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Trafficking in women and girls

Prepared by*

Gulnara Shahinian
Director
Centre for Gender Studies “Democracy Today”
(Armenia)

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Concept paper: “Trafficking in women and girls”

I. Background

Trafficking in human beings is an abhorrent phenomenon. It puts human beings in a condition akin to slavery. In reality it is “modern days slavery” and as such it is an absolute rejection of human rights of individuals. It affects all: men, women, boys and girls. As a global phenomenon it impacts all countries: destination, transit and of course origin. In recent times its pace is accelerated and facilitated by globalization and modern technologies. It has structural, systematic rather than episodic nature, its implications destroy the entire fabric of society.

During the last years number of researches have been conducted in the countries Eastern Europe and CIS. The majority of these researches have been focused on trafficking in women and children for sexual exploitation.¹ Although there are many evidences of trafficking in women and men for the purpose of forced labor and children for begging, these expressions of trafficking still remain under researched. With the development of economy in countries of destination the growing demand in cheap labor force in informal economies from one side and economic and political instability, unemployment, war and post war economic depressions, economic decline and absence or very limited job opportunities, extreme poverty that people find themselves in, absence of future perspectives, formed by Soviet time repression image of highly paid jobs and luring attractions of good life standards in Western countries in the countries of Eastern Europe and Former Soviet Union, from the other side, creates a good supply of people who search for improvement of their lives. Patriarchal structures and gender based violations of economic and social rights of women contributed to feminization of poverty, thus making emigration for women the only way to escape and solve the unsolvable problems. Tightened migration policies of destination countries also contribute to increase in trafficking in human beings.

According to study “ Trafficking in women from Moldova and Ukraine “²- “ There are many factors that influence trafficking in the CIS. Although the strongest factor appears to be harsh economic conditions, other factors include romanticized views of work abroad, domestic violence, perceived marriage opportunities and coercion from parents, colleagues, friends and acquaintances. Director of Moldovan Intelligence and security service estimated that more than 600,000 citizens of Moldova are working abroad....Parliamentarian reported that there are 50-60 women per day leaving Moldova for sexual work. .. Several people indicate that 75% of women from some villages are working abroad”

¹ Minnesota Advocates for Human rights, Trafficking in women from Moldova and Ukraine December 2000, Trafficking for sexual exploitation. The case of Russian Federation. IOM Migration Research Series, 2002
Victims trafficking in Balkans, A study of trafficking in women and children for sexual exploitation to, through and from the Balkan region. IOM.2001

Trafficking in women and children from Armenia, A study IOM 2001

Shattered Dreams. Response to trafficking in human beings from Azerbaijan, IOM 2002

² Minnesota Advocates for Human rights, Trafficking in women from Moldova and Ukraine December 2000, p 26

According to report on Azerbaijan³ “ Poor social and economic conditions and a lack of decently paid job opportunities are the main factors contributing to the vulnerability of people to trafficking across international borders , the result of which is oftentimes enslavement and forced prostitution...

Traffickers in women and minors take advantage of the unequal status of women and children in the countries of origin and destination . They also take advantage of the demand in destination countries for cheap, unprotected labor in various sectors , such as prostitution , entertainment , domestic servitude, agriculture and others.”

In Armenian report traditional gender inequalities and feminization of poverty is also mentioned as contributing to trafficking factors and “ 76% of women state that if they could find work at their homes they would never leave Armenia”⁴

Trafficking is a multi stage process and on every stage of it victim’s human rights are violated. They are tricked, sold, resold , exchanged , given instead of debt , forced into the most inhuman conditions. In many cases victims sell their assets to pay traffickers for their recruitment. Treated as commodities, victims are extremely vulnerable to physical and mental abuse and many diseases, including STD’s and HIV/AIDS. Individual traffickers and criminal chains reject all the human rights of victims and the “states violate the human rights of victims by not enacting /or enforcing those laws...Many governments re victimize the victim”⁵ Sometimes governments see it as less important crime or do not want to see it at all and address it only under pressure of international community or in some cases civic society. Although during the last years problem of trafficking in humans has been put on political agenda of many countries and international institutions and much light has been spread on understanding of this inhuman phenomenon , the problem is far from solution and more should be done in future .

As for countries of NIS there has been noticed great change in the attitude of many governments in recognizing the issues of trafficking and on government level initiating counter trafficking activities. In Moldova, Ukraine, Armenia, Belarus and some other countries of NIS have been established interagency commissions to develop and oversee counter trafficking policies. Some countries have developed or are working on developing National Action Plan, some have introduced amendments into criminals law.

Trafficking in human beings as one of the most complex and growing human rights issue calls for urgent and extremely coordinated response on national, regional and international levels.

In developing anti trafficking strategies the multifaceted nature of it should be taken into consideration and different in time frame and aims strategies should be developed, serving all to the same important goal: prevention of trafficking and limiting it’s impact.

³ Shattered Dreams . Response to trafficking in human beings from Azerbaijan , IOM 2002 p 24

⁴ Trafficking in women and children from Armenia , A study IOM 2001

⁵ reference guide for Anti- Trafficking Legislative Review ,OSCE/ODIHR, September 2001

Counter trafficking policies of governments should be based on recognition and very clear understanding of its nature, root causes and transnational character of it. The states should view it as a structural phenomenon and violation of rights of its citizens. Protection and safety of citizens is the responsibility the states.

There are number of measures taken by Governments of countries of destination of victims. These programs vary in not only between the countries within one region, but also within one country and sometimes it is hard to see coordination the level of state agencies. Many agreements have been signed Belarus and Bulgaria, Poland, Poland and Germany; Armenia has signed number of bilateral agreements on legal assistance but these are just some examples.

During these years number of counter trafficking policy recommendations have been developed. Three “P” policy framework that addressees simultaneously programs on prevention, prosecution and protection seems to be the most effective

II . Recommendations

1.Prevention

One of the important parts of three ”P” policy is architecture of a prevention strategy. It should include all important actors: Government , NGO’s ,International organizations and Intergovernmental organizations. The prevention programs should be as short term and long term. In order to measure outcomes of information, campaigns should be designed in phases that have clearly presented objectives .They should be addressed both to potential victims and to society at large. The effectiveness of anti-trafficking programs in many way depends on effective collaboration between relevant actors.

Countries of destination and transit should support financially and organizationally governments and NGOs in countries of origin to run effective anti trafficking campaigns . There should be established working collaboration between Governments of countries of destination and origin, as well as transit, collaboration between consular departments of Embassies, on going working collaboration between NGO’s or national and ethnic communities(Diaspora communities)

A) Awareness raising

- Orientation on employment market in the country of destination: possibilities and requirements of legal migration and possibilities of getting there legal employment in the countries of destination, kinds of jobs on demand at labor market of country of destination, as well as certain standards of payment in these countries and legal system of employment
- Presentation of information on phenomenon of trafficking : cruel nature and illegal status in the country , involvement into clandestine jobs and sex industry, risks of HIV/AIDS and STD associated with the work in sex industry. There is no still general understanding or acceptance of the definition of trafficking. It is important to differentiate between illegal migration, migrant smuggling and trafficking. It is necessary to stress the situation of internal trafficking as well.
- Gender sensitization programs, addressing key aspects of gender discrimination
- There should be prepared special curriculum on legal migration, illegal migration and dangers of trafficking, as well as gender equality for Universities and schools.
- There should be prepared special projects to train media
- Training programs should be developed for law enforcement officials, border guards, law and policy makers, teachers, medical and immigration personal on trafficking
- To have clear picture on various manifestations of trafficking research should be done on forced labor, child trafficking for begging , impact of trafficking on health of victims and societies they live in. The last should form a separate branch for studies.
- There is not sufficient research on traffickers.
- To measure the effectiveness of information campaign it is necessary to run public survey .

- NGO's should play important role in developing and implementing these programs and should be supported both by Governments and International organizations.

B) addressing root causes of trafficking

- States should establish high level commissions on status of women, responsible for developing and supervision of policies that eliminate gender discrimination of women. Commissions should be composed of government officials, NGO's, public leaders and experts on women's issues. It is important that such commission would have clear mandate, vision and be effective . The commission should be financially supported and technically equipped .
- These commissions should address and develop programs on advancement of women, violence against women in society , family, discrimination in labor market and career development for women.
- National Plan of Action has to be developed to coordinate anti trafficking efforts.
- Preventive anti trafficking strategies should involve all groups of population: Refugee and IDP women, minority groups.
- A comprehensive network of NGO advice centers should be established to advise potential migrants
- Violence against women should be addressed and recognized in wide context: States should recognize the violence against women as criminal offence and ensure that victims of violence get state support : access to medical assistance, psychological and legal assistance and in extreme cases – temporary housing .
- It is necessary to ensure that women are not marginalized in low paid labor market. Programs should be developed on vocational training and education for women to enter into modern labor market . Provision of real economic

and social alternatives should be made available to women to enable them to fend themselves (Trainings on leadership and provision of micro credit and grants programs for women would strengthen their position Good examples are micro credit programs based on mutual responsibility. Better adjusted to conditions of each separate country these programs prove to be very good tools to encouragement and support for women.) Women in rural areas and border regions should always be included into these programs .

- It is necessary to establish mechanisms of involvement of women in decision making positions. There should be worked out special mechanisms either introduction of quotas or through political parties.
- Restrictive immigration policies should be liberalized and work permits should be provided to qualified women and men. There should be bilateral agreements or special agreements between the country of origin and destination on legal labor opportunities.
- In case of legal labor contract prior to migration there should be provided special trainings for women and girls in order to meet the requirements of labor markets .
- Companies that exploit cheap labor should be charged with penalty or criminal charges.
- Countries providing jobs to nationals of countries of origin shall provide gender parity .
- States should sign and make use of bilateral, international cooperation in meeting root causes of trafficking and empowerment of women
- States should support NGO's that provide assistance in these areas

2 Prosecution;

A) First and foremost the states should ratify the following International instruments:

- “UN Convention against Transnational Organized Crime and its supplementing 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
- UN Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, which allows for individual complaints and commissions of inquiry
- The UN Convention on the Rights of Child as well as Optional Protocol on the Sale of Children , Child Prostitution and Child Pornography
- The UN Convention on the Rights of Migrant Workers and their Families
- States should establish a reporter on trafficking or Ombudsmen institute or equal opportunities commission to monitor the implementation of legislation and protection of the rights of victims.
- European Convention on Extradition and UN Crime Convention
- Appropriate mechanisms should be established to regular reporting to UN on implementation of above mentioned instruments .

B) In criminalizing the trafficking all aspects of its impact should be taken into consideration. Many countries still lack definition of trafficking and covering the problem with some indirect penalties - such as illegal border crossing, preparation of bogus documents , forced marriage or keeping brothels (Armenia), trafficking in children only (Russia). Some have introduced the partial definition focusing narrowly only on sexual exploitation. The legislation should include the following elements presented in the definition of :

- acts : recruitment , transportation , harboring , transfer or receipt of a person
- means: threat , use of coercion, fraud , deception
- abuse of power or position

- purpose : forced labor , slavery , slavery like practices⁶

C) All actions, related to trafficking should be treated as criminal offences: such as aiding, attempting, omission to act and conspiracy to trafficking whether they have been implemented by individual members of trafficking group or organized criminal group. Laws should have equal action for all.

Offences performed by traffickers: such as slavery, slavery like practices, forced or compulsory labor, torture, cruel , inhuman treatment, rape, murder, exploitation should also find expression in Penal Code.

D) Taking into consideration extraterritorial nature of trafficking many states have included into their legislation extraterritorial jurisdiction, when the act is committed outside the territory of the country , but influences on it

E) Countries should sign agreements between countries to facilitate extradition in cases of human trafficking.

E) It is important to have differentiated smuggling and trafficking laws

- It is necessary to formulate sanctions towards individuals , criminal groups and legal entities involved in trafficking such as imprisonment ,special fines, confiscation of assets that has been resulted from trafficking income and closure of establishments.
- Laws should formulate measures of compensation to the trafficked persons
- Special investigation techniques should be introduced in cases of trafficking. There should be good coordination between governments, inter governmental and law enforcement bodies in setting up structures and screening processes to detect traffickers.
- Protection and assistance to victims should be also build in criminal law

⁶ Reference Guide for Anti Trafficking Legislation Review OSCE ODHIR September 2001

- There should be established an effective network of police officers assigned by their governments to collaborate on issues related to trafficking : such as investigation, exchange of information
- There should be established legal basis for co operation of EUROPOL, INTERPOL and SECI

3. Protection and assistance of victims

Governments should commit themselves to undertake measures for the effective protection of and assistance of victims of trafficking.

A broad range of interrelated measures should be developed to protect the rights of human rights of trafficked persons . It is important not only in the countries of destination, but transit and is very important for successful reintegration in the country of origin. In the countries of destination provision to victims of trafficking of legal status will make them eligible to vast array of social and legal services: psychological and health rehabilitation, information on their rights , provision of residence and employment will assist the victims regain control over their lives and make decision on testifying against the traffickers.

a) identification of victims

- In cooperation with NGO's standard procedures should be established to recognize victims. Standardized questionnaires should also be prepared for all the agencies that come into contact with victims. Cultural mediation is necessary to assist law enforcement officials when interviewing victims . There should be very good cooperation between police and NGO's on providing accommodation to victims .
- It is obligation of states to identify all the state and non state actors that will come in contact with victims and provide them special trainings

b) Trafficked persons should not be criminalized

- Trafficked persons should not be prosecuted even if they agreed to use fraudulent documents and work illegally. Even if prostitution is illegal in the country of destination , the victims should not be prosecuted for that as they have been forced to do that.
 - it is necessary to advertise the emergency hot lines in the languages that victims can understand. The victims must get this information from law enforcement officials that work with them and NGO's .States should finance or support NGO's to organize that. As it was mentioned above states should provide free of charge safe housing to victims, adequate medical treatment , counseling in their native language.
- c) Legal framework for witness protection must be created and implemented
- It would be better that victim protection agency should work with victims to prepare them to act as witness.
- NGO's should act as counseling, assisting agents to victims.
- States should consider relocation of witness in the cases of necessity and protection of their relatives.
- Protection is cross border process. It should continue in the countries of origin. Countries of origin should guarantee safe repatriation and integration.

4. General recommendations.

International organizations and donor agencies should prior to initiating projects test their programs for applicability in ethnic and social environment of the specific country. Projects should not come general the same for all countries. To be effective, International agencies, Governments and NGO's should work in synergy to address the problem of trafficking in women and chose appropriate clearly defined niche for their activities that form integral part of the overall program.

Prepared by Gulnara Shahinian

“ Democracy Today”

