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TITLE

ENFORCEMENT OF LAWS ON THE WORST FORMS OF CHILD LABOR

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INTRODUCTION

BACKGROUND INFORMATION

Child trafficking occurs in every single country on the globe and Armenia is not an exception. Almost 20% of all trafficking victims are children all over the world. Data show that trafficking in persons covers intra-regional and domestic trafficking.¹

Armenia is one of the most common countries where child trafficking is quite widespread, in particular, those types of child trafficking which involve forced child labor and forced child begging. Worldwide, trafficking is mostly driven by poverty. And although many improvements have been carried out by the Armenian Government, Armenia still faces a number of challenges. We still see numerous people in the streets begging money for their lives. This high rate of poverty in our country causes trafficking of children who coercively work in the streets deprived of their right to education and careless childhood. Children who have become victims of the trafficking are very hard to find, as in most cases they don't realize that they are victims and are unaware of their rights.

Children are forced to go work at an age below the one accepted by the society, mostly caused by poverty and other factors in families which very often contradicts with the law.²

Article 1 of the Convention on the Rights of the Child contains the legal definition of a "child": "a child means every human being below the age of eighteen years..."

In international law the following factors must be considered:

- a. An "action" such as recruitment, buying and selling, and
- b. That this action was particularly aimed at exploitation.

Namely, if the child was subjected to recruitment, buying and selling for the purpose of exploitation, this is already enough to identify child victims of trafficking and their traffickers. Such acts as debt bondage, forced labor, the worst forms of child labor, child sexual exploitation, forced marriage enforced prostitution and the exploitation of the prostitution are prohibited by international law.³

The main concern is to identify the victims of children trafficking because very often they will appear to be 18 years of age or older. Their passports may have been taken away from them or they may lie about their age because they may be afraid of their exploiters. They should be provided with appropriate assistance and protection. Therefore, treating a child victim of trafficking as an adult prevents that child from exercising the rights to which he or she is entitled under international and national law.

However, numerous trafficking protocols and conventions give a proportionate solution to this problem.

The Legislative Guide to the Trafficking Protocol provides that if the age of a victim is uncertain and

1 See UNODC Report on human trafficking, <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>

2 See UNICEF Child labor in the Republic of Armenia, https://www.unicef.org/ceecis/ChildLabourENG_FINAL.pdf

3 See Recommended Principles and Guidelines on Human Rights and Human Trafficking by UNHR, Office of the High Commissioner for Human Rights, http://www.ohchr.org/Documents/Publications/Commentary_Human_Trafficking_en.pdf

there are reasons to believe that the victim is a child, a State party may treat the victim as a child in accordance with the Convention on the Rights of the Child until his or her age is verified. The European Trafficking Convention strengthens this position, by stating that if there is a presumption that the victim is a child there are reasons for believing that is so unless or until another determination is made. The relevant best practice guidance for law enforcement officials in the European Union, for example, states that “in any case where there are any grounds to suspect that a child is a victim of trafficking, that child will be presumed to be a trafficked victim and treated accordingly pending verification of the facts of the case”.

The UNICEF guidelines set out the following identification measures:

- States to take all necessary measures to establish effective procedures for the rapid identification of child victims, including procedures to identify child victims at ports of entry and other locations,
- Efforts to be made to coordinate information-sharing between relevant agencies and individuals in order to ensure that children are identified and assisted as early as possible, and
- Social welfare, health or education authorities to contact the relevant law enforcement authority where there is knowledge or a suspicion that a child is being exploited or trafficked or is at risk of exploitation or trafficking.⁴

My Master’s Paper consists of an Introduction, where I have mostly concentrated on the general concept of trafficking and its main issues globally. Also, it will be comprised of two chapters, which approach the issue from the legal perspective, make a general analysis for both Armenian and international legislations, trying to focus on gaps in the local legislation and draw comparisons with international best practice. The Conclusion will mainly focus on the possible solutions to the problem also taking the international legal principles and conventions as a model. And finally it is composed of the Bibliography.

CHAPTER 1

1.1 INTERNATIONAL LAW AND BEST PRACTICE

International law enshrines the principle of the “best interests of the child” legal doctrine accepted in many countries through the Convention on the Rights of the Child (Art 3(1)). This principle has been adopted by many other international and regional human rights instruments.

Principle 10 requires child victims of trafficking to be provided with appropriate assistance and protection, therefore, all persons identified as or presumed to be victims of trafficking, and identified as or reasonably presumed to be under the age of 18 years, are entitled to this higher standard of protection

⁴ See United Nations Human Rights, Office of the High Commissioner Human Rights and Human Trafficking http://www.ohchr.org/Documents/Publications/FS36_en.pdf

and support which would include providing the victims with security, food and safe shelter in addition to access to health care, counseling and social services, delivered by competent, trained professionals.⁵

The following Principles should be emphasized in this context:

- The principle of non-criminalization of the child victim
- A trafficked child should never be placed in a law enforcement detention facility.
- Trafficked children should have access to care and support as a fundamental right, including medical assistance or testing⁶.

Among the key aspects enshrined in UNICEF guidelines, I would like to bring some essential components which should be taken into account when dealing with children victims of trafficking:⁷

- Best interests of the child shall be of primary consideration,
- Rights of the child: With regards to the principles of protection and respect for children's rights set out in the United Nations Convention on the Rights of the Child all actions shall be guided by applicable human rights standards.
- Non-discrimination in the provision of protection and assistance, which means that all victims of children trafficking are to enjoy the same rights as national or resident children.

Besides these principles, the international human rights laws and guidelines mention also:

The right to privacy,

The right to information and respect for the views of the child,

Respect for the views of the child,

The right to Information,

The right to Confidentiality

Right to be protected

The international regulations and principles serve as a protective mechanism when dealing with children rights. They seem to have all the best and possible guidelines and solutions to this issue. Perhaps that could mean that the problem of children trafficking will be reduced to minimum, however, we see a completely different picture. It means that this is a million-dollar industry, which is almost impossible to eliminate.

The Trafficking Principles and Guidelines state that all victims, including children, have a legal right in criminal or civil actions against their exploiters, they have a right to be heard, a right to information, and a right to be kept informed. The Trafficking Principles and Guidelines also confirm that trafficked persons are entitled to use the legal system to ensure that their own interests are safeguarded and their

⁵ See Principle 10 and related guidelines: The special rights and needs of children,

http://www.keepeek.com/Digital-Asset-Management/oced/drugs-crime-and-terrorism/recommended-principles-and-guidelines-on-human-rights-and-human-trafficking_4d70d309-en#.WNEMd1WGPIU

⁶ Ibid 5

⁷ See UNICEF Guidelines on the Protection of child victims of trafficking

https://www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf

own rights protected. In all cases, in determining whether a child victim should be in criminal proceedings or not, and the extent of his/her involvement, the best interests of each individual child should be considered case by case.⁸

The following measures should be taken to assist child victims of trafficking in participating in court processes⁹:

- Providing the child victim with full information on legal and security issues
- Granting a “reflection and recovery” period
- Prioritizing family reunification when such reunification/return is in the child’s best interests,
- Avoiding direct contact between the child witness and the accused during all stages of a criminal investigation and prosecution.

When it comes to children’s rights, the Convention on the Rights of the Child is the highest and strongest international instrument, where State parties are obliged to provide protection and care to every child, necessary for child well-being, and to undertake all required legal and administrative measures. The Convention on the Rights of the Child highlights the following core principles:

the right to life, survival and development;

non-discrimination;

participation and devotion to the best interests of the child.¹⁰

According to Article 32, paragraph 1, of the Convention, any work or economic exploitation that is likely to be harmful to the child’s health or interfere with their right to education shall be prohibited. Hence, the article clearly provides for the minimum age for employment and permissible duration and conditions of employment.

There is a number of other international instruments that may apply to child begging and exploitation, among them the ILO Convention No. 182 on the Worst Forms of Child Labor which provides broad definition of child labor and its worst forms, including work which is likely to harm the health, safety or morals of children. It obliges states parties to take action towards alimentionation as a priority of the worst forms of child labor. The Convention particularly calls for preventing engagement of children in the worst forms of child labor and providing the necessary and appropriate direct assistance.¹¹

ILO Convention particularly focuses on the importance of education, elimination of poverty and cooperation between relevant authorities both at national and international levels.

8 Ibid 5

9 Ibid 5

10 See Save the Children. Prevention of child exploitation in South East Europe. Regional Report on Child Begging <https://resourcecentre.savethechildren.net/sites/default/files/documents/5495.pdf>

11 See http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182

12 Ibid 10

The definition of begging was adopted by ILO in 2004. The term is defined as „a range of activities whereby an individual asks a stranger for money on the basis of being poor or needing charitable donations for health or religious reasons.”¹²

Another ILO document, International Labor Organization’s (ILO) Convention No. 29 on Forced Labor (1930) defines that if children are forced to beg, they are subjected to forced labor.¹³

The UN Protocol to Prevent, Suppress and Punish Trafficking of Persons, especially Women and Children (2000) defines trafficking in persons as „recruitment, transportation, transfer, harboring 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.”¹⁴ Article 3(c) of the same Conventions defines the recruitment, transportation,

transfer, harboring or receipt *of a child* for the purpose of exploitation as “trafficking in persons”.¹⁵

Other numerous international instruments relevant for suppression or prevention of child begging include: The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Convention for the Protection of Human Rights and Fundamental Freedoms, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, The Convention for the Protection of Human Rights and Fundamental Freedoms or European Convention on Human Rights (ECHR) including its protocols, Convention on the Rights of Persons with Disabilities, United Nations Convention Against Transnational Organized Crime and its protocols, Council of Europe Convention on Action against Trafficking in Human Beings, Constitution of the International Organization for Migration, European Social Charter, and other documents.¹⁶

All these international documents and instruments provide a guarantee and contribute to elimination of the worst forms of child labor. Moreover, these international instruments have been adopted by the majority of countries. Thus, State Parties are obliged to take all the appropriate and immediate steps towards the solution of this vital issue. Children rights violation is a crime against humanity, as they are the most vulnerable group of the society who are in a critical need of protection and care.

1.2. LEGISLATION ON CHILD TRAFFICKING. EUROPE

There are numerous international and regional standards to address child trafficking and protect children’s rights, such as treaties, conventions, parliamentary recommendations and resolutions,

¹³ See http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C029

¹⁴ See Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, <https://www.osce.org/odihr/19223?download=true>

¹⁵ Ibid 14

¹⁶ Ibid 10

agreements, guidelines and other instruments. Some are legally binding upon States parties; others create political obligations.

Among them, the Convention on the Rights of the Child (CRC) is the most inclusive legal document which has long been in force in all European countries. It has a unique force in that it views children as active holders of their own rights.¹⁷

The International Labor Organization has adopted over 180 conventions since its inception in 1919. The organization enacted the following Conventions with regards to child labor: the Minimum Age Convention No. 138 in 1973 and the ‘Worst Forms of Child Labor’ Convention No. 182 in 1999, which are aimed at abolishing child labor. The first of these two states that each party shall ensure the effective abolition of child labor and to raise progressively the minimum age for admission to employment or work to an adequate level (article 1).¹⁸ Minimum age is presumed to be not less than the age of completion of compulsory schooling (article 2.3). Convention No. 182 states in its Preamble that child labor are mainly caused by poverty and its eliminations lies in sustained economic growth (Preamble). The ILO Convention No. 182 defines a child as all persons under the age of 18 (article 2). The Preamble of the Council of Europe Convention on Action against Trafficking in Human Being enshrines non-discriminatory approach in human beings, gender equality as well as a child-rights approach.”¹⁹

Article 5 calls upon State parties to “take specific measures to reduce children’s vulnerability to trafficking, notably by creating a protective environment for them”. One of the most important features of this Convention is its monitoring mechanism that will include a “group of experts against trafficking in human beings” (GRETA) stated in Article 36 of the Convention.²⁰

When addressing children trafficking, some European countries have adopted different legal approaches, while others rely on the broader definition when considering trafficking of children. It is also noteworthy to mention that the definition of a child varies across Europe. Many trafficked children are not identified as victims and their cases are not recognized as such. As a result, victims may be denied the legal protection and assistance to which they are entitled under relevant international standards.

Almost all countries in Europe have adopted laws criminalizing trafficking in human beings. However, national legislation differs between countries. Constitutional laws, criminal codes and criminal procedure codes stipulate relevant provisions. At a minimum, they include an article defining ‘trafficking in human beings’ as a criminal offense.²¹

17 See UNICEF. Child trafficking in Europe, A broad vision to put children first

https://www.unicef-irc.org/publications/pdf/ct_in_europe_full.pdf

18 Ibid 10

19 See Council of Europe Convention on Action Against Trafficking in Human Beings,

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008371d>

20 Ibid 12

21 Ibid 10

Definitions of trafficking in human beings also vary from country to country; hence, trafficking in human beings has different meanings in different European countries. The majority of European countries have taken the Palermo Protocol as a model for defining trafficking in human beings. The lack of a consistent legal definition of child trafficking creates vital obstacles in addressing children's rights appropriately. Very often such children are not identified as victims of children trafficking, hence they are denied appropriate legal protection and assistance to which they are entitled under relevant international standards.²²

The Palermo Protocol defines three key elements for child trafficking. The first includes an action, such as recruitment, transport, transfer, harboring or receipt of a child. Second involves the purpose of trafficking, which is exploitation and abuse. And finally the third one defines the forms of exploitation forms, e.g. forced prostitution, forced labor and services and slavery. In many countries, each of these individual elements is a criminal offense by itself and is addressed by different pieces of legislation.²³

CHAPTER 2

2.1 SIGNIFICANCE OF THE PROBLEM. ARMENIA.

THE NATIONAL AND LEGAL FRAMEWORK OF THE ISSUE

In Armenia, the rights of the child and child labor relations are regulated by the constitution and the laws of the Republic of Armenia. Article 1 of the law of the Republic of Armenia "On the Rights of the Child" defines a 'child' as everyone below the age of eighteen, except the cases when he or she becomes or is recognized as legally capable to act earlier. According to Article 9, "every child is protected from any type of (physical, spiritual, etc) violence".²⁴

Parallel to the recognition of the child's right to education, the conditions of child's right to labor are formulated in Article 19 of the law: "Every child has a right to obtain a profession in accordance with his or her age, developmental peculiarities and capabilities and engage in labor activities which are not prohibited by law. Children under the age of 16 can be accepted for temporary employment with the written consent of an adult with legal parental responsibility (e.g., a parent, adoptive parent or legal guardian) or the Custody and Guardianship Authority, provided that it does not interfere with the child's education. The characteristics of child admission to employment, privileges and conditions are defined by the "Labor Code of the Republic of Armenia" as follows: "It is prohibited to use, procure or offer a child for the production, use and trafficking of alcoholic beverages, drugs and psychotropic substances, cigarettes, erotic and horror literature and video tapes, as well as for the performance of any work that

²² Ibid 10

²³ Ibid 10

²⁴ See Armenia National Child Labor Survey 2015, Analytical report, http://www.un.am/up/library/Armenia_NCLS_2015_Report_eng.pdf

is likely to be harmful to the child's health or physical, mental, spiritual, moral or social development or to interfere with the child's education".²⁵

According to the Labor Code of the Republic of Armenia, children of 14-16 years holding an employment contract are considered to be in employment with the written consent of one of the parents or adopter or custodian. Accordingly, a health certificate should be put on the list of required employment documents during the conclusion of an employment contract with citizens under the age of eighteen. Persons under the age of fourteen can be involved in creative work but in this case also this needs to be with the written consent of one of the parents or adopter or guardian or Custody and Guardianship Authority, and provided that it is not harmful to their health and morals, and does not Interfere with their education and safety.²⁶

The Labor Code of the Republic of Armenia prohibits children to engage children in such work that may be harmful to their health and morals. The list of occupations that are likely to be "heavy and hazardous" is established by the decision of the government of the Republic of Armenia "on approval of the list of occupations and work that are likely to be heavy and hazardous for persons below the age of 18 years, pregnant women and women taking care of a child under the age of one year", December 29, 2005 N 2308. Hazardous occupation for children is:

1. Construction, mining and quarrying. This group also includes night-shift jobs, engagement on duty at home or in the organization and sending on a business trip alone, which is prohibited by law (Labor Code of the Republic of Armenia', Articles 148, 149 and 209).
2. Child employment in working conditions that are established by the decision of the government of the Republic of Armenia to be hazardous for children below the age of 18 years:
 - ✓ Hazardous work due to chemical factors.
 - ✓ Hazardous work due to physical factors.
 - ✓ Hazardous work due to biological factors.
 - ✓ Hazardous work due to industrial aerosols.
 - ✓ Heavy work for persons below the age of 18 years
 - ✓ Work related with sensitive, emotional, stress and risk factors.
3. Child involvement in activities that are not likely to be hazardous and where their work is not defined as hazardous but the children work more than hours the short work-time established for each age group.
4. Work implemented with dangerous tools, devices and equipment.²⁷

According to the ILO "Worst Forms of Child Labor" 1999, Convention No. 182 and UN "Child Rights" Convention, a child is considered anyone less than 18 years. Children who are involved in the production of goods and services within the framework of productive activity for the intention of sale in

²⁵ Ibid 24

²⁶ Ibid 24

²⁷ Ibid 24

the market or for their own consumption are considered working children.²⁸ The definition of “working children”, as stipulated by SNA, excludes all children whose scope of employment is limited to non-productive activities, such as unpaid household chores and own services, which are conducted within the household. “Activities considered prohibited for a child” (hereby Child Labor) are all activities which are mentally, physically, socially or morally considered hazardous or dangerous and that interfere with their school attendance.²⁹ Although there is no common legal definition of Child Labor, International conventions designed a flexible framework of limitations/conditions, which can be a basis National Legislation to clarify the legal boundaries for child work.³⁰

In accordance with the Resolutions of the 18th International Conference of Labor Statisticians (ILO, 2008), the concept of “child labor” is defined and used in order to make the phenomenon statistically measurable and appreciable. It includes children aged 5-17 years who have been involved in one or more of the forms of employment mentioned below:

- ✓ The worst forms of child labor other than hazardous work.
- ✓ Hazardous work.
- ✓ Other forms of child labor

Hazardous labor is considered any kind of activity that can lead to any possible damage to a child's health, safety or morality. Among such types of activities are work in construction, mining industry, underground, under water, at dangerous heights or in confined spaces, work with dangerous cars, equipment or tools.³¹

It is policy choices made by governments rather than poverty levels alone that explain why certain countries have managed to reach a critical threshold in achieving universal education and with it child labor elimination. Child labor was one of the first and most important issues to be addressed by the international community. The ILO adopted an international standard aimed at the elimination of child labor at its first Conference in 1919, and has continued doing so in a progression culminating in its most recent standards establishing an immediate obligation to eliminate the worst forms of child labor.³²

In a situation of mass poverty, child labor is part of the survival strategy of poor families. The economic value placed on children helps keep fertility rates high, also leading to an increased labor supply. Mass child labor also acts as a disincentive to employers to invest in new technology. Moreover, in a society where child labor is the norm the demand for education will be low, and it will be difficult to enforce laws on minimum age and compulsory education. Finally, as child laborers become adults, it is increasingly likely that they in turn will send their children to work rather than

28 Ibid 24

29 Ibid 24

30 Ibid 24

31 Ibid 24

32 See The End of Child Labor: Within Reach file:///C:/Users/LIDIANNA/Downloads/2006_cl_globalreport_en.pdf

school. Furthermore, the principle that minimum age standards should be linked to schooling has been part of the ILO's tradition in standard setting in this area. To the international community, the term "child labor" does not encompass all work performed by children under the age of 18 years. The consensus view is that work that falls within the legal limits and does not interfere with children's health and development or prejudice their schooling can be a positive experience. Child labor that is proscribed under international law falls into three categories:

- ✓ Worst forms of child labor, internationally defined as slavery, trafficking, debt bondage and other forms of forced labor,
- ✓ Labor performed by a child who is under the minimum age specified for that kind of work (as defined by national legislation, in accordance with accepted international standards), and that is thus likely to impede the child's education and full development.
- ✓ Labor that puts the physical, mental or moral well-being of a child in a danger, under conditions known as "hazardous work".³³

Estimates in the 2002 Global Report on child labor suggested that some 1.2 million children were the victims of trafficking. Governments have undertaken many positive steps in the right direction, through the amendment of existing provisions directly related to trafficking, or indirectly by changing labor migration laws and regulations. The Palermo Protocol on trafficking adopted by the United Nations in 2000 explicitly attempts a definition linked to exploitation that can include a labor purpose. The general consensus is that the Palermo Protocol contains the most authoritative definition to date.³⁴

Child labor elimination has an important contribution to make to these corporate goals and it is therefore critical that the issue continues to be mainstreamed within the work of the Organization. There have been a number of attempts to promote greater integration but more effort is still needed.³⁵ According to the Statistics the causes of child labor are as follows: As a result of unstable and insufficient financial inflows, children are exposed to high risk, particularly in rural areas where the majority of children are involved in household activities and this is considered to be normal: in 44% of households surveyed there is no family member having regularly paid job; in only 36.7% there is at least 1 person working on a regular basis and in 14.8% - 2 working persons. The majority of working children are boys. The absence of the main breadwinner or poor health condition of one of the parent forces them to take the responsibility of earning for the livelihood of families early. The number of working children seems low at first glance-6.1% in households with children aged 7-18. However, that impression changes when we take into account the group of "hidden working children" in households, which comprises 80% and in fact is "behind the closed doors" and in uncontrollable conditions.³⁶

33 Ibid 32

34 Ibid 32

35 Ibid 32

36 Ibid 2

The Convention on the Rights of the Child primarily focuses on avoiding involvement of children in work activities which may cause risks to their health and development. According to the Armenian legislation allows persons aged 16 and up to work, sometimes also aged 14 are allowed to work but in only by the agreement of the parent/guardian. A due contract must be signed in this by the parent or the guardian as a guarantee of child labor safety and fulfillment of obligations of the employer. Guarantees defined by the law concern:

Work duration, which comprises 24 hours a week for persons, aged 14-16, and 36 hours a week for employees aged 16-18).

Conditions of work, which prohibits involvement of children under harmful and especially harmful conditions.

Leisure considerations: the daily rest must not be less than 14 hours for children aged 14-16 and 12 hours for children aged 16-18.

The law also stipulates exclusion of those conditions which are clearly classified as damaging to the health of the child and administrative fines are imposed according to the law.³⁷

Here are some of the facts of child labor particularly in marzes:

In the marz of Syunik working children do mainly heavy construction jobs, are paid very poor salaries, their “working age” varies between 12 and 14. Child labor in hazardous conditions is also recorded, for instance, work in gas filling stations.

I would also like to bring some citations by the children involved in child labor:

“I am so busy that I do not manage to do the work of our house promptly. I mainly help in cutting wood, shopping, all the rest is done by my sister because she is at home the whole day while I work since my father is not here and my mother is in hospital.”-A 12-year old child, Azatan

“Currently, I am very busy, I work day and night and even do not find time to meet my friends”-A working child, village of Azatan, Shirak marz.³⁸

The studies revealed that the age group of working children is from 12-16.

Evidence suggests that children are engaged in child labor in the services sector in Armenia. As the evidence shows, the vast majority of trafficking cases are driven by poverty. Children with low-income families or the absence of the main breadwinner forces them to take the whole responsibility at a very early age. These children are deprived of their right to education, very often they are obliged to leave school to help the family survive. This is a fundamental violation of the right to education and minimum conditions of livelihood.

Free universal education is enshrined in Article 38 of the Constitution of Armenia and Article 6 of the Law of Republic of Armenia on Education however; this does not free children from low-income families and from families belonging to ethnic minorities from having reduced access to education.

³⁷ Ibid 2

³⁸ Ibid 2

Moreover, children with disabilities also face difficulty accessing mainstream education due to the inaccessibility of the physical infrastructure of schools. As a result of these barriers, over 70 percent of children with disabilities in the care of the state and almost 20 percent of children with disabilities in the care of their families do not attend school.³⁹

After a national referendum in 2015, the Constitution was significantly changed. In April 2015, the Government introduced an amendment to the Law on Education that will increase the compulsory education age to 19 years, beginning in 2017.⁴⁰

In June 2015, the National Assembly adopted changes to the Labor Code that introduced regulations for children's work in the entertainment industry and included restrictions on acceptable working hours for children of all ages. According to the updated legislation, children ages 14 to 15 may work no more than 24 hours per week, while children ages 16 to 17 may work no more than 36 hours per week.

The minimum age for work is 16. In case of a written consent of a parent or a guardian, children aged 14 and 15 are allowed to work restricted hours as specified by the labor code; however, Armenia does not specify the type or conditions of light work in which they may engage.⁴¹

Armenia joined the UN Convention on the Rights of the Child in 1992 and signed the UN Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2005. ILO Convention #182 on "Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor" calls for taking effective measures towards the elimination of the worst forms of child labor and prevention of children engagement in forced labor.⁴²

Armenian Legislation prohibits involvement of children under the age of 14 in work activities irrespective of the nature of work and other circumstances. Within this context, the recruitment of a person under the age of 14 is forced labor with the legal consequences. Parents, adopters, custodians and guardians also have no right to engage children in forced labor. The child has a right to privileged conditions of work, which are in the RA Labor Code. Young persons aged 14-16 years old may be engaged only in temporary work which does not harm their health, safety, education and morality in the manner prescribed by the Labor Code. In this case a temporary labor contract is signed with persons of that age.⁴³

The Labor Code of the Republic of Armenia does not currently specify what is considered forced labor.⁴⁴

39 Minimal advancement-Efforts made but continued law that delayed advancement.

Armenia

<https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/Armenia.pdf>

40 Ibid 20

41 Ibid 20

42 See Forced Labor and Labor Trafficking in Armenia,

<http://www.osce.org/yerevan/212571?download=true> 43 Ibid 23

44 Ibid 2

The International Labor Organization states that not all work done by children should be classified as child labor. The work which does not affect their health and personal development or interfere with their schooling is generally regarded as being something positive.

According to the International Labor Organization “child labor” is defined as work that deprives children of their childhood, their potential, and their dignity, and that is harmful to physical and mental development. It refers to work that is harmful and dangerous to children and deprives them of their opportunity to attend school.⁴⁵

According to the worst forms of child labor convention (ILO C182) the term the worst forms of child labor comprises among other things also the work which is likely to harm the health, safety or morals of children.⁴⁶

Although the majority of countries have adopted and ratified international conventions prohibiting child labor, child trafficking has remained one of the most critical issues worldwide. Armenia is among the countries which have ratified all the key international conventions with regards to child labor. However, Armenia still remains among those countries where child trafficking is widely spread. We may often see begging children in our streets. Many parents or guardians force their children to leave school and beg money in the streets.

Below you may see all the key international conventions on child labor that Armenia has ratified:

ILO C. 138, Minimum Age

ILO C. 182, Worst Forms of Child Labor

UN CRC

UN CRC Optional Protocol on Armed Conflict

UN CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography

Palermo Protocol on Trafficking in Persons.

Despite new initiatives to address child labor, Armenia has made a minimal advancement in the elimination of forced labor. It continued to implement a law that delayed advancement in eliminating the worst the forms of child labor.⁴⁷

In December 2014, Article 34 of the Labor Code, which previously established the Government’s authority to conduct routine labor inspections, was repealed (adopted in December 17, <http://www.arlis.am/DocumentView.aspx?docid=95030>). Since that time, the Government has lacked a functioning labor inspection mechanism to monitor, inspect, and enforce child labor laws. Moreover, the Armenian Government has established institutional mechanisms for the enforcement of laws and regulations on child labor, including its worst forms. Below you may find the list of agencies responsible for child Labor Law Enforcement:

1. State Health Inspectorate (SHI), created in July 2013 under the Ministry of Health

⁴⁵ See ILO, Defining Child Labor, <http://ilo.org/ipec/facts/lang--en/index.htm>

⁴⁶ See <http://ilo.org/ipec/facts/lang--en/index.htm>

⁴⁷ Ibid 20

2. Main Department on Especially Serious Crimes within the Investigative Committee
3. Department on Defending the Rights of Minors and Combating Domestic Violence within the Police
4. Anti-Trafficking Unit within the Police
5. Police Hotline⁴⁸

All these agencies are responsible for the investigation, enforcement of laws as well as imposing sanctions for violations. Article 6 of the Law on Inspection Bodies clearly sets the powers of all inspection bodies in Armenia, including the ability to conduct inspections. However, the SHI officials reported that due to the amendment of Article 34 of the RA Labor Code, they were unable to systematically monitor, inspect and enforce child labor laws in Armenia.⁴⁹

One of the most widespread forms of child labor is child begging. They are forced by their parents or guardians to go to streets to beg money. These children are not included in education system and do not have health insurance. These children are exposed to high risk of trafficking. They spend their childhoods on the street, living under terrible conditions. This constitutes one of the strongest violations of children rights contradicting with the United Nations Convention on the Rights of the Child – such as the social and health care rights, right to education, right to development, etc.⁵⁰

The RA Human Rights Defenders have numerously addressed and highlighted this issue both in their annual reports and public speeches. In its annual report 2014 third Human Rights Defender Karen Andreyan has addressed the issue of child begging. He mentioned that it is driven by two factors: in one case families in poor social conditions force children to beg, in another case, when little children are involved, they use them as a means of dragging people's compassion and earning money. It should be noted that according to the RA Legislation involvement of children in begging is criminally charged and is stipulated in Article 166.1 of the RA Criminal Code. The Ombudsman has particularly emphasized that children are deprived of their right to education and basic conditions for care. The RA Police recorded 8 cases of child begging during 2014. The Ombudsman also addressed this issue in marzes, where as a result of poor social conditions children below the age of the one accepted are engaged in labor. There are no effective mechanisms to find these children and daily works are not implemented with children, hence, they are likely to return to streets to beg money. Due to the lack of proper inspection, the issue remains unsolved. The UN Committee of child rights, as stated in the Report, has expressed high concern regarding this issue calling for the Armenian Government to regulate the labor code and practice in compliance with Article 32 of the Convention.⁵¹

48 Ibid 20

49 Ibid 20

50 Ibid 10

51 See RA Human Rights Defender's Annual Report 2014, <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/206d2af54f5149a560ed7a616830d107.pdf>

The International Labor Office commissioned a document, Decent Work Country Profile for Armenia aimed at reflecting the changing economic and legal environment for the Decent Work Agenda in Armenia.

Armenia has ratified the four fundamental ILO Conventions on child labor as well as international standards against human trafficking. The general minimum age for employment is 16 years, although children aged 14 can work in certain circumstances with parental consent.⁵² Armenia has put an emphasis on struggling against forced labor. Armenia has been identified as both a source and a destination country for victims of human trafficking, trafficked into forced labor and prostitution. Armenia has launched various campaigns on raising public awareness on television and in schools, has conducted efforts to eliminate trafficking by setting institutional mechanisms as well.⁵³

National legislation also provides for the right to “adequate, safe and harmless” working conditions, and employers are required to ensure health and safety protection for employees. The Labor Code prohibits the employment of anyone under the age of 18 in hard labor or hazardous work which may harm someone’s health (art. 257 LC).

According to the Government Decision No. 2308-N, 2005, last amended 2010, a list of types of hazardous work prohibited to persons under the age of 18 are set out.⁵⁴

Exceptions: Children between the ages of 14 and 16 may enter into an employment contract with the written consent of one of their parents or a legal guardian (art.17 (2) LC). The work should not be harmful to their health, safety, education or morals (art. 17(2.1) LC). According to Article 148(3) of the Labor Code s persons under the age of 18 are prohibited from night work and according to Article 17(3) persons under age 18 from are not allowed to work at weekends and during holidays. The State Labor Inspectorate is responsible for ensuring the guarantees defined by the labor legislation for persons under 18 (Law on the Labor Inspectorate, art. 10(14). Article 41 of the Code on Administrative Offences states that a first violation of the labor legislation (or other legal norms regulating labor law) will result in a warning for the offender. A further violation, committed within a year after that warning is notified, will result in a fine equivalent to 50 times the minimum wage applicable to the employer.⁵⁵

Child trafficking is prohibited under the Criminal Code (art. 168 CC). A National Committee on Child Protection was established by Governmental Decision No. 835 of October 2005. The Minimum Age

52 See Decent Work Country Profile Armenia,

http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/publication/wcms_185266.pdf 53 Ibid 40

54 Ibid 40

55 Ibid 40

Convention, 1973 (No. 138) was ratified by Armenia on 27 January 2001 (specified minimum age: 16 years) and the Worst Forms of Child Labor Convention, 1999 (No. 182) on 2 January 2006.⁵⁶

Article 32 of the Constitution prohibits “compulsory employment”. There is no separate law on forced labor, sale of humans or other types of trafficking in Armenia. The Criminal Code, adopted in April 2003, provides penalties for offences of human trafficking, prostitution and pornography; these penalties are higher when the victim is a minor (arts 131, 132, 166, 168, 261, 263 CC). Armenia adopted a national anti-trafficking program in 2004. An inter-agency commission to combat trafficking and a Human Trafficking Bureau within the national police service have been established, along with a border control information system to help prevent human trafficking at Zvartnots International Airport in Yerevan. Moreover, in 2008, the Government, together with the OECD, implemented a National Referral Mechanism which assists law enforcement agencies in identifying and prosecuting suspected traffickers.⁵⁷

According to a report published by the UNHCR, Armenia is a source and destination country for victims of trafficking, with Armenian boys subjected to conditions of forced labor, Armenian women and girls subjected to forced prostitution within the country, and minors of both sexes trafficked internally for forced begging (US Department of Labor, 2009).⁵⁸

In 2017 the Council of Europe Group of experts on action against trafficking in human beings (GRETA), has published a new report on combating human trafficking in Armenia, stating that Armenia has made good progress, but still more effort is needed. “Armenia has advanced in the legislation and practices for preventing and combating trafficking in human beings,” said the Council of Europe Group of experts on action against trafficking in human beings (GRETA), in its new report published today. “However, more needs to be done to prevent trafficking of children, trafficking for labor exploitation, as well as to protect and assist victims. The Armenian Government’s comments are published together with the report.”

The survey was conducted for the periods of 2012 up to 2016. Armenia still remains among the countries of origin of victims of trafficking in human beings. During the reporting period, some 70 victims were identified, from which seventeen were children. GRETA calls for the Armenian government to take effective measures towards prevention of trafficking for the purpose of labor exploitation, including through better monitoring of recruitment and temporary work agencies. Authorities should also focus their attention on supporting children in vulnerable situations, especially those from rural areas who are in risk of child labor; those placed in child care institutions, street and asylum-seeking children, as

⁵⁶ Ibid 40

⁵⁷ Ibid 40

well as girls from the Yezidi community who may be at risk of sexual abuse and trafficking due to the early marriages. Victims of trafficking should be provided with safe accommodation, timely medical treatment and professional training to facilitate their social reintegration.⁵⁹

CONCLUSION

In Armenia, nearly all children are included in household work activities at a very early age. The work in the household economic activities is considered so ordinary that adults do not even question its legality. Schools even free children from classes to assist their families during the period of mass harvesting. However, many specialists are highly concerned about this issue and consider it as a violation of child rights claiming that child labor takes place at the expense of his/her leisure and education. Moreover, it often happens in heavy conditions out of the scope of the family, community institutions, and the legislative regulation.⁶⁰

And although Armenia is among those countries which have ratified all the key international instruments with regards to worst forms of child labor, child trafficking still continues to be one of the most critical issues to be eliminated, as children are the most vulnerable group of the society. They are the creators of the future and their needs must be addressed and implemented in the most proper way possible.

Being highly concerned about this issue, international mechanisms and institutions give possible solutions for its elimination, among them are:

1. Ensuring political support both at the national and local level, the chances of establishing and financing effective anti-trafficking measures are greater
2. Ratification of the most important international legal instruments by all countries;
3. Effective implementation of international standards and instruments,
4. Best interests of the child
5. Non-discrimination

Article 132 of the RA Criminal Code defines the trafficking in persons as recruitment, transportation, transfer or receipt of persons by means of by means of the threat or use of force...

The Armenian definition has to some extent taken the Palermo Protocol as a model for defining trafficking in persons, and the Palermo Protocol defines a child as any person less than eighteen years of age. According to Article 132(2) of the same Code involvement of children in trafficking is punished by imprisonment from seven to ten years.

But the problem is not in the punishment mechanisms, the problem is of identification of trafficked children, because very often these children do not speak of their traffickers, they explain that they help their parents who are in socially poor conditions. Hence, the traffickers remain unpunished. Therefore

the Government must primarily focus on investigation mechanisms, trying to approach each case individually. And later only imply harsher sanctions for the traffickers for them to be aware that involvement of children in trafficking is a serious crime and that cannot avoid it anyhow.

Below I would like to bring the recommendations, which have been put forward by many ombudspersons:

Child begging and other forms of economic exploitation of children are one of the most pressing problems in the field of child rights. In order to ensure children's safety and protection from all these kinds of violations, each state is obliged to take appropriate measures. First of all it is important to identify the causes of exploitation and abuse of street children case by case. After finding out the groups of children, the state must ensure their access to all spheres of life, such as education, health care, social and professional support without any discrimination. Create conditions for timely inclusion of all children in the preschool education and enrolment in educational institutions through appropriate measures which would be promptly implemented by the educational institutions and local communities. Children and parents or guardians must be educated on all aspects of their rights and obligations, also providing material support for children and their families depending on their needs and requirements. Provide continuing education and training for professionals working with this category of children, identifying problems and working with parents to remove children from the street, as well as ensuring integration of children and their families into the system, by constantly monitoring the situation and providing rehabilitation of the child who has been subjected to exploitation. Appropriate legal and other regulations must be adopted to prevent and protect children from exploitation. Raising public awareness about the harmful effects of child begging and ensuring harsher sanctions in the national legislation and regulations.⁶¹

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