussions among the participant states "on the point of whether prostitution could be practiced voluntarily or not", was resolved with the inclusion of the Article 3(b). Nevertheless, the question of whether prostitution includes a form of coercion in itself remained unresolved. Participant states took the initiative how to address prostitution in accordance with their domestic law.<sup>84</sup>

Despite the attempts to clearly define the terms "trafficker" and "smuggler", these terms continued to be used indiscriminately and/or overlapped.<sup>85</sup> This is associated with the concept of trafficking since trafficking is a more complicated concept than smuggling.<sup>86</sup> The concept of trafficking in persons requires considerations of the matter in which a migrant entered the country: as in the people smuggling. However, trafficking is also a matter of migrant's working conditions, and whether migrant consented to the irregular

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<sup>83</sup> Janice G. Raymond, *Guide to the New Trafficking Protocol*. North Amherst, MA: Coalition against Trafficking in Women, 2001, p. 3.

<sup>84</sup> Conny Rijken, *Trafficking in Persons: Prosecution from a European Perspective*. The Netherlands, Asser Press, The Hague 2003, p. 67.

<sup>85</sup> Ahmet İçduygu, *Irregular Migration in Turkey*, IOM, 2003, p. 42.

<sup>86</sup> Smuggling of migrants is often confused with human trafficking. Distinguishing these two acts is critical in terms of victim's rights. Some of the differences between these two acts can be summarized as such: Smuggling of migrants does not involve the use of force against smuggled persons. The potential illegal migrant directly contacts with the smuggler and pays him to facilitate its entrance or exist from the country. After crossing the border, the relationship between smuggler and migrant does not continue. However in human trafficking, at no time does the victim consciously consent to the action and the trafficker develops its relationship with the victim to the end.

entry and/or working conditions.<sup>87</sup> As stated by Ahmet İçduygu: “the inconsistency in the use of these terms is itself caused by a general lack of sufficient and reliable data on human trafficking and smuggling, and the ‘irregular’ and ‘illicit’ nature of this phenomenon, which complicates the collection of primary data on traffickers and smugglers further”.<sup>88</sup>

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* is also criticized<sup>89</sup> for interfering national laws, anticipating national legislation on what cannot do on its own and for harmonizing regional legislation against trafficking in women and children.<sup>90</sup>

The scope of application of the Trafficking Protocol that is given in the Article 4; the expression of “where offences are transnational in nature”, is another subject matter of the complaint. Over the main Convention against Transnational Organized Crime, this expression is criticized by asserting that the transnational organized traffickers not necessarily operate in large syndicates. At this juncture, it is intended to set out that an organized criminal group means a structural group of three or more persons and may not have a transnational link. As the research has shown, frequently it is husbands and boyfriends of women who recruit traffic and pimp their partners into prostitution by engaging a small group of friends or others to assist, and these people may engage in a small group of friends or others to assist in the crime.<sup>91</sup> When the Paragraph 1 of the Article 3 of the main Convention is analyzed, it appears that a victim who is domestically trafficked within its own country is also protected subject to provisions listed.<sup>92</sup> However this passage is restricted in the Palermo Convention as below:

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<sup>87</sup> John Salt, “International Migration, Trafficking and Human Smuggling: A European Perspective”, *International Migration*, Vol. 38, Issues 3, 2000, pp. 37 and Ahmet İçduygu, *Irregular Migration in Turkey*, IOM, 2003, p. 42

<sup>88</sup> Ahmet İçduygu, *Irregular Migration in Turkey*, IOM, 2003, pp. 42-43.

<sup>89</sup> Janice G. Raymond, *Guide to the New Trafficking Protocol*. North Amherst, MA: Coalition against Trafficking in Women, 2001, p. 1.

<sup>90</sup> See Appendix 3, Articles from 5 to 13.

<sup>91</sup> Janice G. Raymond, *Guide to the New Trafficking Protocol*. North Amherst, MA: Coalition against Trafficking in Women, 2001, p. 3.

<sup>92</sup> Ibid., p. 5.

... For the purpose of paragraph 1 of this Article, an offence is transnational in nature if: ...  
(d) It is committed in one State but has substantial effects in another State.<sup>93</sup>

This condition is also underlined by the IOM. The commitment to take measures against the problem of trafficking in persons is expressed in the Trafficking Protocol provided that the problem reflects the international community's recognition.<sup>94</sup> The same Article continues with an expression implying that the crime should involve organized criminal group. However, as stated above general opinion arguing that trafficking is a business controlled by organized crime was falsified with a number of researches. David Feingold, for instance, argues that in many regions in the world<sup>95</sup> trafficking involves mostly disorganized crime: "individuals or small groups linked on ad hoc basis. There is no standard profile of trafficker."<sup>96</sup>

Rijken states the difficulty in defining the crime that is related to human trafficking since "organizations often use a definition for trafficking in persons that best suits their activities" and "they concentrate on different elements of their definitions, depending on their interest".<sup>97</sup> For instance, Council of the European Union Framework Decision (2002) on Combating Trafficking in Human Beings<sup>98</sup> is given as an example of different usages of the elements defining trafficking. The argument is that "unlike the Trafficking Protocol, it is not necessary for the framework decision that the crime is transnational in nature and is committed by an organized group".<sup>99</sup> The mentioned EU decision framework gives Gibraltar as the territorial scope in the Article 8 and accepts the UN

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<sup>93</sup> UNODC (United Nations Office on Drugs and Crime) "United Nations Convention against Transnational Organized Crime and the Protocols Thereto", UNODC, New York, 2004, Paragraph 2/a of Article 3, pp. 6. and United Nations (UN), "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime", United Nations, 2000, Article 4. See Appendix 3.

<sup>94</sup> IOM (International Organization for Migration), "Types of Irregular Migration", online available at <http://www.iom.int/jahia/Jahia/pid/674>, 16.06.2008.

<sup>95</sup> The situation in Turkey will be explained in Chapter 4.

<sup>96</sup> David A. Feingold, *Human Trafficking*, Foreign Policy (FP) Archive article, October 2005, p. 28.

<sup>97</sup> Conny Rijken, *Trafficking in Persons: Prosecution from a European Perspective*. The Netherlands, Asser Press, The Hague 2003, p. 66.

<sup>98</sup> Palermo Protocol on trafficking in persons has been used for the establishment of the framework decision.

<sup>99</sup> Ibid., p. 69.

*Protocol to Prevent, Suppress and Punish Trafficking in persons, especially Women and Children, Supplementing the UN Convention against Transnational Organized Crimes* as representing a decisive step towards international cooperation in this field.<sup>100</sup> However, as it was mentioned above the conditions to apply the Trafficking Protocol are clearly given as; ‘transnational in nature’ and ‘involvement of organized criminal group’.

In the UN Department of Peacekeeping Operations’ (DPKO) draft policy paper<sup>101</sup> in which the problem of human trafficking is defined to propose a strategy to engage with the issue, human trafficking is mentioned not only as a crime having a transnational nature but as a crime across international borders. The reference of the statement is based on the Trafficking Protocol. Thence, the Trafficking Protocol gains several interpretations as argued by J. Rijken. He argues that the term ‘trafficking in persons’ is used in different means within the UN body. His argument is acceptable considering the examples given above; however, not on the basis of his example of the United States General Assembly. He argues that the usage of the term ‘trafficking in persons’ is differentiated from the giving definition in the Palermo Protocol of Trafficking; however, the reference he gives is a report of the United Nations General Assembly dating back 1997 when the related Protocol: *the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, was not in force. It would not be convenient to consider that a Convention of UN would take effect and a catachresis occurs in one of the principle organs of the UN.

Another important deficiency of the Protocol is its anti-crime measures that do not require sufficient sensitivity on the protection of human rights.<sup>102</sup> To illustrate, Vitit

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<sup>100</sup> Council of European Union, “Council Framework Decision of 19 July 2002 on Combating Trafficking in Human Beings” (2002/629/JHA), OJ L 203, 1.8.2002, p. 1.

<sup>101</sup> United Nations Department of Peacekeeping Operations, *Human Trafficking and United Nations Peacekeeping Policy Paper*, United Nations, 2004, p. 4.

<sup>102</sup> Vitit Muntarbhorn, ‘Combating Migrant Smuggling and Trafficking in Persons, Especially Women: The Normative Framework Re-Appraised’, *Migration and International Legal Norms*, T. A. Aleinikoff &

Muntarbhorn underlines several articles that have emphasis on the word “in appropriate cases”<sup>103</sup> making binding components unclear for Member States.

## 2.6 Conclusion

As an important actor on the area of migration IOM provides services and advices to governments and migrants in which case international law became an important element of its goals, structure and method of operation. According to the IOM statement its strategic priority in the area of migration is to contribute in order to increase dialogue between migration stakeholders at bilateral, regional and global levels and this strategic priority is enhancing another strategic priority: strengthen governmental capacity to monitor and manage migration flows. Nevertheless, as the chapter pointed out, the focus of the IOM is operational and it seeks to support rights of the migrants whose rights have been violated rather than lobbying for the increase of the rights of migrants. Furthermore, in practice they do not have the women rights in focus.

On the other hand, The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* is an important turning point in making a universally accepted definition of trafficking in persons. However, as mentioned in details, the changes made in the Protocol did not terminate the existing problem of definition and added new problems related to the issue. Interpretation of the Protocol became problematic and there exists difficulties in defining the crime related nature of human trafficking. Moreover, the requirements of the anti-crime measures that needs to be sufficiently sensitive to the protection of human rights, had not been subjoined.

In general, it was highlighted in the chapter that organizations often use a definition for trafficking in persons that best suits their activities and they concentrate on different elements of their definitions, depending on their interest. The important point set out

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V. Chetail (eds.). T. M. C. Asser Press. The Netherlands, 2003, pp. 156 and Suzanne Williams, Rachel Masika 'Editorial' *Gender and Development*, Vol. 14, No.1: 2-9, Routledge, March 2002, p. 4.

<sup>103</sup> See Appendix 3; Articles 6 and 7.

here is how Trafficking Protocol is interpreted by the IOM. As stated by the Organization itself, to understand the nature of women trafficking, it is important to apply the definition given in the Palermo Protocol of Trafficking and prevent misconception that is held by some authorities. Furthermore, it is highlighted in the chapter that the IOM needs to ensure that its collaborating partners understand the usage of the Palermo definition. However, as it was noted, trafficking in women is a concern of the IOM for the purposes set out for managing migration and the usage of the Protocol will be in a direction to serve its strategic priority. Although Organization respects the rights of victims, IOM does not have a role in the promotion of rights of victims of trafficking. For this reason, Organization deals with the issues as a problem of managing migration. Besides, it was highlighted that there is a lack of a gender based approach in the Organization's activities. This situation seems to be related to the Organization's claim of being a humanitarian agency having a migration based approach to the problem of trafficking in women.

To conclude, the mentioned deficiencies of the Trafficking Protocol help actors aimed at combating trafficking including IOM to give the Protocol the needed mean according to the purposes of the actors. As a result, the necessary sensitivity to the human rights dimensions and the gendered nature of this phenomenon are not shown.

## **CHAPTER 3**

### **THE CONCEPT OF HUMAN RIGHTS WITHIN THE FRAMEWORK OF TRAFFICKING IN WOMEN**

#### **3.1 Introduction**

In this chapter the main aim is to understand the nature of debates and approaches on the human rights dimension that trafficking in women involves. The chapter seeks to explain what constitute human rights based approach to trafficking in women and how it is adopted by the UN Trafficking Protocol of 2000 that is analyzed in the previous chapter. The question of how much progress has been achieved in the area of combating trafficking tried to be answered. Furthermore, the chapter points out how the Trafficking Protocol is interpreted by the Organization. Finally, the emergence of implementation of the human rights approach for the achievement of the effective action against trafficking in women is highlighted.

In this chapter, the UN Protocol on Trafficking is in focus since it is a globally accepted agreement on the subject and it is applied to counter-trafficking efforts initiated by the IOM. The ultimate goal planned in the chapter is to question the sufficiency of the protection of human rights norms in the IOM efforts to combat trafficking in women. For this purpose, firstly, the current intergovernmental attempts to enforce human rights norms, serving to protect trafficked persons is lined up. Then, in order to comprehend the

approaches and debates over trafficking in women, there is an overview based on the comments of activists and academics.

### **3.2 Intergovernmental Enforcement on the Human Rights Norms to Protect Trafficked Persons: the UN System**

With multilateral agreements and treaties the normative framework to protect human rights of trafficking victims and to punish the violator has been determined. The early instruments that directly address human trafficking<sup>104</sup> was shaped with new treaties by adapting current issues on the phenomenon. A number of international instruments dealing directly or indirectly with various elements of trafficking have been created in the international legal framework starting with the Universal Declaration of Human Rights and the attempts to state and regulate the rights and duties of human beings as individuals and in society contributed to the process.<sup>105</sup> The main challenge was not only the implementation of laws and policies in practice effectively but also the call for the comprehensive measures.<sup>106</sup>

Efforts to protect human rights of the trafficked persons that are currently effective in the international legal framework can be classified as such<sup>107</sup>: *Universal Declaration of Human Rights* (1948), *International Covenant on Economic, Social and Cultural Rights* (1966), *International Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) (1979), *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), *Convention on the Rights of the Child* (1989), *International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families* (1990), *Slavery Convention, Supplementary*

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<sup>104</sup> see Chapter II.

<sup>105</sup> Suzanne Williams and Rachel Masika “Editorial” *Gender and Development*, Vol. 14, No.1: 2-9, Routledge, 2002, p. 3.

<sup>106</sup> Vitit Muntarbhorn, “Combating Migrant Smuggling and Trafficking in Persons, Especially Women: The Normative Framework Re-Appraised”, *Migration and International Legal Norms*, T. A. Aleinikoff & V. Chetail (eds.). T. M. C. Asser Press. The Netherlands, 2003, p. 152.

<sup>107</sup> Çetin Arslan, İlker Temel, Yusuf Aydın, Furkan Şen, Koray Doğan, Pınar Bacaksız, *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, pp. 13-14.



*Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, International Labour Organization (ILO) Forced Labour Convention (No. 29), ILO Abolition of Forced Labour Convention (No 105), European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Charter of Fundamental Rights of the EU, and United Nations Convention against Transnational Organized Crimes, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.*

In general, as point out by Vitit Muntarbhorn; all of these instruments attempted to “advocate a range of actions to respond the rights of women and children concerning the issue of trafficking”. The shortcomings, on the other hand, can be related to the difficulties in implementations of these instruments in national and local levels. It is stated in Muntarbhorn observation that: “lax implementation or poor enforcement is, in reality, often the order of the day, and it is shaped in several settings by five key C’s: Corruption, Collusion, Cronyism, Clientelism, and Crime”.<sup>108</sup>

### **3.3 Approaches and Debates on the Concept of Trafficking in Women**

According to the United Nations, the global industry of human trafficking generates about 5-7 billion dollars annually, with at least 700.000 victims every year. Throughout the world, women and children that are willing to do everything to survive serve the demands for exploitative sex or cheap labour. Women, sexuality, and sexual services became a trade instrument making money thus trade in human beings; mostly in women, has developed.<sup>109</sup>

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<sup>108</sup> Vitit Muntarbhorn, “Combating Migrant Smuggling and Trafficking in Persons, Especially Women: The Normative Framework Re-Appraised”, *Migration and International Legal Norms*, T. A. Aleinikoff & V. Chetail (Eds.). T. M. C. Asser Press. The Netherlands, 2003, p. 154.

<sup>109</sup> Association for Women’s Rights in Development (AWID), “Trafficking and Women’s Human Rights in a Globalised World: An Interview by Pamela Shifman”, *Gender and Development*, Vol. 11, No. 1, AWID publication, 2003, p. 126.

The concept of trafficking in women was undertaken in various ways to serve different goals. The phenomenon was undertaken as an organized criminal activity, a migration issue, women's human rights issue, a phenomenon hazardous to public health and so on. Researches were made to display the facts about trafficking in women so that the scope of it, its impacts and the possible actions to combat it, could be formed. International instrument dealing with the various elements of trafficking have been created in the international legal framework and various approaches were considered to form a universally approved definition of this phenomenon which would be helpful to perform the due actions against it. However, as will be mentioned, debates on the issue that started at the time of negotiations of the arrangements of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* continued to be a matter of discussion of activists, academics and policymakers with different perspectives.

Debates on trafficking in women differ with distinct focal points. As will be cited in the final part of the chapter, some takes the issue as the sale of sexual services with consent like a normal job, while others deal with the issue as a form of exploitation of women sexuality. In this part of the study, these complete opposite point of views is reflected and debates surrounding these approaches is discussed by examining significant comments of activists and academics.

### **3.3.1 Migration Based Approach**

The migration approach is espoused both in academic studies about trafficking in women and in policy-making at international and national levels. Migration approach that is adopted in policy-making is argued to fail since the victims of trafficking are attended to be regarded as the victims by attributing to them the status of migrants. "According to this approach, a trafficking victim corresponds to a migrant who has been

victimized in the destination country.”<sup>110</sup> Identification of trafficking in women along with the illegal migration leads to a change in counter acts against the phenomenon. “The focus shifts from combating violence and abuse to combating illegal entry and residence. Combating trafficking thus becomes transformed into combating (illegal) migration, whereas prevention of trafficking is taken the mean ‘to prevent the entry of possible victims’”.<sup>111</sup> So that repressive immigration measures are taken under the denominator of prevention of trafficking such as tightening visa policies, stricter border control, closer supervision of mixed marriages, and criminalization of third parties who facilitate illegal entry or stay, and sometimes of the illegal migrant her or himself. As stated by Marjan Wijers and Marieke van Doorninck:

Though purporting to combat trafficking, such measures rather aim at protecting the state against (illegal) migrants than at protecting women against violence and abuse, thus serving the interests of the state rather than those of the women. Moreover, repressive migration policies and the resulting illegal status of women in the destination countries make migrant women more dependent on and more vulnerable to various forms of exploitation and abuse and thus tend to promote rather than repress trafficking and slavery-like practices.<sup>112</sup>

IOM has adopted the migration approach in its activities. The Organization states that: “IOM takes a comprehensive approach to trafficking in person within the wider context of managing migration.”<sup>113</sup>

A comment on the studies on trafficking in women is made by Laura Agustin<sup>114</sup> who argues that migrant women selling sex are generally neglected by migration studies. She points out that the manner of migrating is becoming more and more the central issue in migration studies since the migrants try to make money, ask for help or presents some

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<sup>110</sup> Netkova Bistra, “Human Rights and Trafficking in Women”, unpublished PHD Thesis, Rijks Universiteit Groningen, September 2007, p. 86.

<sup>111</sup> Marjan Wijers, Marieke van Doorninck. *Only rights can stop wrongs: A critical assessment of anti-trafficking strategies*, Paper presented at EU/IOM STOP European Conference on Preventing and Combating Trafficking in Human Beings, 18-22 September 2002, p. 4.

<sup>112</sup> Ibid. p.5.

<sup>113</sup> IOM (International Organization for Migration), “Counter-Trafficking”, online available at <http://www.iom.int/jahia/Jahia/pid/748>, 16.06.2008

<sup>114</sup> Laura Agustin, “The Disappearing of a Migration Category: Migrants Who Sell Sex”, *Journal of Ethnic and Migration Studies*, 32:1, Routledge, 2006, p. 29.

kind of social problem. She adds that Europe has become concerned about the manner of people movement right after the illegal migrants passed the European border controls. Attempts to examine the mechanism/networks in promoting migration to define trafficking and smuggling have proliferated rapidly. However, she adds that this happened not because the movement had an illegal nature, it happened because these people started to become a problematic issue for European societies.<sup>115</sup> She opposes sayings such as “women in this phenomenon are never made aware of the extent to which they will be indebted, intimidated, exploited and controlled” She states that the worst cases cannot be considered as to be the only example and she adds that there are many who gain a lot of money in a short time period to pay their debts and send money back home. Besides, Agustin argues that women subjected to trafficking should be studied as transnational migrants, as entrepreneurial women, as flexible workers and as active agents participating in globalization like the other migrants.<sup>116</sup> However, either to treat positive cases of this phenomenon or to talk about how people may benefit in this sector and thus accepting the violation in the work performed forcibly or with consent will scope out the exploitative consequences of this phenomenon.

It is acknowledged that the result of law enforcement, which in the last years has dominated anti-trafficking initiatives, seems to be ineffective and even more dangerous as it strengthened the notion that trafficked women are the problem to deal with, not the traffickers.<sup>117</sup> It can be said that law enforcement is effective to assure state security; however, if we measure its impact on combating trafficking: prevention, protection of the victims and prosecution of perpetrators, this approach is not effective.<sup>118</sup>

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<sup>115</sup> Ibid., p. 34.

<sup>116</sup> Ibid., p. 43.

<sup>117</sup> Barbara Limanowska, “Recommendations of the Expert Group Meeting on Trafficking in Human Beings”, United Nations Commission on the Status of Women. Panel II: “Women’s human rights and elimination of all forms of violence against women and girls as defined in the Beijing Platform for Action and the outcome documents of the twenty-third special session of the General Assembly.” Forty-Seventh Session, New York, March 3-4, March 2003, p. 3.

<sup>118</sup> Ibid.

Some activists prefer to put the link between the globalization and its effects on migration. Globalization is seen as the key point of trafficking and the facilitator of it that helps to appear new routes and new methods like the usage of technology; internet seeking to sell women to the market.<sup>119</sup> Developing countries are seen prone to negative impacts of the globalization since the women seeking better life; in search of job or sometimes a convenient husband through the ‘mail order brides’, become easily prone to exploitation. Besides the economic aspects, the consequences of globalization are illustrated with cultural and political aspects. In some situation; as in the case of African countries and the Eurasian states; generally in the post-Soviet era, “it’s been in term of acquisition of cultural, economic and political models, which have not been able to be transformed into something useful” for people “and so you find a distorted transformation of these models in these countries. And this has led to a distorted view of the Western world”.<sup>120</sup> This point can be developed adding the fact that women subjected to trafficking migrate in search of better jobs or/and life inspiring from the vision getting through the media; for instance, movies may affect people by giving hope and the will to change their life at all costs. It is the conditions making women prefer to migrate in illegal ways and to be trafficked; with their consent or not. Globalization has another impact on the people, especially in the Third World or poor countries, that is at the same time causing a change in the definition of choice. Because:

Globalization could very well mean that there are certain rules imposed by the World Trade Organization (WTO), or the World Bank which says the public sector unit has to be closed down, because it’s not making a profit. Many people in a household lose their jobs, and the girl in the family has to travel further to look for work...because it is not efficient or productive to be in the place where she is, she becomes vulnerable to traffickers.<sup>121</sup>

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<sup>119</sup> Comment of Ruchira Gupta, Association for Women’s Rights in Development (AWID) “Trafficking and Women’s Human Rights in a Globalised World: An Interview by Pamela Shifman”, *Gender and Development*, Vol. 11, No. 1, AWID publication, May 2003, p. 126.

<sup>120</sup> Comment of Esohe Aghatise, Association for Women’s Rights in Development (AWID) “Trafficking and Women’s Human Rights in a Globalised World: An Interview by Pamela Shifman”, *Gender and Development*, Vol. 11, No. 1, AWID publication, May 2003, p. 126.

<sup>121</sup> Comment of Ruchira Gupta, Association for Women’s Rights in Development (AWID) “Trafficking and Women’s Human Rights in a Globalised World: An Interview by Pamela Shifman”, *Gender and Development*, Vol. 11, No. 1, AWID publication, May 2003, p. 126.

Globalization that is accepted as an important factor in the increase in transnational criminal activities, including trafficking in women can be used to put pressure on international level to change internal policies on women.<sup>122</sup> Thus, the global stance against the problem of trafficking in women; taken with the Trafficking Protocol of 2000, may be implemented correctly by governments and related organizations.

### 3.3.2 Organized Crime Based Approach

Trafficking has been approached from an angle of organized crime. States adopt this approach in the fight against trafficking in women by focusing on crime control and crime prevention.<sup>123</sup> By defining trafficking in women as a problem of the criminal law and the criminal justice system, states aim to introduce strategies which enable a more effective prosecution of the offenders such as more stringent criminal legislation and heavier punishments, improving police cooperation and other measures.<sup>124</sup> Attention to trafficking in persons as a criminal problem has also been raised related to the increased recognition of the involvement of transnational organized crime groups that undermine national and international laws and structures.<sup>125</sup>

Criminalizing trafficking, however, has limitations and risks. The criminal approach necessitates focusing on individual victims and perpetrators. For the women involved in the phenomenon mentioned herein, it carries risks like secondary victimization, the risk for retaliation from the side of the perpetrators, harassment by the authorities in the

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<sup>122</sup> Comment of Esohe Aghatise, Association for Women's Rights in Development (AWID) "Trafficking and Women's Human Rights in a Globalised World: An Interview by Pamela Shifman", *Gender and Development*, Vol. 11, No. 1, AWID publication, May 2003, p. 125.

<sup>123</sup> Netkova Bistra, "Human Rights and Trafficking in Women", unpublished PHD Thesis, Rijks Universiteit Groningen, September 2007, p. 87.

<sup>124</sup> Marjan Wijers, Marieke van Doorninck. *Only rights can stop wrongs: A critical assessment of anti-trafficking strategies*, Paper presented at EU/IOM STOP European Conference on Preventing and Combating Trafficking in Human Beings, 18-22 September 2002, p. 4.

<sup>125</sup> Annuska Serks, *Combating Trafficking in South-East Asia: A review of Policy and Programme Responses*, No 2, IOM, 2000, p. 13.

country of origin or the stigmatizing exposure of the victim to her community.<sup>126</sup> The interest and the rights of victims of this crime are forgotten during the prosecution of the offenders; on the contrary, in general the interest of the women involved in trafficking are made completely subordinate to the interests of the prosecution.<sup>127</sup> Furthermore, criminal system cannot be relied upon in all countries as a reliable instrument to combat trafficking. Due to corruption and lack of enforcement, criminalizing trafficking may not be effective.<sup>128</sup> Netkova Bistra argues that criminalization of trafficking will not prevent trafficking in women since there will be always new criminals to take place of the prosecuted ones and new methods to pass borders. The effectiveness of this approach in the overall fight against trafficking in women is dependent on a supportive element and this is the human rights based approach.<sup>129</sup>

### 3.3.3 Human Rights Based Approach

According to this approach, human rights of the trafficked persons need to be at the centre of all efforts to prevent, combat trafficking and to protect and assist victims. Moreover, this approach gives full weight that the anti-trafficking measures not adversely affect the human rights and dignity of persons, in particular the rights women who have been trafficked.<sup>130</sup> According to human rights approach, human rights should be integrated into the analysis of the problem and the responses to the crime. In this sense, this approach overlaps with migration approach and organized crime approach;

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<sup>126</sup> Marjan Wijers, Marieke van Doorninck. *Only rights can stop wrongs: A critical assessment of anti-trafficking strategies*, Paper presented at EU/IOM STOP European Conference on Preventing and Combating Trafficking in Human Beings, 18-22 September 2002, p. 4.

<sup>127</sup> Ibid.

<sup>128</sup> Annuska Serks, *Combating Trafficking in South-East Asia: A review of Policy and Programme Responses*, No 2, IOM, 2000, p. 13.

<sup>129</sup> Netkova Bistra, "Human Rights and Trafficking in Women", unpublished PHD Thesis, Rijks Universiteit Groningen, September 2007, p. 87.

<sup>130</sup> UNOHCHR, "Recommended Principles and Guidelines on Human Rights and Human Trafficking", Addendum to the Report of the United Nations High Commissioner of Human Rights to the United Nations Economic and Social Council E/2002/68/Add.1., p. 1.

which focus on the violation of human rights in a migration.<sup>131</sup> The difference of the human rights approach is its focal point: the trafficking victim.

Besides the protection of human rights of the trafficked person, the promotion of gender equality is also an essential element in combating trafficking in women. Therefore, it combines with human rights perspective. As stated in the UN report:

A counter trafficking strategy must address gender-based violence which includes gender-based discrimination and racism; patriarchal structures which encourage and promote the demand for and the commercialization of women's and children's bodies; cultural practices and social-relation structures which violate the human dignity of women and are inherently exploitative and humiliating; the denial of equal status to women in the access to property and their attainment of economic independence and the attendant feminization of poverty; all of which foster a favourable environment for trafficking.

Protection of human rights of the trafficked person and promotion of gender equality must be at the core of the anti-trafficking strategy. This implies that national legislation dealing with the problem of trafficking should conform to international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women (1979); the Convention on the Rights of the Child (1989) and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000); the ILO Convention No. 182, Worst Forms of Child Labour Convention (1999); the Rome Statute of the International Criminal Court (1998), which defines trafficking as a form of enslavement falling within crimes against humanity; the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000); as well as the Recommended Principles and Guidelines on Human Rights and Human Trafficking adopted by the United Nations High Commissioner for Human Rights (2002).

Every action against trafficking must be consistent with existing human rights standards and should not lead to further stigmatization or marginalization of women and girls who have been trafficked.<sup>132</sup>

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<sup>131</sup> Annuska Serks, *Combating Trafficking in South-East Asia: A review of Policy and Programme Responses*, No 2, IOM, 2000, p. 14.

<sup>132</sup> UNODC, *Trafficking in women and girls, Report of the Expert Group Meeting*, EGM/TRAF/2002/Rep., Glen Cove, New York, USA, November 2002, p. 7.



### 3.3.3.1 Abolitionist Approach and Debates over this Approach

Two different analyses exist in respect to human rights based approach. While prostitution is defined by some as a violation of women's human rights, equally to slavery, for others it is not a violation of women's human rights unless the conditions of deceit, abuse, violence, debt-bondage, blackmail, deprivation of freedom of movement etc. exist.<sup>133</sup> In this sub-title, besides the abolitionist approach, there are arguments against abolitionism that were also a controversial subject during the negotiations of the UN Trafficking Protocol of 2000.

The Trafficking Protocol of 2000 targeted to make a universally agreed definition of trafficking in persons and to put the exact conditions of the circumstances for defining the victim. During the negotiations the notion of consent was a contentious topic of feminist groups that has different approaches on prostitution. While some activists; like Human Rights Caucus who argues that prostitution is a legitimate labour and who struggled to ensure the sex worker's human rights in this context, others: represented by Coalition against Trafficking in women (CATW), considered all forms of prostitution to be a violation of women's rights and asked to define all forms of recruitment and transportation for prostitution regardless of whether any force or deception take place. The latter position was backed at that time by several government delegations by arguing that the definition of trafficking should include situations in which a person consented to travel and to do sex work, even if no force or deception is involved.<sup>134</sup> On the other hand, the argument of the Human Rights Caucus was that the attempts to combat trafficking are the measures putting pressure on women who makes money from prostitution. They further argued that "no one consents to abduction or forced labour, but an adult woman is able to consent to engage in an illicit activity."<sup>135</sup> On the other hand, the conditions that make a person open to exploitation should not be underestimated. If a

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<sup>133</sup> Marjan Wijers, Marieke van Doorninck. "Only rights can stop wrongs: A critical assessment of anti-trafficking strategies", paper presented at EU/IOM STOP European Conference on Preventing and Combating Trafficking in Human Beings, 18-22 September 2002, p. 4.

<sup>134</sup> Jo Doezeema, "Who gets to Choose? Coercion, Consent, and the UN Trafficking Protocol", *Gender and Development*, 2002, p. 21.

<sup>135</sup> Ibid.

person has no economic and social opportunities, it is easier to decide on engage in illegal activities. The difficulties that those women faced in their lifetime make them vulnerable and this situation can not be considered as a choice. In other words, as stated by Dickenson: “might we then be merely colluding in a women’s oppression by respecting her choice to remain with an abusive husband, for example?” Respecting liberty of choice should not mean diminishing freedom. The aforementioned approach: calling also as ‘neo-liberal’ or ‘neo-feminist’ approach, put male sexuality in position of “inherently promiscuous and incapable of reform, it tends to focus on the women involved, and not on their clients or traffickers; to take prostitution likewise as a given; and to reject the notion that women are exploited in prostitution.”<sup>136</sup> There is also a paradox that the notion of freedom includes:

Many theorists of freedom recognise that desires and preferences are always limited by contexts that determine the parameters of choice: if chocolate and vanilla are the only flavours available, I am not free to choose strawberry, but that does not alter the fact that I would have preferred strawberry if it were available. What is not addressed by most freedom theorists, however, is the deeper, more important issue of how the choosing subject is herself constrained by such contexts: could the repeated absence of strawberry eventually change my tastes so I lose my desire for it?<sup>137</sup>

It should be repeated the point that: the conditions in which the choice is made, should not be underestimated, even the psychological conditions should be realized to decide whether the choice is freely made.

Activists who makes comments on whether the idea of free choice in terms of women who are trafficked into the sex industry has been detrimental to the anti-trafficking movement suggests that during the interview they made with victims, they realized the fact that many victims of trafficking did know that there was a large potential for being trafficked into prostitution and that the choice is made by taking the risks. However, considering factors making women vulnerable to trafficking; such as being poor, low

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<sup>136</sup> Donna Dickenson, “Philosophical Assumptions and Presumptions about Trafficking for Prostitution” in *Women’s Rights and Trafficking*, eds. C. van den Anker & J. Doornik, Palgrave, Basingstoke, 2006, p. 46.

<sup>137</sup> Nancy J Hirschmann, *The Subject of Liberty: Towards a Feminist Theory of Freedom*, Princeton, NJ and Toronto: Princeton University Press, 2003, pp. ix-x.

education level, and being enticed by the possibilities beyond their villages, the real choice made by these women appears as to choose to migrate despite the potential harm, but no wonder not to choose to be exploited. These women are people who did not make a real choice and the whole information necessary to make a real choice is not given to them.<sup>138</sup> Furthermore, it is added that the word ‘choice’ is coming from the new liberalism that is presented an economic model in which everybody has a choice and is responsible for their success. But it is an economic model that “ignores difficulties, and the imbalances, both among and within countries, where not everybody has the same choices and the same chances” and therefore totally false.<sup>139</sup>

In brief, as stated by Ruchira Gupta in an interview<sup>140</sup>, choice has to be seen in the context of time, of space, and also of economic models of development. A choice of an individual may change in a period of time and the instinct of self-preservation may also be the reason to accept the miserable situation of women in the traffickers’ hands or because there is no better option to make another choice, the current situation may seem to be favourable in a way. “The vice trade is one which people can, if they wish to, turn a blind eye to, but I fail to see how we as a mature society can turn our backs on people.”<sup>141</sup> As stated by Malarek, predominantly, women victims of trafficking are treated as illegal migrants without questioning whether they are trafficked or not, thus the victims are stigmatized and victimized over and over again.<sup>142</sup>

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<sup>138</sup> Comment of Aida Santos, Association for Women’s Rights in Development (AWID) “Trafficking and Women’s Human Rights in a Globalised World: An Interview by Pamela Shifman”, *Gender and Development*, Vol. 11, No. 1, AWID publication, May 2003, p. 127.

<sup>139</sup> Comment of Colette De Troy, Association for Women’s Rights in Development (AWID) “Trafficking and Women’s Human Rights in a Globalised World: An Interview by Pamela Shifman”, *Gender and Development*, Vol.11, No.1, AWID publication, May 2003, p. 128.

<sup>140</sup> Association for Women’s Rights in Development (AWID) “Trafficking and Women’s Human Rights in a Globalised World: An Interview by Pamela Shifman”, *Gender and Development*, Vol. 11, No. 1, AWID publication, May 2003, p. 128.

<sup>141</sup> The suggestion of the Chief Superintendent Simon Humpley of Scotland Yard, head of the London vice squad in an interview with the BBC’s current affairs TV show *Assignment* on August 17, 2002, in Victor Malarek, *The Natashas: The Global Sex Trade*, London: Vision, 2003, p. 131.

<sup>142</sup> Victor Malarek, *The Natashas: The Global Sex Trade*, London: Vision, 2003, p. 119.

### 3.4 Conclusion

The *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* had an approach that criticizes the regulations of prostitutions undertaken by state authorities.<sup>143</sup> At this juncture, the interests did not overlap since relativity in perceptions and in cultures did not fit the expectations of the Trafficking Convention of 1949. Differences in state priorities and relativity in cultures make, in practice, the universal character of human rights not applicable in the same context. Furthermore, in some cases may threaten its survival. Therefore a change in direction of the expression to fit the current need or the relativist approach may have been preferred to reach the goal.

To conclude, the changes made in the Trafficking Protocol of 2000 can be deciphered as to be made not to threat the prevention and the punishment of trafficking in persons with a global alliance. The human rights approach to trafficking that is embedded within the context of 1949 Trafficking Protocol, thus, has undergone a change not to standardize and not to reject the differences in interpretations of the rights and freedoms in different cultures since in order to be effective it is crucial to make provisions espoused by parties concerned and make states sign and ratify the Protocols. In the end, the Trafficking Protocol entered into force in 2003 and signed in 2006 by 117 states and ratified by 110 states, nevertheless; the universal and the abolitionist character of the counter-trafficking Protocol of the UN have become invalid.

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<sup>143</sup> See Chapter

## **CHAPTER 4**

### **COUNTER TRAFFICKING ACTIVITIES IN TURKEY AND IOM INVOLVEMENT**

#### **4.1 Introduction**

This chapter is devoted to counter-trafficking activities in Turkey and International Organization for Migration (IOM) that stands in the forefront in the fight against trafficking in women initiated by the Turkish government. On account of the thesis aim, Turkey's significance in the area of trafficking in persons, IOM involvement, its mission statement, activities and efforts in Turkey are mentioned.

Firstly, the crime of trafficking is referred within the context of women trafficking not only related to the aim of the thesis, but also as a result of the fact that in Turkey, trafficking in persons usually takes the form of sexual exploitation of women and girls. One of the aims is to generate information to offer a comprehensive picture of trafficking in women occurring in Turkey. There is a part focusing on the efforts of Turkey to prosecute and prevent the crime and to protect trafficked persons. Arrangements in the local level are mentioned and improvements, deficiencies in the legal framework are examined to understand whether the Palermo sanctions are effectively implemented. The second focal point is on the IOM's efforts to make aware Turkish government and Turkish community about facts, possible impacts of trafficking

in persons and urgency of taking action against the phenomenon. Thus, effectiveness of the IOM country strategy and its regional program seeking to call attention to the phenomenon of trafficking in women will be examined. In this way, by understanding whether the IOM's counter-trafficking campaigns in Turkey are effective, the reasons behind this success or deficiency will also be revealed.

#### **4.2 Turkey and Trafficking in Persons**

Developments in sectors such as technology, communication and intercommunication in the 21<sup>st</sup> century joined the process of globalization and created facility for people to be on notice about everything happening around the world. The new order opened a way for the illegal activities including human trafficking and almost enabled them to institutionalize.<sup>144</sup> The crime of human trafficking has started to gain ground after 1980s and has accelerated after the dissolution of the Soviet Union. Today, this phenomenon occurs in many ways such as forced prostitution, illegal adoption, forced marriage, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. Human trafficking is accepted to be one of the most serious forms of human rights abuse and the third most profitable organized illegal activity following drugs and arms.<sup>145</sup> Especially women trafficking, which means the exploitation of the women sexuality as commodities of the sex industry, poses a relatively low risk compared with trades in drugs or arms.

Owing to the fact that the northern passage covering Turkmenistan, Russia, Ukraine, Belarus and Romania has harder climate conditions and covers more countries and since the Iran-Iraq-Syria-Mediterranean passage is too risky in consequence of war conditions, Turkey is preferred as a passage to the European countries. Furthermore, Turkey's mountainous eastern land borders which are difficult to control, its indented coastal western borders and its proximity to the Aegean islands that are close to the European

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<sup>144</sup> Y. Furkan Şen, *Yeni Dönemde Eski Tartışmalar*, Ankara: Yargı Publications, 2006, p. 86.

<sup>145</sup> IOM - Ministry of Foreign Affairs of the Republic of Turkey *2006 Report on Combating Human Trafficking Turkey*, IOM, 2006, p. 9.

borders makes Turkey favourable for the transit.<sup>146</sup> On the other hand, the increased security control in the western borders and higher level of prosperity compared to its neighbouring countries make traffickers prefer Turkey as a passageway.<sup>147</sup> Moreover, due to its geographical location, Turkey not only becomes a favourite place to transit between the east and the west in all aspects but also a country where the source, transit and target characteristics can all be seen together.<sup>148</sup>

In Turkey, human trafficking usually takes the form of sexual exploitation of women and girls. It was reported in 2006 that people trafficked to Turkey are mostly citizens of the former Soviet Union countries which have low average national incomes per capita.<sup>149</sup> The routes that are used by traffickers to arrive Turkey from the source countries are as follows:

- From Ukraine, Moldova, Belarus, Romania to Istanbul or to Mediterranean and Aegean Region by passing through Istanbul.
- From Russia, Azerbaijan, Georgia to Trabzon and other Black Sea Region provinces by passing through the port of Soçi or Soçi Airport.
- From Azerbaijan, Georgia to Hopa or Dilucu borders and from these borders to the Black Sea Region, East Anatolia, Central Anatolia or Mediterranean Regions.<sup>150</sup>

The economic potential of Turkey for the illegal immigrants from the former republics of the Soviet Union creates a desire to come to Turkey. Turkey stands out in terms of political stability and economic potential, especially for those looking from the Black

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<sup>146</sup> Nurdan Keser and Ali Özel, Geo-Political Position and Importance of Turkey in the Crime Trafficking between the Continents Asia, Europe and Africa, *International Journal of Environmental & Science Education*, 3 (2), 2008, p. 75.

<sup>147</sup> UNODC (United Nations Office on Drugs and Crime), *Trafficking in Persons Global Patterns*, UNODC, April 2006, pp. 20 and SECI Regional Centre for Combating Trans-Border Crime, *Report on human Trafficking and Migrant Smuggling*, December 2005, p. 5.

<sup>148</sup> Nurdan Keser and Ali Özel, Geo-Political Position and Importance of Turkey in the Crime Trafficking between the Continents Asia, Europe and Africa, *International Journal of Environmental & Science Education*, 3 (2), 2008, p. 76.

<sup>149</sup> IOM - Ministry of Foreign Affairs of the Republic of Turkey *2006 Report on Combating Human Trafficking Turkey*, IOM, 2006, p. 9.

<sup>150</sup> Y. Furkan Şen, *Organize Suçlarla Mücadele: Dünya ve Türkiye Perspektifinden Göçmen Kaçakçılığı, İnsan Ticareti, Organ-Doku Ticareti*, Ankara: KOM/TADOC Publications, 2006, p. 84.

Sea Region. Furthermore, it is not difficult to come into Turkey. The visa regime makes easier to come Turkey taking into account difficulties for Schengen visa application to the European Union States.<sup>151</sup>

#### **4.2.1 Recruitment and Background of the Estimated Victim Profiles in Turkey**

The UN Trafficking Protocol emphasizes that the Protocol should apply where offences are transnational in nature and involve an organized criminal group.<sup>152</sup> However, investigations revealed that in Turkey small and flexible groups seem to involve on a largely temporary and opportunistic basis rather than large mafia-style criminal organizations. No evidence of a hierarchical structure was found. For this reason, it is not believed that this business is organized on an international level and relies on a centralized command structure in Turkey.<sup>153</sup> According to the report of the Security General Directorate, from the 1029 suspected people in 2005, 55% are foreigners and 45% of them are Turkish citizens.<sup>154</sup> It is believed that the trafficking rings are operated by men; however, there are evidences showing that the 8% of the recruiters are female and sometimes former trafficking victims themselves.<sup>155</sup> According to IOM Turkey records, most assisted victims were recruited by direct contact and the number of female recruiters has increased and being women seems to be used as an advantage to establish trust faster.<sup>156</sup>

People identified in Turkey as the victim of trafficking are entirely women and girls. In the 2006 IOM report, it is stated that there are no men identified in 2005, however, it is assumed that men and boys are also trafficked to Turkey. The lack of information is

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<sup>151</sup> Marielle Sander Lindstorm, "Turkey's Efforts to Fight Human Trafficking in the Black Sea Region", *The Quarterly Journal*, PfP Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, Winter 2005, p. 42.

<sup>152</sup> See Appendix 3, the Article 4: Scope of Application.

<sup>153</sup> Ahmet İçduygu, *Irregular Migration in Turkey*, IOM, 2003, p. 49.

<sup>154</sup> EGM Asayış Daire Başkanlığı, *İnsan Ticareti Raporu*, 2005, p. 11.

<sup>155</sup> *Ibid.*, p. 12.

<sup>156</sup> Marielle Sander Lindstorm, "Turkey's Efforts to Fight Human Trafficking in the Black Sea Region", *The Quarterly Journal*, PfP Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, Winter 2005, p. 44.



related to the fear of stigmatization.<sup>157</sup> However, it is stated in the 2005 Security General Directorate's report that 55% of the rescued victims are men while 45% are women.<sup>158</sup>

It was observed that women in different nationalities such as Ugandans, Filipino are subjected to trafficking in Turkey. On the other hand, identified women victims are mostly from the former Soviet republics. It is stated that sixty percent of individuals trafficked to Turkey came from Moldova and Ukraine and important number of the rescued victims are from the countries such as Russia, Kyrgyzstan, Uzbekistan, Romania, Kazakhstan, Belarus, Georgia, Turkmenistan, Azerbaijan and Armenia<sup>159</sup>.<sup>160</sup>

In every parts of the world a large number of women from the former states of the Soviet Union involve in human trafficking as it happens in Turkey. Interviews with victims of trafficking in Turkey indicate that the pushing factor for migrating abroad is the poor socio-economic conditions in their home countries.<sup>161</sup> The need for money drives people to look for work abroad and most of them turn to informal networks of family and friends and sometimes these networks turn out to be traffickers promising not only a job, but also a means to reach the destination country. Interviews done with Moldavians indicate that the most difficult issue for migrating abroad is to find the money to fund their departure. Quite often the expenses of the travel abroad are tried to be covered by borrowing money from black market lenders at 10% interest per month.<sup>162</sup>

The increase in numbers of illegal immigrants is related to the remarkable increase in irregular migrant women which rise sharply since the 1980s. After the period of the dissolution of the USSR the rise in irregular migration became more remarkable. Society

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<sup>157</sup> Marielle Sander Lindstorm 2005 *Turkey Trafficking and Trends*, IOM, 2006.

<sup>158</sup> EGM Asayış Daire Başkanlığı, *İnsan Ticareti Raporu*, 2005, p. 15.

<sup>159</sup> According to the 2008 US report on trafficking in persons, Turkey is an important destination for Armenian victims trafficked for exploitative purposes. Any Armenian women were reported by the Government of Turkey in 2007; however, Armenian victims have been identified and assisted in previous reporting periods.

<sup>160</sup> Marielle Sander Lindstorm 2005 *Turkey Trafficking and Trends*, IOM, 2006

<sup>161</sup> Marielle Sander Lindstorm, "Turkey's Efforts to Fight Human Trafficking in the Black Sea Region", *The Quarterly Journal*, PfP Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, Winter 2005, p. 39.

<sup>162</sup> *Ibid.*, p. 40.

pushed to fill the social and moral gap and people had to encounter the new order and adapt new socio-economic regulations and political concepts. These countries suddenly had to keep up with the time of globalization in economic, political and cultural terms. In the 1990s, by opening up to international trade, information flow and cultural influences “the world has, for better or worse, become smaller for the post-communist citizen”.<sup>163</sup> Economic crises, unemployment and low living standards were among the factors that facilitated the spread of irregular activities in the region. In search of job and/or better living conditions people tried to benefit from the removal of the border control. What is more, a highly criminalized state and economy, increased criminal activities, changing moral perceptions, and the changes in women’s position within the community and work place, social transformation related to the economic transformation contributed to the rise of irregular migration from the post-Soviet states. Thus, the period of adaptation to the changing condition of transition marked with an increase in number of irregular migrant women from the post-Soviet states. All of these processes were observed as the negative side of the integration into the world system.<sup>164</sup> Besides, the Schengen Agreement in neighbouring European countries affected and blocked the integration of these states into the world migration system and the disregard of the labour migration management by the post-Soviet states made people move, quite often, by involving in criminal activities.<sup>165</sup>

The consequences of the disintegration of the USSR and the breakdown of the former regime and socialist system; economic crises, high inflation, falling living standards, low paid jobs, and unemployment accompanied with the psychological and attitudinal change among people and made women to look for a better living. On the other hand, while these women were in search of better opportunities the information about the outside world was inaccurate. Poor economic conditions also affected to reach general information. Within the former Soviet republics the flow and quality of information with

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<sup>163</sup> Stulhofer, Aleksandar and Theo Sandfort *Sexualities and Gender in Post Communist Eastern Europe and Russia*, the Haworth Press, 2005, p. 2.

<sup>164</sup> Pierrella Paci, *Gender in Transition*, World Bank, Washington D. C., May 2002, p. 71.

<sup>165</sup> Valery Tishkov, Zhanna Zayinchkovskaya, Galina Vitkovskaya, “Migration in the Countries of the Former Soviet Union”, paper prepared for the Policy Analyses and Research Programme of the Global Commission on International Migration, 2005, p. 3.

regard to irregular activities were limited, as well as the advanced technology and financial resources lacked to be aware of the danger signs of being trafficked and the existence of human trafficking. It was hard to reach information or there were no access to reach it. The world that the trafficked persons are destined for and the western lifestyle they intimate were often an imaginary identification and participation in western lifestyles that was obtained through the internet and media.<sup>166</sup> As a result, the belief in a utopia in the Western countries facilitated for criminal networks to exploit the vulnerabilities of these women.<sup>167</sup>

Besides the negative impact of the transition period, the violence that those mentioned women were subjected in public and private sphere can be accepted as the reason behind for being such prone to the exploitation of traffickers. According to the IOM Turkey investigations, a disproportionate number of the victims identified in Turkey have also been subjected to domestic violence or abuse in their countries of origin, and some of them come from orphanages or boarding schools, or have mental disabilities.<sup>168</sup>

As referred by Donna Hughes: “According to the Soviet ideology, inequalities among groups of people, specifically men and women, were eliminated. Consequently, violence against women was ignored.”<sup>169</sup> Furthermore, the criminal justice system failed to respond to women battery as a consequence of the limited state capacity. An example for domestic violence in Russia is exemplified by Janet Elise Johnson as follows:

Of a population of about 145 million, there were four million complaints to the police about violence in the family in 1997. This

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<sup>166</sup> Aleksandar Stulhofer and Theo Sandfort, “Sexuality and Gender in Times of Transition”, *Sexualities and Gender in Post Communist Eastern Europe and Russia*, the Haworth Press, 2005, p. 22.

<sup>167</sup> Valery Tishkov, Zhanna Zayinchkovskaya, Galina Vitkovskaya, “Migration in the Countries of the Former Soviet Union”, paper prepared for the Policy Analyses and Research Programme of the Global Commission on International Migration, 2005, p. 3.

<sup>167</sup> Donna Hughes, “Supplying Women for the Sex Industry: Trafficking from the Russian Federation” in *Sexuality and Gender in Postcommunist Eastern Europe and Russia*, edited by Aleksandar Stulhofer and Theo Sandfort, New York: Haworth Press, 2005, p. 222.

<sup>168</sup> Marielle Sander Lindstorm, “Turkey's Efforts to Fight Human Trafficking in the Black Sea Region”, *The Quarterly Journal*, PfP Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, Winter 2005, p. 43.

<sup>169</sup> Donna Hughes, “Supplying Women for the Sex Industry: Trafficking from the Russian Federation” in *Sexuality and Gender in Postcommunist Eastern Europe and Russia*, Rhode Island, University of Rhode Island, 2002, p. 219.

violence includes a wide variety of forms such as emotional and psychological torture (e.g., threats by the perpetrator to abandon the victim or to batter or kill the victim, repeated insults, withholding or concealing money for household expenses, surveillance of the home or victim, denial of outside contacts, and deprivation of food or sleep) as well as the more obvious forms, such as beating and sexual violence. Domestic violence in Russia too often takes the extreme form: murder.<sup>170</sup>

Furthermore, according to United Nations Development Programme (UNDP) Gender in Development Unit's 2000 data based on a survey in four regions of Azerbaijan, 37 per cent of adult women had experienced violence in Azerbaijan from which 32 percent occurred in their natural family and 58 percent in their husband's family. Lack of money appears as the central to the problem of violence during the transition.<sup>171</sup> Under these conditions, it would not be unreasonable for those women to migrate as an option.

It is suggested that individuals trafficked to Turkey are people with limited income and skill. According to the results of a survey based on 77 individuals trafficked to Turkey in 2005, 80% of the respondents counted themselves as poor gaining less than 2 US dollar per day in their home countries.<sup>172</sup> Another survey on 191 trafficked persons who are assisted by the IOM and returned to their home countries voluntarily in 2006 found that 80% of the total number are graduated from secondary school, 57% have had high school education, and 21% are graduated from university, 12% from technical school, 9% from primary school and 5% of the victims of trafficking are uneducated. Trafficked individuals come to Turkey for purpose of employment, travel, marriage and other reasons and one out of three women victims that are trafficked to Turkey are mothers with children.<sup>173</sup>

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<sup>170</sup>Janet Elise Johnson, "Privatizing Pain: The Problem of Woman Battery in Russia", *NWSA Journal*, Vol. 13, No 3, 2001, p. 154.

<sup>171</sup> Mehrangiz Najafizadeh, "Women's Empowering Care Work in post-Soviet Azerbaijan", *Gender and Society*, Vol. 17, No. 2, Global Perspectives on Gender and Care Work, 2003, p. 296.

<sup>172</sup> Marielle Sander Lindstorm 2005 *Turkey Trafficking and Trends*, IOM, 2006

<sup>173</sup> IOM - Ministry of Foreign Affairs of the Republic of Turkey 2006 *Report on Combating Human Trafficking Turkey*, IOM, 2006, pp. 37-38.

Another pattern of trafficking that needs to be mentioned concerns foreign women who have experienced trafficking where they were deceived with false promises and forced into work as domestic servants without payment. Some of these women were managed to escape and come to Turkey. However, according to the current anti-trafficking measures which can facilitate the voluntary return of the victim women to their country of origin, those mentioned women can not apply for humanitarian visa in Turkey since they were not actually trafficked to Turkey. In other words, the situation that these women faced does not fit with the pending Trafficking Protocol of 2000 which ask for a transnational nature for the offence. Therefore, not all women which have been subjected to trafficking are identified as the victim and can ask for aid. Moreover, in most cases, those mentioned women do not qualify for refugee status under the Geneva Convention. As a result, due to their illegal status and the lack of support services, these groups of women become vulnerable to exploitation.<sup>174</sup>

#### **4.2.2 Trafficking in Persons and Turkey's Accession to the European Union**

The fight against illegal migration and trafficking is a critical aspect of border management and border control for the European Union (EU). Significantly, after the terrorist attacks of September 11<sup>th</sup> in New York, March 11<sup>th</sup> in Madrid and July 7<sup>th</sup> in London the concerns heightened and increased the urgency to act against irregular migration at the EU level.<sup>175</sup> In this context, developments in Turkey on the area of irregular migration attract attention since Turkey is not only a destination country but a transit country in these kinds of activities. As a result of Turkey's being a transit country to the EU for problem areas such as human and drug trafficking, illegal migration, and other aspects of organized crime, Turkey's position makes many in the EU concern linking to the prospects of Turkey being part of the Schengen border free area.<sup>176</sup> The

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<sup>174</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p.7.

<sup>175</sup> Kemal Kirişci, "Border Management and EU-Turkish Relations: Convergence or Deadlock", Research Reports 20007/03, European University Institute, Florence, 2007, p. 22.

<sup>176</sup> Kristy Hughes, "Turkey and the European Union: Just another Enlargement? Exploring the Implications of Turkish Accession", *Friends of Europe*, 2004, p. 30.

pressure which was put on the Turkish government to meet its political and human rights criteria for membership thus accelerated the process of taking necessary actions to fight against the trafficking in persons.

Turkish accession negotiations for membership to the EU started in October 2005 and the process progresses very slowly.<sup>177</sup> As part of Turkey's EU accession bid, Turkish government seeks to fight human trafficking and has efforts to strengthen the national referral system and introduces legislative changes. Turkey continues to make progress in aligning its legislation with the *acquis* and EU practices in several areas including justice, freedom and security. As stated in the EU Progress Report of 2005, there is a necessity for the progress in a number of important areas such as implementation of the National Action Plan for intensified and active co-operation with the European Union in combating trafficking, as well as development of the legislative framework for combating money laundering and the national strategy against organized crime.<sup>178</sup> It was reported in the final progress report of the Commission of the European Communities that since 2005, Turkey has continued its efforts to make further progress in aligning its legislation with the *acquis* and EU practices in the areas of justice, freedom and security, and the Turkish legislation is aligned to a certain extent with the EU *acquis*. Progress in the areas of organized crime and human trafficking and sustained efforts in areas like police cooperation and external borders were reported.<sup>179</sup>

#### **4.2.3 Counter-Trafficking Efforts of the Government of Turkey: Prosecution, Protection and Prevention**

Although there are still deficiencies in taking effective policies to prevent the crime of human trafficking, prosecute traffickers and protect victims of this crime, Turkey has taken important steps in combating trafficking in persons from the past to present.

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<sup>177</sup> Kemal Kirişçi, *Informal 'Circular Migration' into Turkey: The Bureaucratic and Political Context*, CARIM Analytic and Synthetic Notes 2008/21, Circular Migration Series, Political and Social Module, 2008, EUI, RSCAS, p. 1.

<sup>178</sup> European Commission, *Turkey 2005 Progress Report*, Brussels, November 2005, p. 141.

<sup>179</sup> European Commission, *Turkey 2007 Progress Report*, Brussels, November 2007, p. 67.

Before 2002, there were any specific pieces concerning trafficking in persons and the definition of the crime did not take place in the Turkish Penal Code until that time. Little attention was given to the victims of the crime and there were any provision or measure addressing the rights of the victims.<sup>180</sup> However, by defining trafficking in persons with the Turkish Penal Code (TPC) in August 2002 and ratifying the UN Convention against Trans-border Organized Crime (CTOC) and its two Protocols regulating migrant smuggling and trafficking in persons, the crime of trafficking became a matter of the Turkish government.

With cooperation between Turkey and the Organization for Security and Cooperation in Europe (OSCE), and the Office for Democratic Institutions and Human Rights (ODIHR) that is instrumental in establishing the referral system, the progress has been achieved in legislation and a referral mechanism covering law enforcement bodies, NGOs as well as IOM, has been established. The new Turkish Penal Code prescribing heavy penalties for trafficking in human beings was put in force in 2005; thus, human trafficking has been defined as a crime under the Article 80. 8 to 12 years of imprisonment and legal fine corresponding ten thousand days has been stipulated, and security measures for the legal entities involved in human trafficking have been prescribed. Furthermore, with the aim of providing legal protection for foreigners against exploitation in labour markets and extending legal and administrative safeguards to private services, the Ministry of Labour and Social Security is authorized to issue all forms of working permits with the Law on Working Permits for Foreigners and employment in domestic services was also made possible with this Law.<sup>181</sup> An amendment to the Citizenship Law was made with the aim of preventing acquisition of citizenship through false marriages. Road Transport Regulation stating that the transportation permit will be cancelled for 3 years if the person is sentenced according to certain crimes including human trafficking became

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<sup>180</sup> Nilüfer Narlı, “Human Trafficking and Smuggling: the Process, the Actors and the Victim Profile”, *Trafficking in Persons in South East Europe - a Threat to Human Security*, Austrian Federal Ministry of Defense: National Defense Academy and Bureau for Security Policy, September 2006, p. 36.

<sup>181</sup> Organization for Security and Cooperation in Europe (OSCE), *Ongoing Efforts of Turkey in Fighting Against Trafficking in Human Being*, Human Dimensions Implementations Meeting, Working Session 12: Humanitarian issues and other commitments II, October 2007, p. 1.

effective in February 2005.<sup>182</sup> On the other hand, Turkey has participated in bilateral cooperation agreements for the purpose of combating trafficking in persons. Cooperation Protocols have been signed with the Ministries of Internal Affairs of Belarus in 2004, Georgia and Ukraine in 2005 and Moldova in 2006 with the aim of promoting the return and acceptance of victims of trafficking in the states of their citizenship without unreasonable delays. Thus, provisions facilitating several critical areas in combating trafficking in persons have been agreed between parties. Provisions include; information exchange on traffickers and victims, entitlement of victims to support services and facilitation thereof, general awareness-raising, information on the development of the legislative framework in the field of trafficking in human being and related areas.<sup>183</sup> A protocol on cooperation with the International Centre for Migration Policy Development Centre (ICMPD) has been signed and Turkey became a member of the IOM on 30 November 2004.<sup>184</sup> International activities carried out by North Atlantic Treaty Organization (NATO), Organization for Security and Co-operation in Europe (OSCE), Council of Europe, Black Sea Economic Cooperation (BSEC), Budapest and Bali processes, South Europe Cooperative Initiative (SECI) and Bern Initiative are also supported by Turkey and works in these areas continued actively. Likewise, Turkey has participated in the meetings of the AD Hoc Committee on Action against Trafficking in Human Beings (CAHTEH) that is charged by the Council of Europe to prepare a European Convention on combating trafficking in persons. In addition, Turkey has initiated a project in close cooperation with the IOM to establish a regional information network aimed at collecting information on victims of trafficking in persons in the Black Sea Region.<sup>185</sup>

In the administrative field, Ministry of Foreign Affairs became responsible for national coordination of issues related to trafficking in person in Turkey. An Action Plan on Combating Trafficking in Human Beings has been prepared in 2003 by the National

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<sup>182</sup> Ibid, p. 2.

<sup>183</sup> Human Resource Development Foundation, "Turkey", *Combating Human Trafficking: Problems and Prospects*, Ariadne Network, Ant. N. Sakkoulas Publishers, Athens, March 2007, p. 231.

<sup>184</sup> Please see Chapter 2, Heading 3.

<sup>185</sup> Çetin Arslan at al., *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, pp. 23-24.



Task Force. After the implementation of the Action Plan, a new one has been prepared as an output of the Project on strengthening the Institutional Capacities for Combating Human Trafficking within the scope of Turkey-EU Financial Cooperation 2003 and completed in July 2007.<sup>186</sup> The National Task Force on Combating Trafficking in Human Beings has regularly convened under the chairmanship of the Ministry of Foreign Affairs. The list of representative institutions of the Task Force provided by the Turkish Ministry of Internal Affairs is given as follows:

- Ministry of Foreign Affairs
- Ministry of Interior; General Directorate of Security, General Command of Gendarmerie, Turkish Coast Guard Command,
- Prime Minister's Office; General Directorate for Social Services and Child Protection, General Directorate on the Status and Problems of Women, Human Rights Board, State Planning Organization,
- Ministry of Justice
- Ministry of Finance
- Ministry of Labour and Social Security
- Ministry of Health
- General Directorate of Social Assistance and Solidarity
- Human Resource Development Foundation (NGO)
- Foundation for Women's Solidarity (NGO)
- Observer status: International Organization for Migration<sup>187</sup>

Turkey's efforts to prosecute and prevent trafficking in persons and to protect victims of trafficking are under the examination of the Office to Monitor and Combat Trafficking in Persons of the United States Department of State. The annual U.S. Department of State's reports of 2001 and 2002 on trafficking in persons, categorized Turkey as the "Tier 3" country that means governments of countries which do not fully comply with

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<sup>186</sup> Organization for Security and Cooperation in Europe (OSCE), *Ongoing Efforts of Turkey in Fighting Against Trafficking in Human Being*, Human Dimensions Implementations Meeting, Working Session 12: Humanitarian issues and other commitments II, October 2007, p. 2.

<sup>187</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p. 12.

the minimum standards and are not making significant efforts to bring themselves into compliance. It was stated in these reports that the Turkish government was not actively supporting any prevention or protection programs and there were no NGO working on the issues. However, these reports acknowledged that the Turkish government has taken some steps in response to the problem.<sup>188</sup>

In August 2002, the crime of trafficking in persons was defined for the first time with the Article 201/b added to the Turkish Penal Code (TPC) numbered 765 via Law numbered 4771. In February 2003, the UN Convention Against Trans-border Organized Crime (CTOC) and The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Trans-border Organized Crime: Trafficking Protocol*, were signed and were ratified by the Turkish Grand National Assembly (TGNA) with Laws numbered 4800 and 4804, respectively. Thus, trafficking in persons had defined as in the Article 3 of the Trafficking Protocol<sup>189</sup> and entered Turkey's internal law with the power of law as per Article 90/last paragraph/12 of the Constitution and the Protocol became directly binding according to the statement given in the Constitution:

International agreements duly put into effect bear the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. (Added sentence: 5170 – 7.5.2004 /art 7) In case of contradiction between international agreements regarding basic rights and freedoms approved through proper procedure and domestic laws, due to different provisions on the same issue, the provisions of international agreements shall be considered.<sup>190</sup>

In the interim US Trafficking in Persons report which was declared on 9 September 2003, Turkey was included to the Tier 2 - Watch List that referring governments which do not fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards, and where:

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<sup>188</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, July 2001, pp. 10-99 and June 2002, p. 103.

<sup>189</sup> Please see Chapter 2, Heading 4.

<sup>190</sup> Çetin Arslan at al., *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, pp. 2-4.

- a. The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or
- b. there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or
- c. The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.<sup>191</sup>

As a result of its efforts especially in the area of protection, Turkey was placed in the Tier 2 - Watch List in the 2004 Trafficking Report and Turkey was induced to conduct preventive information and education programs for the public-at-large and to implement new victim referral protocol and execute joint investigations with source countries.<sup>192</sup>

In 2005, Turkey moved to the category of “Tier 2” and thus involved in the countries whose governments do not fully comply with the Act’s minimum standards but are making significant efforts to bring themselves into compliance because within this period the Turkish government stepped up its training of law enforcement personnel to increase victim identification and ended the automatic deportation and removals of victims. Thus, officials in Turkey have improved their screening and identifications of victims. However, according to the report, despite the efforts to raise an understanding about the trafficking phenomenon, it was observed in this period that the level of awareness remained low among some members of the judiciary and among general public.<sup>193</sup> On the other hand, although it was not sufficient enough, a significant effort was observed during this period. The provision that covers the crime of trafficking in persons in the TPC was included in the Article 80 of the TPC numbered 5237 in June 2005. Article 80 of the New TPC sought to align Turkey’s Penal Code with the

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<sup>191</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, June 2004, p. 27.

<sup>192</sup> Ibid., p. 182.

<sup>193</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, June 2005, p. 215.

requirements of both the CTOC and the Trafficking Protocol. The crime of human trafficking was defined in the Article 80 of the TPC as follows:

Those who recruit, abduct, transport or transfer or harbour persons for the purpose of subjecting to forced labour or service, slavery or similar practices 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 and fine.

The consent of the victim shall be irrelevant in case of existence of any of the acts attempted for purposes set forth in paragraph 1 and which constitute a crime.

In case of recruitment, abduction, transport or transfer or harbouring of children under eighteen years of age for intentions set forth in paragraph 1, the perpetrator shall be sentenced to the penalties set forth in paragraph 1 even if none of the intermediary acts of the crime are involved.<sup>194</sup>

As given above, the definition of the crime provided in Article 80 of the TPC did not include acts: the terms of “exploitation of prostitution of others” and “other forms of sexual exploitation”, which are fundamental according to the term of “recruitment of persons for the purpose of exploitation” provided in the CTOC and the Trafficking Protocol. Acts aimed at “forced prostitution” were instead defined as falling within the scope of the crime of “forcing to engage in prostitution” under Article 227 of the TPC. This situation was also criticized as constituting the weakest link in the Turkish Law on trafficking in persons.<sup>195</sup> However, later on, the changes were made in the criticized paragraphs of the Article 80 and 227 through the Article 3 and Article 45:

(Article 3)

Article 80 (1) of the Law no 5237 has been amended as follows:

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.

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<sup>194</sup> Çetin Arslan et al., *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, p. 5.

<sup>195</sup> Ibid.

(Article 45)

Article 73(8) and article 227(3) of the law no. 5237 dated 26/9/2004 have been repealed.<sup>196</sup>

Between 2007 and 2008, Turkey was placed in the same Tier as in 2005 and 2006. The government of Turkey advanced its law enforcement efforts in these periods. As mentioned above, changes were made in the Article 80 and Article 227 of the Penal Code. The penalties prescribed for trafficking increased to 8 to 12 years' imprisonment from 5 to 10 year. Furthermore, the number of investigations conducting by the Turkish authorities increased. It is important to note that some low-level official were also arrested with a grain of salt from trafficking, however, none of them were prosecuted or convicted.<sup>197</sup> Between 2004 and 2007, in the aggregate, 32 public officers were subjected to judicial action with the accusation of assisting trafficking, mediating prostitution or accepting bribes. A Court of Appeals Judge was relieved of his duties for aiding traffickers. A prison warden arrested and jailed in 2007 for misuse of authority and accepting bribes.<sup>198</sup> The Turkish government increased its law enforcement response and more traffickers were convicted and punished in 2007. Under the recently amended Article 80, four traffickers were convicted during 2007 by the government, however, most prosecutions initiated before the Article 80 amendment continued under the previous primary anti-trafficking statute: Article 227. In addition, 160 suspects were prosecuted and 121 trafficking offenders were convicted in 2007: more than as it was in 2006. Government's cooperation increased with the two NGO. It was not provided a shelter running by the government; however, the rent, utilities, and administrative costs for the two NGO shelters were provided by the Turkish government.<sup>199</sup>

In Turkey, there is a possibility for the identified foreign victims to apply for humanitarian visas and to remain in Turkey for up to six months with the option to

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<sup>196</sup> Further information about the revisions can be found at <http://www.countertrafficking.org/laws.html>.

<sup>197</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, June 2007, p. 200.

<sup>198</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, June 2008, p. 249.

<sup>199</sup> Ibid.

extend for an additional six months. For the first time, in 2007, three humanitarian visas for victims of trafficking were issued by the Turkish government. The prevention efforts also increased in 2007. A new National Action Plan was prepared. Furthermore, the Turkish government signalled that the funding and operation of the 157 helpline which continues to operate within the scope of the IOM counter-trafficking programme implemented in Turkey will be taken over. Distribution of small passport inserts is continued by the authorities. Thus, travellers entering Turkey at designated ports of entry were informed about the danger signs of trafficking. Embassies also continued to provide inserts that will be given to visa applicants of the source countries' citizens. It was continued to institutionalize and implement comprehensive law enforcement training. Anti-trafficking trainings were conducted for the personnel by the Turkey's NATO Partnership for Peace (PFP) training centre. Moreover, 3,280 copies of guidebook, which was published by the Gendarmerie, distributed to the officers to educate them on the identification of the trafficking and national police forces distributed 1,000 copies of educational guide to its units in 2007.<sup>200</sup>

The process that begins with the identification of the victim of trafficking according to the current referral system in Turkey is as follows:

- Law enforcement identifies the victims among others that have been caught during the raids or through phone calls (157 and others).
- IOM expert visits the victim at the police station and makes an interview with the victim to identify her status.
- Human Resource Development Foundation (HRDF) is informed on the presence of the victim after this process and shelter counsellor takes the victim from the police and transfers her to the shelter if she is willing to. The victim stays at the shelter until her return is arranged by IOM.<sup>201</sup>

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<sup>200</sup> Ibid., p. 250.

<sup>201</sup> Human Resource Development Foundation (HRDF) *Human Resource Development Foundation*, HRDF, Istanbul, August 2007, p. 3-4.

It is underlined in the 2008 US report that: “the government did not report any measurable step to reduce demand for commercial sex acts within Turkey’s legally regulated prostitution sectors during the year”<sup>202</sup> and there are still a lack of secure and consistent government support for Turkey’s trafficking shelters.<sup>203</sup> That is to say, despite efforts of the Turkish government there are still deficiencies in taking effective policies to prevent the crime of human trafficking, prosecute traffickers and protect victims of this crime. There is an urgency to take the due action which will ensure the consistent and sustained assistance for the victims of trafficking, including monetary assistance to shelters located in Ankara and Istanbul and the accurate identification of the victims of human trafficking.<sup>204</sup> On the other hand, there is a need to extend the duration of the victim stay in the shelter. There is no administrative limitation for the duration; however, currently a time span of 10-20 days is devoted for a victim stay in the shelter to return. International treaties and experts states that a minimum time period of three months is needed for the recovery and to overcome the traumatic experiences including exploitation and violence as well as to ensure that presumed trafficked persons can receive appropriate support and assistance including, housing, psychological counselling, medical and social services and legal consultation.<sup>205</sup> There is also a need to educate the clients about the fact of trafficking in persons through public awareness campaigns. Moreover, strenuous efforts need to be made by the Turkish government to investigate, prosecute, convict, and punish any official complicity in trafficking.<sup>206</sup>

Although the UN Convention against Transnational Organized Crime clearly distinguishes the concepts of trafficking and smuggling with its two protocols, there still exist misconceptions in Turkey. Besides the conceptual mistake in defining the crime of trafficking and smuggling, the concept of trafficking in women and voluntary

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<sup>202</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, June 2008, p. 250.

<sup>203</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, June 2008, p. 249.

<sup>204</sup> Ibid.

<sup>205</sup> Experts Group on Trafficking in Human Beings, *Opinion on Reflection and Residence Permit for Victims of Trafficking in Human Beings*, May 2004, p. 3.

<sup>206</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, June 2008, p. 249.

prostitution are also overlapping. It was analyzed that there is a necessity to increase awareness among law enforcement, judges and prosecutors about the distinctions of these concepts and to ensure that these concepts are accurately and consistently applied in the everyday work of these professional groups. Interviews which have been made with a number of relevant actors, including Turkish authorities, Turkish NGOs, Ankara office of the IOM and the United Nations High Commissioner for Refugees (UNHCR), and Project Partners in the EU Twinning Project namely Strengthening Institutions in the Fight Against Trafficking in Human Beings, reveals that there is a view in Turkey that trafficked women are not real victims because they come to Turkey on a voluntary basis. It is stated that: “It is not quite clear whether this attitude stems from a conceptual or terminological confusion of trafficking and voluntary prostitution or whether it simply fails to recognize that women who originally agreed to engage in prostitution but have later-on been subjected to deception or force and exploitation may also become victims of trafficking.”<sup>207</sup> Despite mistakes in the perception of trafficking in persons and the victimization, a progress has been achieved at the governmental level in respect of elimination of these misconceptions and the protection of the rights of victims of this crime. Legislative and administrative arrangements providing medical treatment free of charge at the state owned hospitals to the victims of human trafficking has been introduced by the Ministry of Health, the humanitarian visa and temporary residence permit which will allow victims of trafficking to stay in Turkey for rehabilitation and treatment has been offered with the authorization of the Ministry of Interior and the duration of the issuance of the humanitarian visas did not conditioned on the victim’s cooperation with law enforcement agencies. Furthermore, free legal counselling to the victims of trafficking has been provided by Ankara Bar Association. In accordance with the Action Plan on Combating Trafficking in Human Beings, more than 300 victims have been hosted and assisted in the shelter of Human Resources Development Foundation (HRDF) which was established in 2004 for the victims of trafficking. Another shelter managed by Women’s Solidarity Foundation, which has become

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<sup>207</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project “Strengthening Institutions in the Fight Against Trafficking in Human Being”, Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p.7.



operational in 2005 in Ankara, has accommodated and assisted 119 victims as of 2007. For the victims of trafficking in persons psychiatric counselling has been provided in these shelters. It was continued to the voluntary returns of the identified victims of trafficking in persons and the procedures for the voluntary return of the victims of human trafficking were arranged in cooperation with police units, IOM, contact institutions in the countries of origin and local NGOs.<sup>208</sup>

#### **4.2.4 Counter-Trafficking Efforts of the Non-Governmental Organizations in Turkey**

NGO involvement in activities aimed at combating human trafficking is crucial; because NGOs have flexible managerial and organizational structures that allow them to easily create network nationally and internationally, and they are fast in decision-making and implementation processes, NGOs play an essential humanitarian role in victim assistance and in building support, trust, liaison between the victims and the security and/or judicial mechanism and networking.<sup>209</sup>

Turkey has signed agreements to determine the responsibilities of the partners within the scope of the Human Trafficking Programme. In September 2003 and then in October 2005, two protocols has entered into force by the General Directorate of Police of the Turkish Ministry of Interior. One of the protocols has been signed with the Human Resource Development Foundation and the other one has been signed with the Foundation for Women's Solidarity. Additionally, a cooperation agreement between the Human Resource Development Foundation and the General Command of the Gendarmerie has been signed in June 2004. Depending on the financial resources which are available for the Human Trafficking Programme, the role and responsibilities of each NGO cover; awareness-raising and advocacy, training for Turkish civil servants,

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<sup>208</sup> Organization for Security and Cooperation in Europe (OSCE), *Ongoing Efforts of turkey in Fighting Against Trafficking in Human Being*, Human Dimensions Implementations Meeting, Working Session 12: Humanitarian issues and other commitments II, October 2007, p. 3.

<sup>209</sup> Human Resource Development Foundation (HRDF) *Human Resource Development Foundation*, HRDF, Istanbul, August 2007, p. 2.

capacity-building of Turkish NGOs, national and international networking with international organizations and other NGOs, direct assistance including psychological, medical and legal assistance as well as sheltering for trafficked persons in compliance with Turkish law.<sup>210</sup>

Within the scope of the Turkish National Action Plan, points of action including Kars, Ardahan, Van, Trabzon, Istanbul, Adana, Antalya, Artvin, Ankara, Rize, Giresun, Ordu and Samsun have been detected to prevent and combat trafficking in persons. However, so far, only in Istanbul and Ankara the magistrates have been supported the establishment of a shelter in their municipalities. In November 2004, a shelter in Istanbul became operational and started to be run by the Human Resource Development Foundation and in September 2005, another shelter that is run by the Foundation for Women's Solidarity was opened in close cooperation with the IOM Ankara.<sup>211</sup>

The rent and parts of running costs of the shelters which are run by the two Turkish NGOs are paid by the municipalities of the cities.<sup>212</sup> On the other hand, it is stated in the U.S. report of 2008 Trafficking in Persons Report that;

Although there was no interruption in core services, a funding shortfall forced one shelter to forego staff salaries and divert other resources in order to finance these core services. A lack of consistent and guaranteed funding for Turkey's trafficking shelters weakened the government's overall protection efforts in 2007. The government has reported that it is focused on finding a long-term financial solution to this problem.<sup>213</sup>

Victims receive medical, psychological and legal counselling at these shelters. Psychological and medical support is carried out in accordance with international patient rights protocols with the consent of the victim. The trauma that the victims of trafficking

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<sup>210</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, pp. 16-17.

<sup>211</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p. 13.

<sup>212</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State, 2008, p. 249.

<sup>213</sup> Ibid..

have been through is taken into consideration. To illustrate, after the arrival of the victim at the shelter, shelter psychologist conducts an initial interview and a counselling session with each victim to determine the psychological needs of the victim of trafficking and provide counselling on how to deal with what she has experienced. Group sessions are also conducted. At the mentioned shelter there exist some activities for the leisure time such as handicrafts and sports events.<sup>214</sup> On the other hand, the capacity of these two shelters which is 20-30 beds is criticized to be insufficient.<sup>215</sup>

The two NGOs have signed cooperation agreements in order to provide facilities. The Human Resource Development Foundation has signed cooperation agreement with the Metropolitan Municipality of Istanbul and the Foundation for Women Solidarity has signed a cooperation agreement with the IOM. However, the two agreements signed by the Turkish NGOs cover a limited period of time and need to be renewed. This situation may put pressure on the NGOs in respect of ensuring the sustainability of NGOs' anti-trafficking programme.<sup>216</sup>

NGOs have an important role in proving assistance to the victims of trafficking. Their assistance is an essential component of Human Trafficking Programme since "the victims of trafficking need help and support in areas like accommodation, medical and legal counselling, translation and adaptation to a new environment, deciding on their safe returns or other alternatives available."<sup>217</sup>

It is underlined that a regularized status of trafficked person is not only a crucial component of any effective anti-trafficking strategy, but also a necessary precondition for the victim access to assistance and redress. However, it is also stated that as a

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<sup>214</sup> Human Resource Development Foundation (HRDF) *Human Resource Development Foundation*, HRDF, Istanbul, August 2007, p. 4.

<sup>215</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p. 13.

<sup>216</sup> Ibid., p. 18.

<sup>217</sup> Human Resource Development Foundation (HRDF) *Human Resource Development Foundation*, HRDF, Istanbul, August 2007, p. 3.

consequence of the fear of prosecution and deportation, the victims of trafficking usually do not prefer to request assistance from law enforcement and service providers. This condition also makes the victim unable to testify in court against traffickers, and consequently, affects the interest of prosecution.<sup>218</sup> It is important to note that these mentioned shelters only accept victims having agreed to participate in the voluntary return program and persons who have been internationally trafficked. In these shelters, only the victims who have been participated in the shelter program can reach psychological and social assistance, and receive information on the issues given below:

- the procedures within the anti-trafficking support and assistance program in Turkey, available counselling services on medical, social, psychological and legal issues including access to justice, possibilities to apply for financial support with public funds,
- the duration of stay, regulations and conditions for trafficked persons accommodated in the secure shelters in Istanbul and Ankara,
- possibilities to receive alternative housing,
- possibilities to apply for humanitarian visa and work permits,
- possibilities to review personal data, including the right to rectify one's files,
- the participation in the return programme and its preconditions and consequences, including all information related to medical examinations, the protection of personal data, and available services in the country of origin,
- judicial procedures after filing a complaint against the alleged trafficker, including the standing of a victim-witness in a trial and access to witness protection and its implication on the autonomy and privacy of the trafficked person both, in Turkey and in the country of origin,
- Possibilities to apply for refugee status and relevant procedures, including the services covered within this framework, if applicable.<sup>219</sup>

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<sup>218</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p. 30.

<sup>219</sup> Ibid., p.25.

It is stated that until 2006 only two trafficked persons from the shelter located in Istanbul have applied for and granted humanitarian visa and none of the victims from the shelter located in Ankara applied for a humanitarian visa.<sup>220</sup> Furthermore, the victims of trafficking that stay in these shelters cannot leave the facility for their own security; however, this restriction also constrains victims to fully exercise their rights. As recommended within the context of the EU Twinning Project “Strengthening Institutions in the Fight against Trafficking in Human Being”, shelter regulations need to be reassessed by granting victims the opportunities to exercise their rights of freedom of movement.<sup>221</sup>

### **4.3 Counter-Trafficking Efforts of the International Organization for Migration**

In this part of the study, effectiveness of the IOM’s counter-trafficking activities in Turkey is examined by focusing on its regional programme in Turkey. For this purpose, by taking Turkey as a case the impact of the IOM on the Turkish government in its anti-trafficking efforts and Organization’s public oriented campaigns and propaganda strategy in its regional programme that seeks to call attention to the phenomenon of women trafficking, are mentioned. Nevertheless, mainly the answers of several questions are tried to be given to support the argument of the thesis: “Are IOM’s efforts effective?” and “How and Why?”

As mentioned in the second chapter, trafficking in persons is a concern of the IOM for the purposes set out for managing migration. In counter-trafficking activities the role of intergovernmental organizations is significant to address aspects of trafficking, indicate protection of victims’ human rights and prevents, suppress and punish organized crime. IOM states its mission as to help international migrants, refugees and displaced persons with all their needs and to assist governments in managing migration and development of policies for the benefit of all. Organization conducts campaigns to inform about its mission, facts and impacts of the phenomenon and undertakes the advisory task. Since

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<sup>220</sup> Ibid., p. 23.

<sup>221</sup> Ibid., pp. 23-34.

2004: when Turkey became a member of the IOM, Organization has stepped in the field of counter-trafficking activities in Turkey and has been active in counter-trafficking field from prosecution of criminal traffickers and protection of trafficked persons to the trafficking prevention. IOM approaches to trafficking in human being within the wider context of managing migration, and organization implements its activities in partnership with governmental institutions, NGOs and international organizations. According to the IOM statements, all of its counter-trafficking activities cover an approach based on three principles: respect for human rights, physical, mental and social well-being of the individual and his or her community, sustainability through institutional capacity building of governments and civil society.<sup>222</sup>

In order to reflect and later adopt its policies, Organization firstly needs to grip governments and provide information to make aware of the problem that they intent to collaborate or assist to deal with. Organization has activities for the achievement of the purpose of creating awareness among individuals and Turkish government about the facts and possible impacts of trafficking phenomenon. Wide-ranging information campaigns are launched by the IOM to succeed in making clear that there is a need for regional cooperation, arrangement in law enforcement, monitoring migration flows and so on.<sup>223</sup>

In brief, IOM is an intergovernmental organization aimed at managing migration. In order to achieve its goal, the acceptance of its presence is mandatory to take part in policy making process and to have a claim while governments develop policies covering migration control. In order to achieve its goal, Organization conducts various activities to inform and make governments and societies aware about the threat by emphasising its role as a helping hand to overcome it.

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<sup>222</sup> IOM, “Human Trafficking: IOM’s Response”, handbook published by IOM.

<sup>223</sup> The Chapter 2 which covers the examination of the deep motive and the strategy of the Organization in the area of migration management and trafficking in women would be helpful while examining IOM strategy in a particular country.

#### 4.3.1 IOM Country Strategy

Organization implements projects through its offices in Ankara and Istanbul from 2005 to present. The projects initiated by IOM offices in Turkey cover wide range activities such as law enforcement trainings, protection and identification of trafficked persons and public awareness raising activities.

To mentions about Organization's country strategy, IOM cites that, Organization is active in every part of counter-trafficking field as a facilitator of the international communication and logistics between governments. Organization indicates its role in Turkey as working for a coordinated government response to migration management, building capacity of government and non-governmental agencies to combat trafficking in human being, improving effective law enforcement, expanding protection for trafficked individuals and raising awareness and prevention efforts.<sup>224</sup>

IOM states that it takes part in the fight against trafficking by providing protection, empowering trafficked persons, raising awareness and understanding on the issue, and bringing justice to trafficked persons. IOM counter-trafficking activities in Turkey has such a prospect as in the other countries it assists. Marielle Sander, the Chief of Mission in Turkey, underlines that the generally accepted approach to combating human trafficking: cooperation and emphasizing prevention, protection, and prosecution, may be the best way to address the human rights violations defining trafficking in persons and assist the victims; however, it does nothing to break the cycle of empty promises and ruined lives.<sup>225</sup> She states that the actors must begin to listen to victims of the phenomenon more closely and try to address their immediate need to earn a living. She adds that since migration is and always has been a natural human phenomenon, "it cannot be left to criminals to manage migration for us."<sup>226</sup>

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<sup>224</sup> "About the IOM Mission to Turkey" [http://www.countertrafficking.org/iom\\_tr.html](http://www.countertrafficking.org/iom_tr.html).

<sup>225</sup> Marielle Sander Lindstorm, "Turkey's Efforts to Fight Human Trafficking in the Black Sea Region", *The Quarterly Journal*, PfP Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, Winter 2005, p. 47.

<sup>226</sup> *Ibid.*, p. 46.

Since 2004 when IOM offices in Ankara and Istanbul have been granted full diplomatic status and became a full member, Organization assists and supports Turkish government to address challenges in the regulation of migration and takes support for Turkey's counter-trafficking efforts through its offices in Ankara and Istanbul.

#### **4.3.2 IOM Activities in Turkey**

In line with its purposes, IOM is currently implementing a 700,000 US\$ funded counter-trafficking program<sup>227</sup> coordinated by the Turkish government that covers: 157 Helpline, Shelter Assistance, Training Activities and USAID.<sup>228 229</sup> The aim of the project is explained as the prevention of trafficking in human beings through a nationwide information and awareness campaign, law enforcement training and direct assistance to trafficked individuals.<sup>230</sup> The campaigns conducted by the Organization include the general public and seeks to make aware of what people can do. The intention of the campaigns conducted by the IOM is to change attitudes, opinions and behaviours as well.

A three-digit national toll-free 157 telephone helpline began operations for emergency assistance on 23 May 2005. The helpline that was set up by the government of Turkey is operated by the IOM. The line is operational on a round-the-clock basis and operators provide services in Russian, Romanian, English, Turkish and other languages of those entering Turkey from the source countries. The helpline operates throughout Turkey. It is reachable from landlines, mobile phones and from abroad.<sup>231</sup> Within the scope of the project titled Helping Victims of Human Trafficking in Turkey, passport inserts and

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<sup>227</sup> Major support for IOM counter-trafficking programs is also provided by the Italian and Swedish governments.

<sup>228</sup> Details about the IOM-Turkey program can be found at the official IOM-Turkey's web site: [www.countertrafficking.com](http://www.countertrafficking.com).

<sup>229</sup> USAID (United States Agency for International Development) is the government agency providing US economic and humanitarian assistance worldwide for more than 40 years.

<sup>230</sup> Information on the history of IOM-Turkey, besides the current campaigns, can be found at the official web site, [http://www.countertrafficking.org/iom\\_tr.html](http://www.countertrafficking.org/iom_tr.html).

<sup>231</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p. 13



handouts are distributed at key points of entry to promote the Help Line, especially during the tourism season. Thus, information is given at key points of entry, primarily Istanbul, Antalya and Trabzon airports and seaports. These handouts include facts on the danger signs of trafficking, its possible consequences and the ways of protection. However, it should be added that the distribution of the leaflets at the border crossings is criticized for stigmatizing women crossing the border, especially those coming from the former Soviet-Union since there already exists a form of perception within community about these migrant women. As can be understood from this example and as exemplified in the second chapter and the third chapter, IOM does not fully have a gender based and women rights based focus in its activities and programmes. On the other hand, the aforementioned IOM campaign also targets Eastern Europe, Turkey and the key countries of the former Soviet Union and the campaign is accepted as the first attempt having made in close cooperation with the governments of the countries seeking to fight trafficking in persons. Within the scope of the propaganda campaign, passport inserts are being distributed not only in the destination countries, but also in the source countries. NGOs in Ukraine, Crimea and Odessa are distributing these passport handouts in the important seaports and aerodromes.<sup>232</sup> This innovative regional approach to the problem of human trafficking has been adopted by the Turkish government since 2005 and the cooperation between the Turkish government and the IOM field offices, media organizations, and local NGOs in Moldova, Ukraine, and Romania<sup>233</sup> has been continued to promote 157 Telephone Helpline operating in Turkey. This cooperation has a goal of encouraging potential victims to verify the offered jobs by calling their national help lines. It is believed that if a person victimized by a trafficker, he/she would prefer to call a helpline number familiar to him/her, at the first opportunity. Thus, the trust would be established from the very beginning with such coordination.<sup>234</sup> However, it should be highlighted that NGOs are significantly active in combating trafficking in the

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<sup>232</sup> “Alo-157 (Insan Ticareti Mağdurları Acil Yardım ve İhbar Hattı)”, Istanbul University Research Center, online available at <http://insanhaklarimerkezi.bilgi.edu.tr/source/627.asp?lid=tr&id=0>

<sup>233</sup> According to the statistics, these countries are the main source countries for victims of trafficking in Turkey.

<sup>234</sup> Marielle Sander Lindstorm, “Turkey's Efforts to Fight Human Trafficking in the Black Sea Region”, *The Quarterly Journal*, PfP Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, Winter 2005, p. 39.

aforementioned countries of origin. Especially La Strada<sup>235</sup> that is active in Ukraine and Moldova besides seven other countries, has significant campaigns including the national telephone helpline dedicated to help the potential victims of trafficking by doing the necessary research about the offered jobs. In other words, the contribution of the national NGOs should also be taken into consideration while the efforts of the IOM and the Turkish government are to be discussed.

All of the attempts aimed at raising awareness about the possible risks and facts of trafficking in women, serve to create the necessity of combating trafficking and taking action in international level. Accordingly, IOM emerges as an important Organization in the field of counter-trafficking. By creating an understanding about the necessity of taking action against women trafficking, the ultimate goal seems to prevent the illegal circulation to Turkey and the transit passage to the European countries in illegal ways. In line with this purpose, the victims of trafficking are in focus of the advertisements on press, television and radio channels since public opinion does not care much what the phenomenon is about and people are more concentrated in who is affected and how? Therefore, the promotional campaign that was launched throughout Turkey and in the countries of origin through the press and the visual media; *Have You Seen My Mother?*, was based on the fact that all of the 220 trafficked persons assisted by the IOM in 2006 were women, one third of who were mothers.<sup>236</sup>

In the advertisement (radio spot) piquant voices and visions are preferred that is also an expressive way to tell what is actually indented to reflect. As reported in the Turkish Daily News in February 2006, the goal of the campaign is explained by Allan Freedman; the coordinator of the counter-trafficking programs in IOM-Turkey, as to create dialogue and conversation within Turkey on what trafficking is about. He states that: “The major goal of this campaign is that we want to create dialogue and conversation within Turkey about what trafficking is. The other goal is the fact that this is about families, children

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<sup>235</sup> For detailed information about the NGO please visit the official La Strada web site at <http://www.lastradainternational.org>.

<sup>236</sup> IOM (International Organization for Migration) - Ministry of Foreign Affairs of the Republic of Turkey, *2006 Report on Combating Human Trafficking Turkey*, IOM, 2006, p. 18.

and individuals, so it is much bigger than just a single person”.<sup>237</sup> The intention behind the advertisement is explained as to put an emphasis that human trafficking has an impact on children and families. The main claim of the advertisement is that: “One out of three women trafficked to Turkey are mothers with children” and as IOM-Turkey Chief of Mission Marielle Sander Lindstrom states: “trafficking takes an enormous toll not just on the women and girls who have been trafficked to Turkey, but on the children and families they are forced to leave behind. Families and communities are paying an enormous price”<sup>238</sup> This campaign is produced within the framework of the Turkish government coordinated and IOM implemented campaign to combat trafficking in human being and the 700,000 US\$ is funded by the US government with co-funding from the Turkish government.<sup>239</sup>

By 2006, IOM campaign took place in print media including The New Anatolian Newspaper, Sabah Newspaper, Radikal Newspaper, Vatan Newspaper, Hürriyet Newspaper, Cumhuriyet Newspaper, Tempo Journal, and so on. The commercial had also media sponsors including Turkish broadcaster Kanal D, Star TV, film distributor Fida Film and the cinema company Sinefekt and it was approved that the commercial will be on 26 Turkish channels. Other official campaign sponsors are the airports in Istanbul, Trabzon and Antalya, IETT in Istanbul and local governments in Ankara, Antalya, Izmir and Trabzon.<sup>240</sup>

It is clear that the structure of Turkish society and the significance of the concepts of family and motherhood are taken into account in the public information campaign. The advertisement has a title “Have You Seen My Mother” and focuses on four children – aged between four and 14 – from the former Soviet Union in search of mothers

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<sup>237</sup> “Have you seen my mother? Ask Moldovan kids to Turks” by Turkish Daily News, online available at <http://www.turkishdailynews.com.tr/article.php?enewsid=34832&mailtofriend=1>

<sup>238</sup> “Hot Topics: Spotlight on Turkey’s Counter-trafficking Efforts”, online available at <http://www.countertrafficking.org/hot.html>, 09.06.2008

<sup>239</sup> “The News from IOM Turkey: Awareness Campaign Expands to Cinemas across Turkey”, 2006, online available at [http://www.countertrafficking.org/news\\_0306.html](http://www.countertrafficking.org/news_0306.html)

<sup>240</sup> Turkish Daily News, ‘Have you seen my mother? Ask Moldovan kids to Turks’, news from Turkish Daily News, Ankara, 2006.

trafficked to Turkey. The commercial has been filmed in a small village in Moldova since it is known that many of the women and girls trafficked to Turkey came from the former Soviet Union. An important point is that these children speak Turkish with a Slavic accent to articulate their message directly to the Turkish people. In the radio spot, a sound of cold wind follows the words of a boy saying: “she promised she would come back, but I don’t know where she is” and commercial continues: “My mother went away and I miss her” says a small girl. Then a boy says: “We needed food; one of us must have work and my mother gone”. In the end of the advertisement narrator tells that “one out of three women victims that are trafficked to Turkey are mothers with children” and that “Turkey is combating human trafficking since every child need his/her mother”. Then, while the advertisement finishes a child asks: “I need my mother, have you seen her?”<sup>241</sup>

According to the IOM report namely “2005 Turkey, Trafficking & Trends”; four hundred and sixty nine women were identified as trafficked to Turkey in 2005. Of this number, IOM-Turkey provided direct assistance to 220 trafficked women. Fifty two of the women identified in Turkey were rescued through the IOM-coordinated 157 helpline for rescue and assistance of trafficked individuals.<sup>242</sup> However, IOM adds that: “the number of victims identified both in and outside of Turkey actually is a small fraction of the overall number of men, women and children trafficked to Turkey.” It means that to combat this illicit trade in persons there is a necessity of an increase in measures including the expansion of the information campaigns. Furthermore, the news taking place in press and television should be augmented since IOM underlines that: “clients and friend are playing a private role in rescue and assistance of trafficked persons”.<sup>243</sup> The percentage breakdown of 157 Helpline information sources based on all reported rescue request of 2006 is given in the report as below:<sup>244</sup>

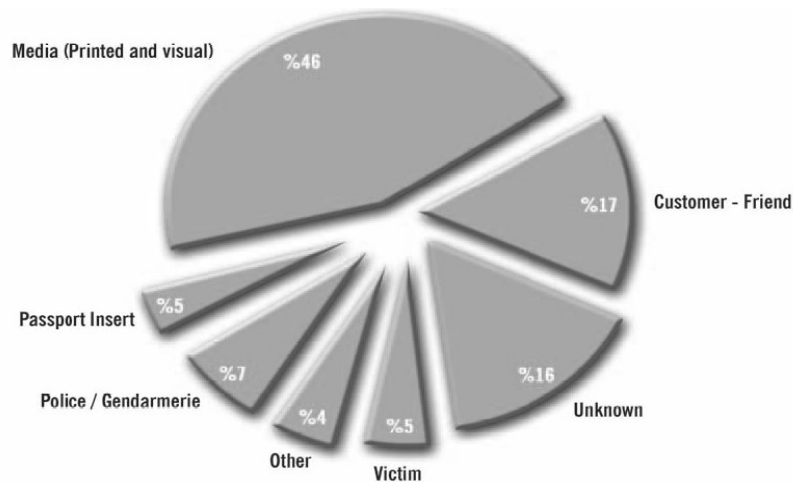
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<sup>241</sup> The radio spot is available at the official IOM-Turkey web site <http://www.countertrafficking.org>.

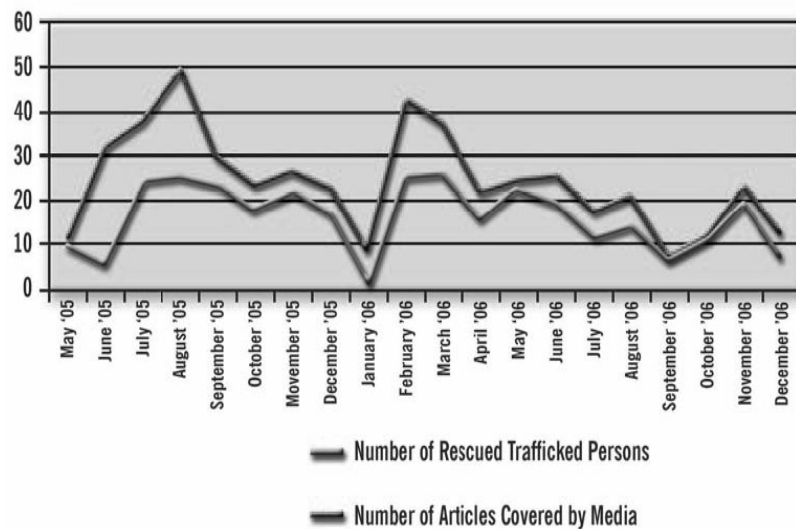
<sup>242</sup> Lindstorm, Marielle Sander, 2005 *Turkey Trafficking and Trends*, 2006, IOM, Ankara.

<sup>243</sup> Ibid.

<sup>244</sup> IOM (International Organization for Migration) - Ministry of Foreign Affairs of the Republic of Turkey, 2006 *Report on Combating Human Trafficking Turkey*, IOM, 2006, p. 20.



It is also stated in the report that: “the provision of accurate information to the media on human trafficking will help raise public awareness” and the correlation between the number of news pieces covered in the media on human trafficking and the number of rescued trafficked persons are illustrated in the Report as below:<sup>245</sup>



The impact of the information campaigns is significant. The 157 helpline, for instance, has a crucial role when the help is needed. However, there is still a need for the increase in awareness raisings through the campaign. The interview done by the IOM Turkey in

<sup>245</sup> Ibid.

2005 with a Moldavian victim can be illustrative to understand the role of the helpline in case of urgency:

I was born in Moldova in 1974 and have two living children. The economy is so bad there that when a friend offered me work in Turkey, I didn't hesitate to accept because I couldn't afford to support my family. I planned to work for a while and then come back and take care of my children. My friend took care of all the arrangements, the passport, the tickets, the visa, and took care of all the expenses. I was told that someone named Veysel would meet me at the Antalya airport and take me to my new job. I thought Veysel was someone that my new employer sent to help me. Instead, he took my passport and took me to a village. They took me to a house where there was a Moldovan woman who told me that I'd been brought here to work in the sex industry. I said I didn't want to do that and I wanted to go back home. They put a gun to my head and threatened me, and then they beat me. They told me if I didn't consent, they would kill me.

They kept me locked in the house and brought customers to me. There were a few other girls in the house, too. Once, when there were only three of us in the house, nine clients came. One girl took one client, the next girl took two men, and then I had to have the remaining six men. One day, the Moldovan woman took me to a hotel for a client. I called the La Strada hotline in my country and asked for help. La Strada told me to call 157, the helpline in Turkey. I called 157 and told the operator where I was and that I needed help. The 157 helpline operators called the Antalya police, and they came and rescued me. I was taken to a shelter in Istanbul. I wanted to go back home. I declared that I voluntarily wished to return to Moldova. All I wanted was to be with my mother and children.<sup>246</sup>

Other parts of the IOM implemented campaign include training for 150 law enforcement personnel. The trainings include police and gendarmerie and covers issues such as migration, in particular counter-trafficking and irregular migration, realities, causes of human trafficking, IOM's role and mandate in assisting migrants and governments. The goal of the trainings is explained as to increase prosecutions of traffickers and protect trafficked individuals through expanded identification.<sup>247</sup> The points of training program are as follows: The international legal definitions of trafficking in persons and migrant smuggling and case studies, human trafficking process, IOM activities in the field of

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<sup>246</sup> Marielle Sander Lindstorm, "Turkey's Efforts to Fight Human Trafficking in the Black Sea Region", *The Quarterly Journal*, PfP Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, Winter 2005, p. 41.

<sup>247</sup> "The Project", online available at <http://www.countertrafficking.org/hot.html>

counter-trafficking, gendarmerie activities, national legislation in Turkey as well as the violation of human rights, Turkey's situation on trafficking and activities, identification of the victims of trafficking and treatment of the victims of trafficking, Lilya 4-ever film<sup>248</sup>, treatment of victim as witness, investigation methods & techniques, the intelligence on trafficking, case studies from Turkey and from abroad, the role of NGOs and the cooperation between International Organizations, NGOs and law enforcement, and counter-trafficking in a source country. It is highlighted that the number of trafficked persons identified by law enforcement has increased after the trainings from three in 2002 to 266 in 2004.<sup>249</sup> Furthermore, within the scope of the campaign, shelter, medical and other services is being made available to a minimum of 50 trafficked individuals to directly assist victims of trafficking and funds is earmarked for training and improved operations of the shelter located in Istanbul.<sup>250</sup>

IOM has played a significant role in the opening of the Shelter in Ankara by subcontracting Foundation for Women's Solidarity to run its shelter programme. A cooperation agreement has been signed in September 2005 to regulate each others responsibilities and obligations. Therefore, a direct cooperation agreement has not been entered into force with the Municipalities of Ankara. The Foundation for Women's Solidarity commits itself to "provide assistance and service to the beneficiaries of the shelter" and to "refer victims of trafficking to IOM for Return and Reintegration Assistance."<sup>251 252</sup>

There are three new projects. The project namely "Supporting Turkey's efforts to combat human trafficking and promote access to justice for all trafficked persons" (two years project) has an objective of providing support to Turkish institutions in their fight

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<sup>248</sup> Lilya 4 Ever is a film of Lukas Moodyssons. The film tells the story of 16 year-old abandoned girl; Lilya, that lives in a poor suburb somewhere in the former Soviet Union.

<sup>249</sup> "The Project", online available at <http://www.countertrafficking.org/hot.html>

<sup>250</sup> Ibid.

<sup>251</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p. 18.

<sup>252</sup> Detailed information has been given in the subheading above; "Counter-Trafficking Efforts of the Non-Governmental Organizations in Turkey"

against trafficking in persons, protecting victims in line with EU council directives and harmonizing with the EU acquis. The project is financed by the European Union and ultimately the objective of the project is explaining as: “to increase identification and protection of victims of trafficking in Turkey and initiate prosecution of human trafficking crimes in Turkey.”<sup>253</sup> Project will be implementing in 6 components given below:

- A baseline survey to analyze the demand side of the crime of human trafficking will be conducted.
- A training module based on the survey will be produced and disseminated to universities throughout the country.
- Based on the results of the survey and a pre-assessment, one national and one multinational campaign will be conducted to raise awareness and to address consequence and root causes; the demand that induces trafficking for different forms of exploitation.
- Two study visits; one to an EU destination and one to a source country, will be organized for NGO partners.
- Study visits will be arranged preferably to Italy, UK, Moldova, Ukraine and Georgia to study the EU best practices and expand the cross border cooperation and networking and 155 participants will be going to the visits.
- Another aim is to increase identification and strengthening the investigation and prosecution of traffickers through different activities for Law Enforcement officials.<sup>254</sup>

Another project; two years project, is started to be implemented by the IOM and 283,610 Euro are funded by Netherlands Ministry of Foreign Affairs and Swedish International Development Cooperation Agency (Sida). The objective of the project namely “Combating Trafficking in Human Beings through Legal Assistance to Trafficked Persons and Enhanced Judicial Cooperation” is explained as: “to increase the

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<sup>253</sup> “News: Supporting Turkey’s efforts to combat human trafficking; 3 new projects”, online available at <http://www.countertrafficking.org/news.html>

<sup>254</sup> Ibid.



prosecution of traffickers in Turkey and in the BSEC region as well as ensure human rights of trafficked person are upheld through a full access to justice.”<sup>255</sup> A fund will be dedicated to a comprehensive capacity building activity in the field of legal assistance for trafficked persons in Turkey and in the selected countries of the Black Sea region. The mentioned capacity building activity aims to be effective with the help of awareness-raising on human trafficking of the legal community through organized workshops and panels within the Internship Lawyer Program. This program includes the revised Turkish Penal Code and the Code of Penal Procedures for newly graduated lawyers, establishing, training a core-group of legal experts on Counter-Trafficking aimed at providing legal assistance to Trafficked Persons, and the promotion of mutual legal assistance within the Black Sea Bar Associations.<sup>256</sup>

The third new project is "Expanding and consolidating identification through enhanced integration of law enforcement and NGO efforts" and the project is funded by the Swedish International Development Cooperation Agency (SIDA) and follows up the current project of "Combating Trafficking: Turkey, Local Action and Direct Assistance" that is funded by Norwegian government and SIDA. The objective is explained as: “to contribute to the implementation of the National Action Plan and support overall coordination of counter trafficking efforts in Turkey” and two primary objectives are given as:

- 1) support capacity building in local NGOs at the provincial level and thus creates local conditions for safe accommodation of potential trafficked persons pending their identification; 2) support the integration of law enforcement and rehabilitation efforts through a follow up of identified cases once they have returned to their home countries.<sup>257</sup>

According to a press release dated June 2008, another new national campaign called “React to Human Trafficking, Don’t Be Indifferent!” is launched under the project funded by the European Commission and implemented by the IOM Turkey Office in cooperation with the Departments of External Relations and European Union of the

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<sup>255</sup> Ibid.

<sup>256</sup> Ibid.

<sup>257</sup> Ibid.

Ministry of Internal to raise awareness on the trafficking in persons and the “2007 Turkey Counter-Trafficking Report” was published. It is informed that the campaign will include a short promotional TV film and radio spot with the title “React to Human Trafficking, Don’t Be Indifferent!”.<sup>258</sup> The film and the radio spot give information on human trafficking and special attention is given to the aforementioned 157 Helpline. With this campaign, it is expected that the number of the rescued and identified victims through the 157 Helpline increase.<sup>259</sup>

Organization has other significant efforts to increase concern on trafficking in persons besides campaigns. There exist publications such as documents and reports of important Turkish academicians who specialize on migration. To illustrate, one of the latest IOM publication; the Report prepared by Çetin Arslan, İlker Temel, Yusuf Aydın, Furkan Şen, Koray Aydın and Pınar Bacaksız, had significant impact. The report namely Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement includes a part addressing the Turkish Criminal Trial Institution and law enforcement in the context of the crime of human trafficking and a detailed analyses of national and international legislation on human trafficking takes place. Furthermore, the Report includes parts in which practices of courts related to the crime of trafficking in persons and interviews with Officials are given place. Most importantly, in the final part, the weakness of the system in Turkey to combat trafficking is underlined and recommendations for improvement follow. The purpose of the report is stated as to be in parallel with the purpose of the aforementioned Project and it is said in the Report that:

The report will attempt to evaluate the legislation that can be used in counter-trafficking, together with any weakness thereof, in order to enable preparation of a strategic report showing Turkey’s continuing efforts to combat human trafficking and the steps that must be taken to effectively implement this legislation. In doing so, the Report will endeavour to put forward sustainable counter-trafficking approaches that can be achieved by using available capacity and resources in a

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<sup>258</sup> The report has been published and the commercial took place on TV when the studies to compose this thesis finalized.

<sup>259</sup> “React to human Trafficking, Don’t Be Indifferent!”, press release published by International Organization for Migration (IOM), June 2008.

better way, rather than advocating for the creation of new structures.<sup>260</sup>

The mentioned report addresses the existence of the problems in Turkey's counter-trafficking program that are stemming largely from legal arrangements. The report underlines that in order to eliminate the problems in Turkey's counter-trafficking program a re-arrangement of the provisions relating to "Trafficking in Human Beings" in Article 80, and "forcing into prostitution" in Article 227, of the Revised Turkish Penal Code needs to be done.<sup>261</sup> It is important to note that after report is published, the recommended revisions were done in the criticized Article 80 and 227 of Turkish Penal Code.

As stated in 2006 Report on Combating Human Trafficking Turkey<sup>262</sup>: "Turkey is now better equipped and more efficient in preventing, detecting and prosecuting human trafficking related crimes and assisting those who have been victims of such crimes."<sup>263</sup> The Organization had a significant contribution in these achievements directly and indirectly. Furthermore, Organization conducts receptions, panels and IOM contributes workshops at panels and seminars to disseminate information on trafficking and Organization; its role, projects.<sup>264</sup>

Generally, the campaigns conducted by the IOM are successful in reaching the stated goal and it is made a clear definition of the target group. Moreover, messages in the IOM's campaigns are clear and simple. In its campaign "Have You Seen My Mother", Organization prefers to reflect trafficking as a family issue from the perspective of the

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<sup>260</sup> Çetin Arslan et al., *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM, 2006, p. 3.

<sup>261</sup> Ibid., p. 145.

<sup>262</sup> Printing of the Report was supported and financed by the Norwegian Government, Swedish International Development and Cooperation Agency (SIDA) and Turkish Government under the project "Local Action and direct Assistance in Combating Human Trafficking" implemented by the Mission of the International Organization for Migration in Turkey.

<sup>263</sup> IOM (International Organization for Migration) - Ministry of Foreign Affairs of the Republic of Turkey *2006 Report on Combating Human Trafficking Turkey*, IOM, 2006, p. 53.

<sup>264</sup> The last one was "Global Migration from the Eastern Mediterranean and Central Asia: Security and Human Rights Challenges to Europe" and it was arranged at METU.

women's children left behind. Nevertheless, questions were raised since the focus of the campaign was seen as too one-dimensional. It was also positively noted that:

Targeting a campaign towards a country's specific beliefs and traditions are likely to create a good entry point for effective awareness-raising. By portraying trafficked women as mothers of children, as persons "like you and me", rather than as the commonly quoted "Natashas", it creates empathy for the situation of victims.<sup>265</sup>

However, the message of the campaign was seen narrow-focused that creates the risk of portraying trafficked women as in need of help and support since they are mothers with children, not because they are individual bearers of rights. Thus, a distinction may be created as the "good" victims and the "bad" ones who do not have children and left their homes out of own interests.<sup>266</sup> As illustrated in the tables above, the 157 Helpline had significant contribution to the identification process of the victim of trafficking. However, there exists another component that eludes observation and linked to the mentioned narrow-focused campaign. It was reported that in some cases, persons having not been identified as presumed trafficked persons were deported to their countries of origin or to the nearby harbour of Odessa and thus these people could not be assisted.<sup>267</sup> This situation may also affect the prevention efforts of the Turkish government.

Although the Organization supports their findings on the phenomenon with indicators, the credibility of the indicators giving in the IOM reports is also arguable. For instance, Kemal Kirişçi states that according to the estimations giving in the IOM report of "2005 Turkey, Trafficking and Trends" the number of victims are under 5000 in 2005 and the revenue is calculated to be about 3, 6 billion USD. However, this figure seems to be high considering that the estimations in the US Reports for the business around the world are about 9, 5 billion USD. According to Kirişçi these kinds of estimations are seriously undermining the credibility of the figures that IOM Reports offer.<sup>268</sup> Although it is true

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<sup>265</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p. 7.

<sup>266</sup> Ibid., p. 8.

<sup>267</sup> Ibid., p.32.

<sup>268</sup> Kemal Kirişçi, *Border Management and EU-Turkish Relations: Convergence or Deadlock*, Research Reports 20007/03, European University Institute, Florence, 2007, p. 30.

that the figures in some IOM estimations is quite exaggerated it should be noted that there is a fact that the inconsistency of the figures concerning trafficking in persons is also related to the irregular and illicit nature of this phenomenon and this is complicating the collection of primary data on the phenomenon.<sup>269</sup>

A constructive suggestion is made about the interviews made to grant the victim status to the trafficked persons. It is known that the Turkish National Police and Gendarmerie conduct the first interview with trafficked persons. However, in case the trafficked person will be referred to the IOM, another interview is conducted to determine the eligibility for the IOM's program. The first component to fulfil the criteria to participate in the program is the confirmation the status of victim according to the questionnaire and the second component is the victim's willingness to return. It is pointed out that the repeated interrogations and interviews with the trafficked persons may result in re-victimization by causing traumatizing effect on the victims and it is recommended that a sound approach should be found sharing relevant information between law enforcement agencies, IOM and shelter providing NGOs.<sup>270</sup> On the other hand, it is critically important that the victims participating in the shelter program have free access to medical services and prior to the return of the victim to the country of origin. A dossier is created under the management of the IOM. The physical and psychological ability of a victim should be confirmed by the form namely "Fit for Travel" to begin the return journey.<sup>271</sup>

#### 4.4 Conclusion

IOM's efforts to combat trafficking take governmental support. It means that its leading position in the subject matter is recognized by the Turkish authorities. Organization works in close cooperation with General Directorate of Security under the Ministry of

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<sup>269</sup> John Salt, 'Trafficking and Human Smuggling: A European Perspective', *International Migration*, 38 (3), 2000, p. 37.

<sup>270</sup> Angelika Kartusch et al., *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, 2006, p. 22.

<sup>271</sup> *Ibid.*, p. 24.

Interior, the General Command of Gendarmerie and Ministry of Justice. In its campaign Organization takes support of other social actors; Human Resources Development Foundation and Women's Solidarity Foundation. Embassies and Consulates also give attention to the IOM work and give support if it is asked.

In Turkey, Organization's information activities about its own role and the urgency of the problem are successful in its efforts directed towards Turkish government since it is clear that the Organization reaches its goal of being effective in Turkey in policy making processes to prevent, punish and combat trafficking in women. The aim of the information activities conducted by the Organization focuses on a counter action against the phenomenon. As a result of this migration based and an organized crime based approach to trafficking phenomenon, its activities that are focused on victims serves for the achievement of their major duty. That is why, the act towards public opinion and potential victims of trafficking are not sufficiently and adequately implemented in its activities seeking to propagate the Organization's regional works having a claim of managing migration for the benefit of all. On the other hand, Organization is aware of the significance of a human rights based approach and highlight the importance of the implementation of a combination of the human rights focused approach to effectively tackle with the problem. Besides, Organization has significant contribution to the counter-trafficking effort in Turkey at governmental and local level with its wide-range activities mentioned in the chapter. However, there is still a need to harmonize the human rights based approach and a gender focus to this approach more effectively since as it is stated in the thesis, the phenomenon has a nature rather takes the form of exploitation of sexuality, especially of women and girls.

## **CHAPTER 5**

### **CONCLUSION**

Turkey is combating human trafficking. But, are the actions effective enough to enclose its multiple dimensions? Are each phases and each aspects encompass it taken into consideration while fighting against the crime factor? There is a need for harmonizing approaches embodied in the fight against this phenomenon since the crime factor also covers severe violation of human rights. In the thesis, the opinion was supported that a coordinated multidisciplinary and multidimensional regional approach is of utmost importance in counter-trafficking activities. Furthermore, it was argued that a comprehensive policy response towards trafficking shall continue to take a human rights and victim-centred approach because, as stated in the thesis, only in this way the design of adequate policies in the field of prevention, protection and prosecution can be ensured and the human rights of victims and witnesses fully protected. As it is introduced in the thesis, there exist national approaches and international standards set by the international actors seeking to address aspects of trafficking and aiming at preventing, suppressing and punishing organized crime as well as indicating protection of victims' rights. However, difficulties exist in forming a standard model so as to take effective measures.

In the thesis, the intention was to analyze anti-trafficking efforts in Turkey by focusing on a particular international initiative. For that purpose, International Organization for Migration is selected as a case and its activities in Turkey were mentioned on the ultimate goal of questioning its effectiveness on the process of fight against trafficking in persons. In doing so, besides understanding deficiencies of the interventions, it was also intended to highlight difficulties in the implementation of the measures indicated in the current international Trafficking Protocol. Accordingly, the UN Trafficking Protocol of 2000 was mentioned by focusing on its Articles that are open to dispute. In this way, it was intended to highlight the different approaches on the issue resulting from the differentiated point of views, acceptance and state priorities. After examining the mentioned deficiencies of the Protocol in the second chapter, and the prominent approaches on the concept of Trafficking in persons in the third chapter, it revealed that as part of concept of trafficking in persons; in this case particular attention was given to the trafficking in women and girls, it is the goals that are shaping the point of actions. Furthermore, the notion of consent was also mentioned in the third chapter and debates over this notion have been mentioned by focusing on the understanding of freedom of choice. As a result, it came out that it is not possible to make a universally accepted definition of what constitutes a freedom of choice and that it is formidable to effectively implement it on human rights dimensions of anti-trafficking efforts. Therefore, actions taken against the phenomenon can be argued for not requiring sufficient sensitivity on the protection of rights of the victims since as stated in the thesis differentiated state priorities and relativity in cultures make, in practice, the universal character of human rights not applicable in the same context.

As has been pointed out, identified human trafficking incidents in Turkey mostly cover forced prostitution and forced labour and a big portion of the identified human trafficking victims are coming from the former Soviet countries, mainly from Moldova and Russia. The Schengen Agreement in neighbouring European countries affects and excludes the integration of these states into the world migration system and the disregard of the labour migration management by the post-Soviet states makes people move, quite often, by involving in criminal activities.



Turkey is combating human trafficking and establishes policies to conduct an effective anti-trafficking policy. In spite of the fact that the Organization, by its own admission, does not have a role in policy development, contrary to its charter, IOM's activities exceed its guiding role in Turkey. On the other hand, IOM states that the Organization is strictly working after the legal framework in the country they operate in; therefore, although Organization work by taking into account the protection of victim's rights, it does not have a role in promoting it. For this reason, the need for a comprehensive approach and policies over trafficking in persons that will effectively take into consideration human rights dimensions and the gendered nature of the phenomenon ought to be met by the other actors.

IOM's activities in Turkey with respect to victim assistance need to be re-examined in accordance with the Palermo sanctions to avoid misconceptions that are held by authorities. As stated in the thesis, this misconception is related to the limitations of the IOM regional program that focuses on assisting voluntary returns of the trafficked women by not evaluating a real alternative for those who do not want to be departed. Through the voluntary returns the ones who are lodging a claim for return during the interviews are considered to be the victim of trafficking and, in practice, other victims who do not want to return their home country are not considered as the victims of trafficking by authorities and key actors; consequently, a significant number of trafficked women and girls are excluded from the analysis of the target group. The condition of accepting voluntary return and granting the status of victim appears as a significant problem. Victims who are not identified can not benefit from assistance and other supports including housing, psychological counselling, medical and social services and legal consultation, translation and adaptation to a new environment, deciding on their safe returns or other alternatives available. Furthermore, there is still a lack of secure and consistent government support for Turkey's trafficking shelters.

In Turkey, there is a possibility for the identified foreign victims to apply for humanitarian visas and remain in Turkey for up to six months with the option to extend for an additional six months. However, there are some women who have been deceived

with false promises and forced into work as domestic servants without payment. Some of those women have managed to escape and come to Turkey. However, according to the current anti-trafficking measures taken in Turkey, those above-mentioned women can not apply for humanitarian visa since they had not actually trafficked to Turkey. In other words, the situation that these women faced does not fit with the pending Trafficking Protocol of 2000 which asks for a transnational nature for the offence. Therefore, not all women which have been trafficked does identified as the victim and can ask for aid. Moreover, in most cases, those mentioned women do not qualify for refugee status under the Geneva Convention. As a result, due to their illegal status and the lack of support services, these groups of women become vulnerable to exploitation. On the other hand, the first component to fulfil the criteria to participate in the assistance program is given as the confirmation of the status of victim according to the prepared questionnaire and the second component is the victim's willingness to return. On the other hand, it is indicated in the IOM's Turkey investigations that a disproportionate number of the victims identified in Turkey have also been subjected to domestic violence or abuse in their countries of origin, and some of them come from orphanages or boarding schools, or have mental disabilities. It may not be reasonable to choose to return taking into account victims' psychological conditions and their social and economic conditions in their country of origin.

All of the elements including adequately interpretation of the binding legal instrument on human trafficking are required to be evaluated so as to carry out an effective counter trafficking policy. There is a need for the amelioration of the victims' situation at national and international level. It means that, the source, the target and the destination countries' enhanced overall contribution in anti-trafficking efforts together with the independent actors such as women foundations, human rights foundations, and so on, is required.

On the other hand, it becomes clear that IOM takes into account casual factors for being trafficked and aware of the significance of this element. Nevertheless, the casual factors can also be used in the IOM campaigns. In order to change the perceptions within the

Turkish community over foreign women coming Turkey and victimized by traffickers, a more clear language may be preferred by focusing on what these women have experienced. For instance, the advertisement broadcasted in national TV channels is effective to tell about what happens but it just gives an opinion and a person who do not know what trafficking is about and not aware of counter-trafficking actions, can not understand the significance of the problem or at least can not concentrate on what it is asked for. Television is the most effective way to tell people the danger signs of the phenomenon but, it was not used a language comprehensible by average citizens and in this sense it is not effective enough to make people interested in. The radio spot mentioned in the thesis that uses children's voice is an effective one; however, taking into account the force of the motherhood, not only children but a mother with his child would have been preferred so that the family factor would have been more precisely emphasized and men's attention would also have been attracted over the problem.

It is acknowledged that Turkey's response to the problem of trafficking has a focus of detecting, preventing and punishing traffickers. The effectiveness of this approach in the overall fight against trafficking in women is depended on a supportive element and this is the human rights based approach and a strategy addressing gender-based violence. For that purpose, a more precise strategy for policy implementation is required that focuses on the IOM's compatibility with local culture and a clear strategy is required regarding integration of the gender components more significantly into the services. Taking into account that in Turkey, individual acceptance for selling sexuality is not punishable by law and considering the existence of women exploitation and the denial of equal status of women, society's perception on the victims of trafficking can be the subject for a comprehensive country specific study of the Organization and anti-propaganda activities can be directed in accordance with the results of the study.

## BIBLIOGRAPHY

Agustin, L. (2006) “The Disappearing of a Migration Category: Migrants Who Sell Sex”, *Journal of Ethnic and Migration Studies*, 32:1, Routledge, pp. 29-47.

Arslan, Çetin, İlker Temel, Yusuf Aydın, Furkan Şen, Koray Doğan, Pınar Bacaksız, (2006) *Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement*, IOM.

Association for Women’s Rights in Development (AWID) (2003) “Trafficking and Women’s Human Rights in a Globalised World: An Interview by Pamela Shifman”, *Gender and Development*, Vol. 11, No. 1, AWID publication, pp. 125-132.

Bistra, Netkova (2007) “Human Rights and Trafficking in Women”, unpublished PHD Thesis, Rijks Universiteit Groningen.

Council of the European Union (2002) “Council Framework Decision of 19 July 2002 on Combating Trafficking in Human Beings” (2002/629/JHA), OJ L 203, 1.8.2002, pp. 1-4.

Dickenson, D. (2006) “Philosophical Assumptions and Presumptions about Trafficking for Prostitution” in *Women’s Rights and Trafficking*, eds. C. van den Anker & J. Doomernik, Palgrave, Basingstoke, pp. 43-53.

Doezema, J. (2002) “Who gets to Choose? Coercion, Consent and the UN Trafficking Protocol” *Gender and Development*, 10: 20-27.

EGM Asayış Dairesi Başkanlığı (2005) *İnsan Ticareti Raporu*.

Erder, S., Selmin Kaska (2003) *Irregular Migration and Trafficking in Women: The Case of Turkey*, IOM

European Commission (2005) *Turkey 2005 Progress Report*, Brussels, online available at  
[http://bookshop.europa.eu/eubookshop/FileCache/PUBPDF/NI7005657ENC/NI7005657ENC\\_002.pdf](http://bookshop.europa.eu/eubookshop/FileCache/PUBPDF/NI7005657ENC/NI7005657ENC_002.pdf), 18.07.2008.

European Commission (2007) *Turkey 2007 Progress Report*, Brussels, online available at  
[http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/turkey\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf), 18.07.2008

Experts Group on Trafficking in Human Beings (2004) *Opinion on Reflection and Residence Permit for Victims of Trafficking in Human Beings*, online available at  
[http://ec.europa.eu/justice\\_home/doc\\_centre/crime/trafficking/doc/opinion\\_experts\\_group\\_2004\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/crime/trafficking/doc/opinion_experts_group_2004_en.pdf), 21.07.2008.

Feingold, D.A. (2005) *Human Trafficking* Foreign Policy (FP) archive article, online available at <http://www.humantrafficking.org/uploads/publications/ThinkAgain.pdf>, 22.06.2008

Gallagher, A. (2001) “Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analyses”, *Human Rights Quarterly*, 23.4: 975-1004.

Hirschmann, N. J. (2003) *The Subject of Liberty: Towards a Feminist Theory of Freedom*, Princeton, NJ and Toronto: Princeton University Press.

Hughes, Donna M. (2005), “Supplying Women for the Sex Industry: Trafficking from the Russian Federation” in *Sexuality and Gender in Postcommunist Eastern Europe and Russia*, edited by Aleksandar Stulhofer and Theo Sandfort. New York: Haworth Press, pp. 209-231.

Hughes, K. (2004) “Turkey and the European Union: Just another Enlargement? Exploring the Implications of Turkish Accession”, *Friends of Europe*, pp. 1-42.

Human Resource Development Foundation (HRDF) (2007) *Human Resource Development Foundation*, HRDF, Istanbul.

Human Resource Development Foundation (HRDF) (2007), “Turkey”, *Combating Human Trafficking: Problems and Prospects*, Ariadne Network, Ant. N. Sakkoulas Publishers, Athens, pp. 225-244.

Human Right Watch (2003) “The International Organization of Migration and Human Rights Protection in the Field: Current Concerns”, IOM Governing Council Meeting 86<sup>th</sup> Session.

Içduygu, A. (2003) *Irregular Migration in Turkey*, IOM Migration Research Series: Geneva.

IOM (International Organization for Migration) (1953) “Constitution of the International Organization for Migration”, IOM, online available at [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/about\\_iom/iom\\_constitution\\_eng\\_booklet.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/about_iom/iom_constitution_eng_booklet.pdf), 18.07.2008.

IOM (International Organization for Migration) (1998), *Gender Mainstreaming in IOM*, IOM

IOM (International Organization for Migration) (2003) “Workshops for Policy Makers Background Document”, MC/INF/257, IOM

IOM (International Organization for Migration) - Ministry of Foreign Affairs of the Republic of Turkey (2006) *2006 Report on Combating Human Trafficking Turkey*, IOM.

IOM (International Organization for Migration) (2006), *Overview of the 1035 Facility: Support to IOM Developing Member States and Member States with Economy in Transition*, IOM, Geneva.

IOM (International Organization for Migration) (2007), “Report by the Working Group on Gender Issues on Gender Mainstreaming in the Organization”, Conference Room Paper/24, 94th Session of the Council, Geneva.

IOM (International Organization for Migration) (2008) “Managing Migration Chart”, IOM.

IOM (International Organization for Migration), *Essentials of Migration Management: Trafficking in Persons*, IOM, online available at [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/microsites/IDM/workshops/Capacity\\_27280905/breakout\\_2.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/microsites/IDM/workshops/Capacity_27280905/breakout_2.pdf), 18.07.2008

IOM (International Organization for Migration) (2008a) *IOM – Facts and Figures*, IOM

IOM (International Organization for Migration) (2008b) *The International Organization for Migration in Brief*, IOM

Johnson, Janet E. (2001) "Privatizing Pain: The Problem of Woman Battery in Russia", NWSA Journal, Vol. 13, No 3, pp. 153-169.

Kartusch A., Gabriele Reiter, Barbel Uhl (2006) *An analyses of the National Referral Mechanism in Turkey*, Activity no. 3.1 of the EU Twinning Project "Strengthening Institutions in the Fight Against Trafficking in Human Being", Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body.

Keser Nurdan, Ali Özel (2008) Geo-Political Position and Importance of Turkey in the Crime Trafficking between the Continents Asia, Europe and Africa, *International Journal of Environmental & Science Education*, 3 (2), pp. 75-81, online available at [http://www.ijese.com/IJESE\\_V3\\_N2\\_Keser.pdf](http://www.ijese.com/IJESE_V3_N2_Keser.pdf), 18.07.2008

Kirişçi, K. (2008) *Informal 'Circular Migration' into Turkey: The Bureaucratic and Political Context*, CARIM Analytic and Synthetic Notes 2008/21, Circular Migration Series, Political and Social Module, 2008, EUI, RSCAS.

Kirişçi, K. (2007) *Border Management and EU-Turkish Relations: Convergence or Deadlock*, Research Reports 20007/03, European University Institute, Florence.

La Strada International (2006) *Anti-trafficking Activities towards Safe Migration Perspective: Role of NGOs as Watchdogs and Service Providers*, NGO Platform Report, September 2006.

Limanowska, B. (2003) "Recommendations of the Expert Group Meeting on Trafficking in Human Beings", United Nations Commission on the Status of Women. Panel II: "Women's human rights and elimination of all forms of violence against women and girls as defined in the Beijing Platform for Action and the outcome documents of the twenty-third special session of the General Assembly." Forty-Seventh Session, New York.



Lindstorm, Marielle Sander (2005) "Turkey's Efforts to Fight Human Trafficking in the Black Sea Region", *the Quarterly Journal*, PfP Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, pp. 39- 48.

Lindstorm, Marielle Sander (2006) *2005 Turkey Trafficking and Trends*, IOM, Ankara.

Malarek, V. (2003) *The Natashas: The Global Sex Trade*, London: Vision.

Muntarhorn, V. (2003) "Combating Migrant Smuggling and Trafficking in Persons, Especially Women: The Normative Framework Re-Appraised", *Migration and International Legal Norms*, T. A. Aleinikoff & V. Chetail (eds.). T. M. C. Asser Press. The Netherlands: pp.151-166.

Najafizadeh, M. (2003) "Women's Empowering Care Work in post-Soviet Azerbaijan", *Gender and Society*, Vol. 17, No. 2, Global Perspectives on Gender and Care Work, pp. 293–304.

Narlı, Nilufer (2006) "Human Trafficking and Smuggling: the Process, the Actors and the Victim Profile", *Trafficking in Persons in South East Europe - a Threat to Human Security*, Austrian Federal Ministry of Defense: National Defense Academy and Bureau for Security Policy, pp. 9-37.

No Border Network (2002) *Campaign to Combat Global Migration Management*, IOM Counter-Bulletin.

Organization for Security and Cooperation in Europe (OSCE) (2007) *Ongoing Efforts of Turkey in Fighting against Trafficking in Human Being*, Human Dimensions Implementations Meeting, Working Session 12: Humanitarian issues and other commitments II, online available at [http://www.osce.org/documents/odihr/2007/10/27140\\_en.pdf](http://www.osce.org/documents/odihr/2007/10/27140_en.pdf), 19.07.1008.

Paci, P. (2002) *Gender in Transition*, World Bank, Washington D.C.

Raymond, J.G. (2001) *Guide to the New Trafficking Protocol*. North Amherst, MA: Coalition against Trafficking in Women.

Rijken, C (2003) *Trafficking in Persons: Prosecution from a European Perspective*. The Netherlands, Asser Press, The Hague.

Ruiter, R (2006) “Research Project Investigating the Effectiveness of the International Organization for Migration Mission Romania, in Counter-Trafficking Policy, with Respect to the Accession to the European Union in 2007”, Master of International Public Management and Public Policy Erasmus University, Rotterdam, online available at <http://hdl.handle.net/2105/3815>, 18.07.2008.

Salt, J. (2000) “International Migration, Trafficking and Human Smuggling: A European Perspective’, *International Migration*”, Vol. 38, Issues 3.

Scott, S. V. (2004) *International Law in World Politics*, Lynne Rienner Publishers Inc.

SECI Regional Centre for Combating Trans-Border Crime (2005) *Report on human Trafficking and Migrant Smuggling*.

Serks, A. (2000), *Combating Trafficking in South-East Asia: A review of Policy and Programme Responses*, No 2, IOM.

Stulhofer, Aleksandar and Theo Sandfort (2005) “Sexuality and Gender in Times of Transition”, *Sexualities and Gender in Post Communist Eastern Europe and Russia*, New York: the Haworth Press, 2005, pp. 1-29.

Şen Y.F. (2006) *Organize Suçlarla Mücadele: Dünya ve Türkiye Perspektifinden Göçmen Kaçakçılığı, İnsan Ticareti, Organ-Doku Ticareti*, Ankara: KOM/TADOC Publications.

Şen Y.F. (2006) *Yeni Dönemde Eski Tartışmalar*, Ankara: Yargı Publications.

United Nations (UN) (1948) “Universal Declaration of Human Rights”, General Assembly Resolution 217A (III) of December 1948, online available at <http://www.un.org/Overview/rights.html>, 18.07.2008.

United Nations (UN) (1996) “Cooperation Agreement Between, the United Nations and International Organization for Migration”, Geneva

United Nations (UN) (2000) “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime”, United Nations, online available at [www.countertrafficking.org/pdf/Palermo%20protocol.pdf](http://www.countertrafficking.org/pdf/Palermo%20protocol.pdf), 18.07.2008

United Nations Department of Peacekeeping Operations (2004), *Human Trafficking and United Nations Peacekeeping Policy Paper*, UN

UNODC (United Nations Office on Drugs and Crime) (2004) “United Nations Convention against Transnational Organized Crime and the Protocols Thereto”, UNODC, New York.

UNODC (United Nations Office on Drugs and Crime) (2002) “Trafficking in women and girls”, Report of the Expert Group Meeting, EGM/TRAF/2002/Rep., Glen Cove, New York, USA.

UNODC (United Nations Office on Drugs and Crime) (2006), *Trafficking in Persons Global Patterns*, UNODC.

UNODC (United Nations Office on Drugs and Crime) (2007) *Annual Report 2007*, UNODC.

UNOHCHR (United Nations Office of the High Commissioner for Human Rights) (1949) “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others”, United Nations Treaty Series, Vol. 96.

UNOHCHR (United Nations Office of the High Commissioner for Human Rights) (2002) “Recommended Principles and Guidelines on Human Rights and Human Trafficking”, Addendum to the Report of the United Nations High Commissioner of Human Rights to the United Nations Economic and Social Council E/2002/68/Add.1.

United States Department of State (2001, 2002, 2004, 2005, 2006, 2007 and 2008) *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, Washington, United States Department of State.

Valery Tishkov, Zhanna Zayinchkovskaya, Galina Vitkovskaya (2005) “Migration in the Countries of the Former Soviet Union”, paper prepared for the Policy Analyses and Research Programme of the Global Commission on International Migration.

Wennerholm, C., Eva Zillen (2003) *IOM Regional Counter-Trafficking Programme in the Western Balkans*, Department for Central and Eastern Europe, Sida Evaluation 03/37.

Widgren, J., "Multilateral Co-operation to Combat Trafficking in Migrants and the Role of International Organizations", paper presented at the Eleventh IOM Seminar on International Response to Trafficking in Migrants and the Safeguarding of Migrant Rights, Geneva, October 26-28, 1994.

Wijers, Marjan, Van Doorninck Marieke, “Only rights can stop wrongs: A critical assessment of anti-trafficking strategies”, Paper presented at EU/IOM STOP European Conference on Preventing and Combating Trafficking in Human Beings — A Global Challenge for the 21st Century. Organized under the High Patronage on H.R.M. the King of the Belgians, 18-20 September 2002, European Parliament, Brussels, Belgium.

Williams, S., Rachel Masika (2002) “Editorial” *Gender and Development*, Vol. 14, No.1:2-9, Routledge

### **World Wide Web Sources**

“About the IOM Mission to Turkey” [http://www.countertrafficking.org/iom\\_tr.html](http://www.countertrafficking.org/iom_tr.html), 10.06.2008.

“Chair’s Summary” (2007) Joint conference of UNODC and Budapest Process with the Organization of the Black Sea Economic Cooperation (BSEC) on “Trafficking in Human Beings in the Black Sea Region”, online available at [http://www.giftasia.in/pdf/istanbul\\_summary.pdf](http://www.giftasia.in/pdf/istanbul_summary.pdf), 04.08.2008.

“Hot Topics: Spotlight on Turkey’s Counter-trafficking Efforts”, online available at <http://www.countertrafficking.org/hot.html>, 09.06.2008.

“Film Presentation: Lilya 4 Ever”, online available at <http://www.zimbio.com/Film/articles/19/Lilya+4+Ever>, 03.08.2008

IOM (International Organization for Migration) (2008) “Administrative Structure”, IOM, online available at <http://www.iom.int/jahia/Jahia/lang/en/pid/2>, 16.06.2008.

IOM (International Organization for Migration), “Types of Irregular Migration”, online available at

<http://www.iom.int/jahia/Jahia/pid/674>, 16.06.2008.

IOM (International Organization for Migration), “Irregular Migration: Background”, online available at <http://www.iom.int/jahia/Jahia/pid/536>, 16.06.2008.

IOM (International Organization for Migration), “The Nature of Human Trafficking”, online available at <http://www.iom.int/jahia/Jahia/pid/676>, 16.06.2008.

IOM (International Organization for Migration), “Consequences of Trafficking and Policy Responses”, online available at <http://www.iom.int/jahia/Jahia/pid/677>, 16.06.2008.

IOM (International Organization for Migration), “Counter-Trafficking”, online available at <http://www.iom.int/jahia/Jahia/pid/748>, 16.06.2008.

IOM (International Organization for Migration), “Policy and Research”, online available at <http://www.iom.int/jahia/Jahia/lang/en/pid/6>, 16.06.2008.

IOM (International Organization for Migration) “Human Trafficking: IOM’s Response”, handbook published by IOM, online available at [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/projects/documents/ct\\_brochure\\_en.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/projects/documents/ct_brochure_en.pdf), 09.06.2008.

IOM (International Organization for Migration), “Law, Case Studies, Protocols, Guidelines”, online available at <http://www.countertrafficking.org/laws.html>, 24.06.2008.

“News: Supporting Turkey’s efforts to combat human trafficking; 3 new projects”, online available at <http://www.countertrafficking.org/news.html>, 03.08.2008.

No Border Network, “About the International Organization for Migration: the International Organization for Migration an Agency for the Transnational Migration Management”, online available at [www.noborder.org/iom/display.php?id=178](http://www.noborder.org/iom/display.php?id=178), 11.06.2008.

Official IOM Web Site: <http://www.iom.int>, 11.06.2008.

Official IOM-Turkey Web Site: <http://www.countertrafficking.com>, 11.06.2008.

Official La Strada Web Site: <http://www.lastradainternational.org>, 04.08.2008.

“The News from IOM Turkey: Awareness Campaign Expands to Cinemas across Turkey” (2006) online available at [http://www.countertrafficking.org/news\\_0306.html](http://www.countertrafficking.org/news_0306.html), 09.06.2008.

“The Project”, online available at <http://www.countertrafficking.org/hot.html>, 03.08.2008.

## **Newspapers**

“Alo-157 (Insan Ticareti Mağdurları Acil Yardım ve İhbar Hattı)”, Istanbul University Research Center, online available at

<http://insanhaklarimerkezi.bilgi.edu.tr/source/627.asp?lid=tr&id=0>, 03.06.2008.

“Have you seen my mother? Ask Moldovan kids to Turks” by Turkish Daily News, online available at

<http://www.turkishdailynews.com.tr/article.php?enewsid=34832&mailtofriend=1>, 09.06.2008.

“React to human Trafficking, Don’t Be Indifferent!”, (2008) press release published by International Organization for Migration (IOM).



## **APPENDICES**

### **Appendix A: Chapter 1 – Purposes and Functions, Article 1 (IOM, 1951)**

1. The purposes and functions of the Organization shall be:

- a) to make arrangements for the organized transfer of migrants, for whom existing facilities are inadequate or who would not otherwise be able to move without special assistance, to countries offering opportunities for orderly migration;
- b) to concern itself with the organized transfer of refugees, displaced persons and other individuals in need of international migration services for whom arrangements may be made between the Organization and the States concerned, including those States undertaking to receive them;
- c) to provide, at the request of and in agreement with the States concerned, migration services such as recruitment, selection, processing, language training, orientation activities, medical examination, placement, activities, facilitating reception and integration, advisory services on migration question, and other assistance as in accord with the aims of the Organization;
- d) to provide similar services as requested by the State, or in co-operation with other interested international organizations, for voluntary return migration, including voluntary repatriation;
- e) to provide a forum to States as well as international and other organizations for the exchange of views and experiences, and the promotion of cooperation and co-ordination of efforts on international migration issues, including studies on such issues in order to develop practical solutions.

2. In carrying out its functions, the Organization shall co-operate closely with international organizations, governmental and non-governmental, concerned with migration, refugees and human resources in order, inter alia, to facilitate the co-ordination of international activities in these fields. Such co-operation shall be carried out in the mutual respect of the competences of the organizations concerned.

3. The Organization shall recognize the fact that control of standards of admission and the number of immigrants to be admitted are matters within the domestic jurisdiction of States, and, in carrying out its functions, shall conform to the laws, regulations and policies of the States concerned.

## **Appendix B: Cooperation Agreement between the United Nations and the International Organization for Migration**

The United Nations and the International Organization for Migration,

ACKNOWLEDGING that the purposes of the United Nations are, *inter alia*, to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms, and to be a centre for harmonizing the actions of nations in the attainment of these common ends

ACKNOWLEDGING that the International Organization for Migration, committed to the principle that humane and orderly migration benefits migrants and society, is mandated under its Constitution to assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and work towards effective respect of the human dignity and well-being of migrants,

TAKING NOTE that the relevant resolutions of the United Nations General Assembly, in particular resolution 47/4 of 16 October 1992, and those of the Council of the International Organization for Migration, in particular resolution No. 923 (LXXI) of 29 November 1995, call for intensified cooperation between the two Organizations,

CONSCIOUS of the need for closer cooperation between the United Nations and the International Organization for Migration in matters of common interest, and desirous of further enhancing and strengthening such cooperation,

HAVE AGREED AS FOLLOWS:

### **ARTICLE I**

#### **COOPERATION AND CONSULTATIONS**

1. The United Nations and the International Organization for Migration shall act in close collaboration and hold consultations regularly on all matters of common interest.

2. To this end, the two parties shall consider the appropriate framework for such consultations as and when necessary.

## **ARTICLE II**

### **ATTENDANCE AT MEETINGS**

1. In accordance with the applicable rules of procedure and decisions taken by the competent bodies concerning the attendance of meetings by observers, the United Nations shall invite the International Organization for Migration to send representatives to meetings and conferences convened by the United Nations at which intergovernmental organizations have been invited to attend as observers, whenever matters of interest to the International Organization for Migration are discussed.
2. In accordance with the applicable rules of procedure and decisions taken by the competent bodies concerning the attendance of meetings by observers, the International Organization for Migration shall invite the United Nations to send representatives to meetings and conferences convened by the International Organization for Migration at which intergovernmental organizations have been invited to attend as observers, whenever matters of interest to the United Nations are discussed.

## **ARTICLE III**

### **EXCHANGE OF INFORMATION AND DOCUMENTATION**

1. The United Nations and the International Organization for Migration agree to exchange information and documentation in the public domain to the fullest extent possible on matters of common interest.
2. Where appropriate, and subject to the necessary requirements, information and documentation relating to specific projects or programmes may also be exchanged

between the parties with a view to ensuring complementary action and effective coordination between the two Organizations.

#### **ARTICLE IV**

##### **STATISTICAL AND LEGAL INFORMATION**

The United Nations and the International Organization for Migration shall, subject to their respective rules and regulations, make every effort possible to ensure optimum utilization of statistical and legal information, and efficient use of their resources to compile, analyse, publish and disseminate such information.

#### **ARTICLE V**

##### **ADMINISTRATIVE AND TECHNICAL COOPERATION**

1. The United Nations and the International Organization for Migration agree to strive for the maximum cooperation and coordination to ensure complementary action at headquarters and field levels.
2. Each Organization shall endeavour, in so far as possible and in compliance with its constituent instruments and decisions of its competent bodies, to respond favourably to requests for cooperation, in accordance with procedures to be mutually agreed upon.
3. The International Organization for Migration shall take into consideration any formal recommendations that the United Nations may make to it and, upon request, report to the United Nations on the actions taken by it, within its mandate, in order to respond to or otherwise give effect to such recommendations.

4. The International Organization for Migration shall cooperate with the United Nations Economic and Social Council in furnishing information and rendering assistance in regard to matters of common interest.
5. In order to further strengthen intersecretariat coordination, various mechanisms will be used, including, when relevant, the appropriate inter-agency coordinating bodies, subject to their terms of reference and rules of procedure.

## **ARTICLE VI**

### **JOINT ACTION**

1. The United Nations and the International Organization for Migration may, through special arrangements, decide to act jointly in the implementation of projects that are of common interest. The special arrangements shall define the modalities for the participation of each Organization in such projects and shall determine the expenses payable by each of them.
2. The United Nations and the International Organization for Migration may, whenever they consider it desirable, set up commissions, committees or other technical or advisory bodies, on terms and conditions to be mutually agreed upon in each case, to advise them on matters of common interest.
3. The United Nations Certificate shall be issued to staff of the International Organization for Migration performing functions or travelling on official business for the United Nations.

## **ARTICLE VII**

### **COOPERATION BETWEEN THE SECRETARIATS**

1. The Secretary-General of the United Nations and the Director General of the International Organization for Migration shall take appropriate measures to ensure effective cooperation and liaison between the secretariats of the two Organizations.

2. In so far as possible, and within the context of their constituent instruments and decisions of their respective competent bodies, the two Organizations shall assist each other in the training and secondment of various categories of staff.
3. To maintain consistency of the personnel policies of the International Organization for Migration with those of the United Nations and other organizations of the United Nations system, the International Organization for Migration will continue to apply in substance the United Nations Staff Rules and Regulations, and deviations from these rules and regulations will be subject to specific approval by States members of the International Organization for Migration.

## **ARTICLE VIII**

### **IMPLEMENTATION OF THE AGREEMENT**

The Secretariat of the United Nations and the Administration of the International Organization for Migration shall consult each other regularly on matters relating to this Agreement.

## **ARTICLE IX**

### **SUPPLEMENTARY ARRANGEMENTS**

The United Nations and the International Organization for Migration may enter into such supplementary arrangements for the purpose of cooperation and coordination as may be found desirable.

## **ARTICLE X**

### **ENTRY INTO FORCE, AMENDMENTS AND DURATION**

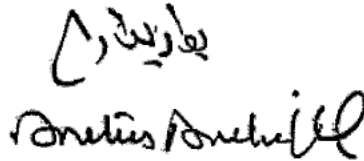
1. This Agreement shall enter into force on the date of its signature by the duly authorized representatives of the two Organizations.

2. This Agreement may be amended by mutual consent of the parties. The proposed amendment should be made in writing to the other party and shall enter into force after a period of three months following the expression of such consent.
3. Either of the parties may terminate this Agreement by giving six months' written notice to the other party.

IN WITNESS WHEREOF, the undersigned representatives of the Secretariat of the United Nations and the Administration of the International Organization for Migration have signed the present Agreement.

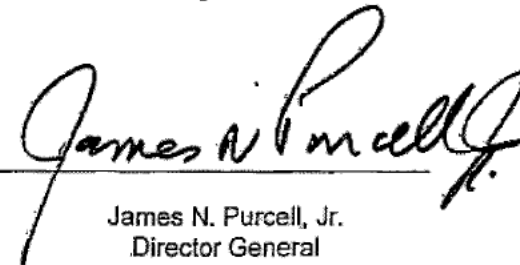
Signed this 25th day of June 1996 at Geneva in two originals in the English language.

For the United Nations:

  
Boutros Boutros-Ghali

Boutros Boutros-Ghali  
Secretary-General

For the International Organization for  
Migration:

  
James N. Purcell, Jr.  
Director General



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

**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 defense.

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:

(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:

- (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.

2. This Protocol shall also be open for signature by regional economic integration organizations provided 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*

*Denunciation*

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*

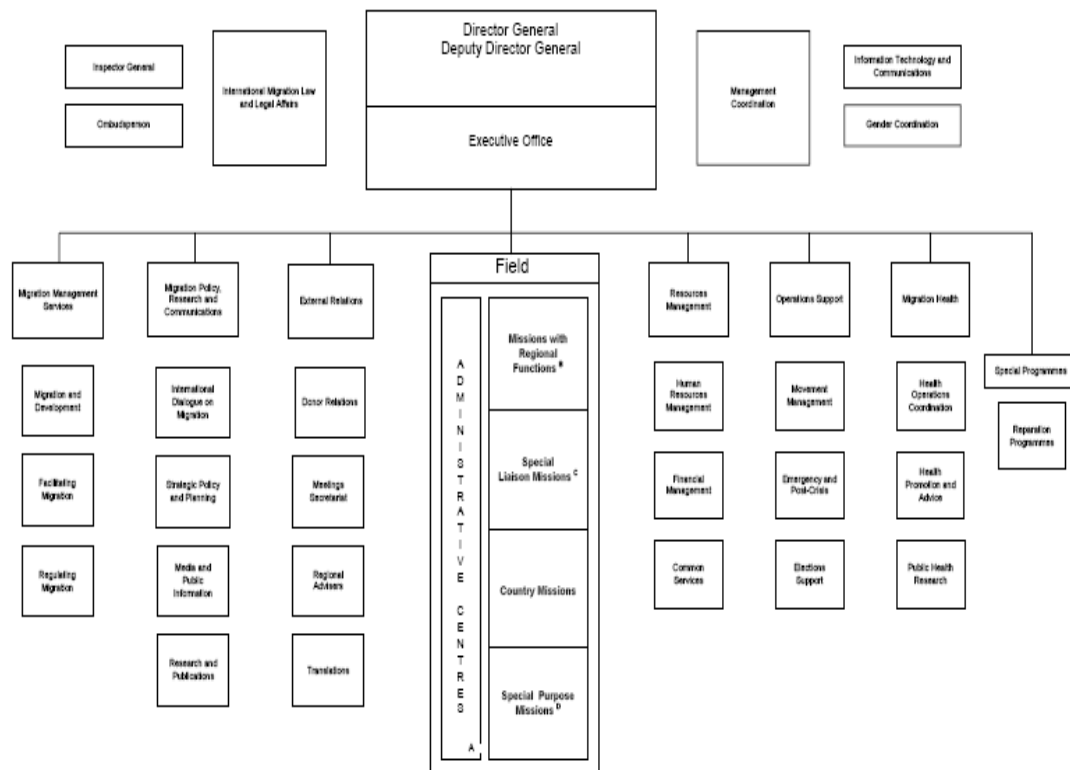
1. The Secretary-General of the United Nations is designated depositary of this Protocol.

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.

## CHARTS

**Chart 1: IOM Administration Structure 2008**



**A. Administrative Centres:**

Manila and Panama City: Administrative support for Financial and Human Resources, Information Technology; Project Information; Staff Security; Website, Intranet and Digital Assets Management and other functions.

**B. Missions with Regional Functions:**

Asia (Bangkok, Canberra, Dhaka, Islamabad, Manila); Africa (Cairo, Dakar, Nairobi, Pretoria); Europe (Brussels, Budapest, Helsinki, Rome); Americas (Lima, Buenos Aires, San José, Washington, D.C.).

**C. Special Liaison Missions:** African Union (Addis Ababa<sup>4</sup>), Berlin, London, Paris, Permanent Observer to the UN (New York), Tokyo, UN and OSCE (Vienna).

**D. Special Purpose Missions:** Missions which are set up for short-term durations to deal with emergency operations.

<sup>4</sup> Financed by Discretionary income - no allocation of funds from the Administrative Part of the Budget.

**Chart 2: Managing Migration**

