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**ANALYSIS OF ANTI-TRAFFICKING POLICIES
IN THE REPUBLIC OF ARMENIA**

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TABLE OF CONTENTS

	Page
Acknowledgments	III
List of Abbreviations	V
Abstract	1
1. Introduction	2
2. Background Information and Statistics	5
The Main International Instrument in the Fight against Human Trafficking	6
Facts and Statistics on Human Trafficking	8
Major Factors Contributing to Human Trafficking	12
3. Human Trafficking Defined	14
4. The Problem	19
5. The Purpose of the Study	23
6. Methodology	24
7. Anti-Trafficking Policies of the Republic of Armenia	25
Government Actions to Address the Problem of Human Trafficking	30
8. Analysis of the Policy Documents and Findings	31
Outcome	47
9. Conclusion and Recommendations	48
10. References	54

LIST OF ABBREVIATIONS AND ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
AIPRG	Armenian International Policy Research Group
CoE	Council of Europe
CoE CHTMS	Council of Europe Convention on Human Trafficking and Migrants Smuggling
CSIS	Center for Strategic and International Studies
EU	European Union
GTZ	German Agency for Technical Cooperation
HIV	Human Immunodeficiency Virus
IAC	Interagency Counter-Trafficking Commission
IFAD	International Fund for Agricultural Development
IHRLI	International Human Rights Law Institute
ILO	International Labor Organization
IOM	International Organization for Migration
IWG	International Working Group
NAP	National Action Plan to Combat Trafficking
NGO	Non-governmental Organization
NRM	National Referral Mechanism
OSCE	Organization for Security and Cooperation in Europe
RA	Republic of Armenia
RA CC	Republic of Armenia Criminal Code

UK	United Kingdom
UN	United Nations Organization
UN CTOC	United Nations Convention against Transnational Organized Crime
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USDS	United States Department of State

ABSTRACT

*Comprehension without critical evaluation is impossible.
Georg Wilhelm Friedrich Hegel*

The purpose of this study is to evaluate the anti-trafficking policies of the Republic of Armenia. It analyses the major anti-trafficking policy documents developed by the government of Armenia and tries to understand what efforts have been made by the government in this field as well as to what extent they helped advancing legislation and practice of institutions that are essential for fighting effectively the human trafficking in the country. The paper also aims to find out whether there has been any significant progress in the key areas of anti-trafficking response during the last 10 years.

Trafficking in human beings is often characterized as a modern form of slavery. This is a heinous international crime and human rights abuse, comprising all the countries in the world. It is a global problem and a number of developing and transitional countries have been affected as countries of origin, including Armenia. The failure of governments to acknowledge and respond to human trafficking activity over the years has resulted in the invisibility of the issue in policy, official records, and state actions. None of the countries had ever had mechanisms in place before 2000 that permit trafficking activity to be accurately registered. This absence of records has fortified an ignorance of reality, and policy priorities have been following the belief that “if not seen, it does not exist”.

Since 2002, the government of Armenia has taken some steps to address the problem of human trafficking. Despite numerous initiatives and activities that have been conducted, there are still significant gaps in many areas of the anti-trafficking response, particularly in legal and policy documents. The government officials pay limited attention to the issue, and efforts to combat trafficking in human beings in Armenia remain erratic.

Through examination and analysis of basic domestic and international legal acts, documents, resolutions and reports concerning human trafficking, the paper provides a thorough understanding of the current state of affairs in regard to this problem in Armenia. However, the focus is on the analysis of the major anti-trafficking policy documents – the National Action Plan to Combat Trafficking (NAP) and the National Referral Mechanism (NRM). Further, findings regarding main challenges and drawbacks in the policy documents are discussed in the essay.

Finally, through the consideration of discussed and analyzed data and findings, the paper comes up with practical and implementable recommendations.

INTRODUCTION

*Injustice anywhere is a threat to justice everywhere.
Martin Luther King, Jr.*

Trafficking in human beings is a global problem often characterized as a modern form of slavery. This is a heinous international crime and human rights abuse, comprising all the countries in the world. No state is immune from human trafficking. Such trafficking has seriously affected a number of developing and transitional countries as countries of origin, including Armenia.

As David Feingold put it, “Judging by news headlines, human trafficking is a recent phenomenon. In fact, the coerced movement of people across borders is as old as the laws of supply and demand. What is new is the volume of the traffic – and the realization that we have done little to stem the tide. We must look beyond our raw emotions if we are ever to stop those who trade in human lives” (Feingold 2005, 26).

Human trafficking in Armenia has recently become a growing disease and increases rapidly. Statistics are not precise on this matter and numbers differ from one source to another. Estimates of the number of people trafficked for commercial sexual exploitation and other purposes are contentious since problems of definition are compounded by the unwillingness of victims to be identified as being trafficked. However, it is estimated that for the past 10 years about 12,000 people (overwhelmingly women and young girls) were sent abroad for sexual and forced labor exploitation, sweatshop servitude, illegal child adoption, begging, forced marriage, and other purposes (AIPRG 2007).

Trafficking has brutalized women and under-age girls exposing them to violence, rape, physical and psychological torture, hazardous working conditions, malnutrition, and to HIV/AIDS and other sexually transmitted infectious diseases. Increasing numbers of women and young girls contracting to HIV/AIDS in Armenia has raised major concern. As a rule, severe psychological trauma from separation, coercion, sexual abuse, and depression leaves a life-time scar on the victims and leads to social exclusion and, later, to a criminal life style of drugs, alcohol addiction, and sexual violence (AIPRG 2007).

It is considered that the major contributing factors in human trafficking in Armenia have been poverty, unemployment, a high level of corruption, and traditional gender inequality.

The Republic of Armenia has gone through economic turmoil for the past two decades. Independence from the Soviet Union resulted in high poverty and unemployment as well as loss of markets and deep financial crisis, which led to the emigration of over one million people. Many women were left alone and with no financial support. Due to an unstable economy, public corruption, and poor social and economic conditions, women and young girls have taken to earning a living through prostitution. The rapid growth of prostitution and the related sex industry in Armenia have provided easy access to and opportunity for massive exploitation of economically vulnerable women and girls, often resulting in trafficking (IOM 2007).

Human trafficking does not apply only to women and young girls. In search of employment to support their families' subsistence, men also fall into the hands of traffickers and are exposed to forced labor exploitation under brutal and inhumane conditions.

Trafficking in human beings takes a number of different forms. It is dynamic and adaptable; like many other forms of criminal activity, it is constantly changing to defeat law enforcement efforts. In Armenia, societal tolerance of the commercial sexual exploitation of women and children, taboos regarding sexuality, and a culture that discourages the reporting of suspected trafficking and sexual exploitation activity largely contribute to the invisibility of the phenomenon.

Since 2002, the government of Armenia has taken some steps to address the problem of human trafficking. Despite numerous initiatives and activities that have been conducted, there are still significant gaps in many areas of the anti-trafficking response, particularly in legal and policy documents. The state authorities pay limited attention to the issue, and efforts to combat trafficking in human beings in Armenia remain erratic. There is no clear national strategy or national coordination mechanism to prevent trafficking in persons, which grows rapidly, absorbing more and more people. The government of Armenia needs to initiate concrete steps towards minimizing the number of victims of trafficking through improving social conditions and providing services for them. At the same time, the society itself should be ready to accept the return of victims: its refusal can only be to the benefit of criminal groups who trade in people.

Moreover, since trafficking is an international crime, it requires cooperation and coordination among countries. In order to develop an effective response, governments still need to recognize the seriousness of the problem.

BACKGROUND INFORMATION AND STATISTICS

The trafficking in human beings, specifically women and children, for commercial sexual exploitation is not a new phenomenon. In the wake of World War One, the League of Nations embarked on a three-year investigation and research of trafficking in women around the world. It concluded that Latin America was the major traffic market of the world (IHRLI 2002). Since then, markets have shifted over time, moving the trafficking trade through different regions and continents.

Despite its long history in almost all the regions of the world, trafficking in persons has failed to receive governments' attention or to be the subject of coordinated actions toward its eradication. The international community's early efforts to curb trafficking in women for the purposes of prostitution through the passage of the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in 1949 passed largely without notice in or participation of most countries. Similarly, these early international efforts failed to trickle down into the national laws and policies of states (IHRLI 2002).

The failure of governments to acknowledge and respond to human trafficking activity over the years has resulted in the invisibility of the issue in policy, official records, and state actions. None of the countries have ever had mechanisms in place that permit trafficking activity to be accurately registered. This absence of records has fortified an ignorance of reality, and policy priorities have been following the belief that "if not seen, it does not exist".

However, the trafficking of women and children for commercial sexual exploitation is an undeniable reality that is occurring both within and across national borders. It affects each

country uniquely, presenting a different combination of challenges to relevant government agencies, NGOs, and society as a whole.

The Main International Instrument in the Fight against Human Trafficking

The most important and major step forward in the fight against human trafficking and international organized crime in general was the United Nations Organization's high-level political Conference held in Palermo, Italy on 12-15 December 2000, where the representatives of 148 countries were present. The Conference signified the recognition by Member States of the seriousness of the problems posed by human trafficking and organized crime, as well as the need to foster and enhance close international cooperation in order to properly address those problems. It opened for signature by Member States the new United Nations Convention against Transnational Organized Crime (UN CTOC), adopted by General Assembly resolution 55/25 of 15 November 2000 – the main international instrument in the fight against transnational organized crime (called the UN Palermo Protocol) – which entered into force on 29 September 2003 (UNODC 2009).

The Convention was further supplemented by three Protocols, which target specific areas and manifestations of organized crime: 1) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; 2) the Protocol against the Smuggling of Migrants by Land, Sea and Air; and 3) the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (UNODC 2009).

States that ratify this instrument commit themselves to taking a series of measures and actions against transnational organized crime, including the creation of domestic criminal

offences, the adoption of new and comprehensive frameworks for extradition, mutual law enforcement cooperation and legal assistance; and the promotion of technical assistance for building the necessary capacity of national authorities.

However, starting from 2000, governments of most countries have begun paying more attention to the problem of human trafficking. They have started to take serious steps to address trafficking issues. Some of them have succeeded while others failed. For instance, the United States government has taken actions to address trafficking both nationally and globally. The “Trafficking Victims Protection Act” (TVPA) 2000 and the “Victims of Trafficking and Violence Protection and Reauthorization Act” (VTVPRA) 2003 and 2005 were documents that became federal laws, for which there are criminal penalties in the United States. They provide extensive protections and social services for victims of trafficking found in the US regardless of nationality (Chapkis 2003).

The European Union countries’ complicated laws on prostitution made prosecution difficult. In Great Britain, for instance, paid sex has been legal but prostitutes were not allowed to solicit in public. The new “Sexual Offences Act” of 2003 incorporated trafficking for sexual exploitation but did not require those committing the offence to use coercion, deception, or force, so that it also includes any person who enters the UK to carry out sex work with consent as having been trafficked. In Germany, Sweden and Norway, prostitution has also been legal, which created obstacles to uncovering and prosecuting cases of human trafficking. And in 2005, forced prostitution was redefined and the EU new standards were applied to these countries’ laws, which abolished paying for sex. As a result, human trafficking for the purpose of sexual exploitation in these countries is no longer a sex crime but a “crime against physical integrity and

freedom”, for which it is designated to fine or jail clients of prostitutes for up to six months in an effort to counteract trafficking and lower demand (UN 2006).

Although the Republic of Armenia ratified the UN Convention against Transnational Organized Crime on March 25, 2003 and signed one of its protocols – the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children – Armenian legislation still lacks various provisions that the international treaties require for effective fight against human trafficking. The gaps between Armenian law and the international instruments have yet to be addressed to achieve full compliance with the UN Palermo Protocol and the Council of Europe Convention on Human Trafficking and Migrants Smuggling (CoE CHTMS). The major anti-trafficking policy documents in Armenia – the NAP and NRM – designed to tackle the problem of trafficking, do not sufficiently respond to the need of addressing root causes of the problem in the country considered to be predominantly a country of origin of victims of human trafficking. Moreover, no policy or strategy document in this field considers the broader violations of children and women’s social, economic, cultural, civil and political rights (OSCE 2007).

Facts and Statistics on Human Trafficking

Human trafficking is considered as the fastest growing criminal industry in the world. It is also the world’s third most profitable criminal activity, following drugs and weapons trafficking. According to the US Department of State, only in 2006, about US\$20 billion was generated in annual revenue from human trafficking activity worldwide, with at least US\$12 billion attributed to the sex industry (USDS 2007). The Council of Europe has recently stated that human trafficking had reached epidemic proportions over the past decade, with a global annual market

of US\$42.5 billion. As to drugs and weapons trafficking, the 2006 United Nations Conference on Global Organized Crime estimated that global trade in drugs amounted to about US\$800 billion a year; that is, it was larger than the global trade in oil. The amount of the total revenue from trade in weapons was around US\$500 billion a year. The overall profit from these three kinds of criminal activities amounted to about US\$1.32 trillion a year or about 3% of the global GDP (UN 2006).

Human trafficking is a fairly lucrative industry. In some areas, like the USA, Russia, Eastern Europe, Hong Kong, Japan, and Colombia, trafficking in persons is controlled by large criminal organizations. Nevertheless, the majority of trafficking is done by networks of smaller groups that each specialize in a certain area, like recruitment, transportation, advertising, or retail. This is very profitable because little start-up capital is needed and prosecution is relatively rare (Feingold 2005).

Due to the “hidden” nature of trafficking activities, it is difficult to measure the exact extent of human trafficking. However, it is estimated that the global slave trade presently holds 27 million people in bondage, which is more than the total population of Australia, and more than double the size of Los Angeles city (ILO 2009). According to the US Department of State data, each year about 800.000 to 1.000.000 people are trafficked both internally and across national borders worldwide (USDS 2007). According to the UNDP data, an estimated 4.000.000 men, women, and children are trafficked across international borders and within countries each year, from which 70% are women and young girls under 18, 30% are men and young boys, and 50% of the total victims of trafficking are children. The data also shows that the majority of transnational victims are trafficked into commercial sexual exploitation (UNDP 2007).

The data from the ILO Forced Labor Study 2005 clearly illustrates the issue of human trafficking by categories. According to it, as of 2005, there were an estimated 12.3 million forced laborers in the world, from which:

➤ Forced economic exploitation by sex:

men and boys – 44% ; women and girls – 56%

➤ Forced commercial sexual exploitation by sex:

men and boys – 2% ; women and girls – 98%

➤ Trafficking versus other forms of private sector forced labor:

human trafficking – 24% ; other forms of forced labor – 76%

➤ Trafficked forced labor by form:

commercial sexual exploitation – 63% ; economic exploitation – 32% ; mixed – 5% (ILO 2005).

As to children affected by trafficking, there is a drastic absence of systematic data collection, analysis and dissemination at all levels – international, regional and national. Few reliable estimates exist of the magnitude of this phenomenon. The data available are rarely disaggregated by age, gender, national origin or forms of exploitation. Where disaggregated data exist, they enhance understanding of child trafficking and provide important evidence that informs national policies and responses.

However, according to Stop Modern Slavery-Washington DC Community Group NGO, at a global scale 24% of all victims of trafficking are children. The NGO has recently reported that 2.2 million children are sold into the sex trade every year, meaning that over four children per minute (Stop Modern Slavery 2009).

Child trafficking occurs in virtually all European countries. There is no clear-cut distinction between countries of origin and destination in Europe; in more than half of the countries trafficking routes lead in both directions, into and out of the country. Children are trafficked not only across borders but also within countries. Thus, countries have multiple responsibilities: to prevent trafficking, identify affected and at-risk children, and provide assistance and protection to victims (UNICEF 2008).

Trafficking in children has been perceived mainly in connection with sexual exploitation, but the reality is much more complex. Children in Europe are also trafficked for exploitation through labor, domestic servitude, begging, criminal activities and other exploitative purposes (UNICEF 2008).

According to the United Nations Office on Drugs and Crime (UNODC) 2007 Report, human trafficking is characterized as a multi-dimensional threat, depriving people of their human rights and freedoms, risking global health, promoting social breakdown, inhibiting development by depriving countries of their human capital, and helping fuel the growth of organized crime. In the past two decades, criminal organizations have increasingly set up their operations transnationally, taking advantage of economic globalization and new communication and transportation technologies. Their strategy has been to base their management and production functions in low-risk areas, where they have relative control of the institutional environment, targeting mainly those individuals who are poor, unemployed or underemployed, and have limited access to social services and protections. The link-up between human supply and demand is made by the global criminal networks that control much of the sex industry throughout the world, and are always striving to find new and more profitable markets (UNODC 2007).

Armenia represents one of the new target countries for those global criminal networks. In practically all available documents on human trafficking in Armenia, including the US Department of State Trafficking in Persons Reports, CSIS, IOM, ILO, IFAD, UNDP, UNODC, UNHCR, UNICEF, and OSCE Reports on Human Trafficking, Armenia is considered to be mainly a country of origin (source country) for traffickers rather than transit or destination country. Trafficking for sexual exploitation starts in Armenia, from where recruited victims are trafficked mainly to Turkey, the United Arab Emirates, Russia, and Greece. As for trafficking for labor exploitation, the main destination country is Russia.

Major Factors Contributing to Human Trafficking

One of the major contributing factors of human trafficking is the process of globalization. Globalization can be defined as the increasing interconnectedness of people and places through converging processes of economic, political, and cultural change. It is the product of an “explicit” economic policy promoted by free trade advocates, developed capitalist countries, financial interests, international investors, and multinational firms. As a result of this global reorganization, economic growth in some areas of the world, such as China and India, has been unprecedented. Some states and international corporations have amassed vast amounts of wealth from this economic restructuring while other countries became much poorer. As some places and people move ahead and prosper, others fall even further behind, suffering from unrelenting poverty (Rowntree, Lewis, Price, and Wyckoff 2000).

Globalization of the world economy has evidently created greater inequity between rich and poor, resulting in worldwide tensions in societies. Evidence for this comes from the fact that the percentage of poor people in most world regions, including Armenia, has been increasing, not

decreasing. One of the UN Reports, released in 2000, has noted that, in terms of social conditions, 60 countries in the world have been worse off by the year 2000 than 30 years ago. It has also noted that, at a global scale, the richest 20% of the world's population consumes 86% of the world's resources while the poorest 80% uses only 14% of global resources (Rowntree, Lewis, Price, and Wyckoff 2000).

In addition, experts from different countries have linked the liberalization of markets, the structural adjustment strategies of the WTO (World Trade Organization), IMF (International Monetary Fund), World Bank and the resulting economic restructuring of the world with an erosion of human rights guarantees and with violence. According to them, globalization has encouraged trafficking in people and drugs and has led to an increase in international crime. These illicit activities are further facilitated by new technologies and modern means of communication (Castells 2005).

Technological advancement is considered to be another factor contributing to trafficking in human beings. There is much worse in the current plight of many children around the world, including Armenia. They have become sexual commodities in a large-scale industry, organized internationally through the use of advanced technologies and by taking advantage of the globalization of tourism (Castells 2005).

New technologies are considered as a major factor in spurring child sex industry, particularly child pornography. This large and hyper-profitable industry ruthlessly exploits children for sexual purposes to satisfy a high demand for young virgins and child prostitutes, since occupational hazards such as HIV/AIDS and other sexually transmitted diseases are missing or rare in children, and traffickers get paid almost ten times more for children under 18

than for aged girls. Camcorders, VCRs, DVDRs, satellite video receivers, and computer graphics have all moved the child porno industry into homes, making it difficult for police to prosecute. The Internet has opened up new channels of information for those seeking access to children for sex. Because pornographic images, clips, and video films can be uploaded and downloaded almost anonymously, a global network of child pornography has developed, in a wholly decentralized manner and with few possibilities for law enforcement (Castells 2000).

Finally, gender inequality also contributes to the development of human trafficking around the world. In Armenia, for instance, continuing traditional gender inequality, domestic violence and sexual abuse, lack of job opportunities, lack of education and public awareness, and increasing numbers of family dissolution have largely contributed to the growth of prostitution. The rapid growth of prostitution and relevant commercial sex industry, in turn, has provided fertile ground as well as easy access to and opportunity for massive exploitation of economically vulnerable women and under-age girls. Services have not been easily available for prostitutes to avoid sexual exploitation (IOM 2001).

HUMAN TRAFFICKING DEFINED

The term *trafficking in persons* can be misleading: it places emphasis on the transaction aspects of a crime that is more accurately described as enslavement or exploitation of people for years. After much neglect and indifference, the countries in the world are waking up to the reality that people prey upon other people for money.

Human trafficking can be broadly defined as “modern-day slavery”, but different countries and laws provide variations on the exact definition. However, human trafficking is understood as the recruitment, transportation, harboring, or receipt of people for the purposes of forced labor exploitation, servitude, and, overwhelmingly, for sexual exploitation. Exploitation includes forcing people (both male and female) into prostitution or other forms of sexual practices, like live-sex acts, pornography, sex orgies, and sadomasochism. For children, exploitation may also include forced prostitution, illicit international adoption, trafficking for early marriage, or recruitment for religious cults, as child soldiers, and beggars (UN 2003).

One of the biggest problems that cause serious legislative challenge for many countries around the world, including Armenia, is the definition of the concept of human trafficking. Due to vague, improper, and incomprehensive definition of the term in legislation, criminal code, policy and strategy documents of different countries, the implementation process of anti-trafficking activities and measures, particularly investigation, prosecution and punishment of suspected traffickers, goes not in a designated way producing low, if not any, outcome.

Probably, the discrepancy in the definition of human trafficking comes from the fact that states do not apply in their legislations a clear-cut distinction between the concepts of human trafficking and migrant smuggling. Many countries comprehend these two different concepts as one and conceptualize into a single problem, which further creates difficulties in both legal acts and policies. It is worth to mention that, although human trafficking and migrant smuggling are both severe criminal offences and human rights abuse, they differ from each other in the means and ways and require different response and punishments.

Like human trafficking, migrant smuggling is also considered as a deadly business. Generating huge profits for the criminals, smuggling fuels corruption and empowers organized

crime. Almost every country in the world, including Armenia, is affected by this crime, whether as an origin, transit or destination country for smuggled migrants by criminals.

However, to some extent, human trafficking and migrant smuggling are interrelated. Available evidence reveals that criminals are increasingly providing smuggling services to irregular migrants to evade national border controls, migration regulations and visa requirements. As border controls have improved recently in many countries, migrants are deterred from attempting to illegally cross them and are diverted into the hands of smugglers, becoming more vulnerable to later being trafficked.

The trafficking issue has been often used to support policies limiting immigration. In fact, the recent global tightening of asylum admissions has increased trafficking by forcing many desperate people to turn to smugglers. In Southeast Europe, a GTZ study found that more stringent border controls have led to an increase in trafficking, as people turned to third parties to smuggle them out of the country, often becoming victims of trafficking. Similarly, other legal efforts to protect women from trafficking have had the perverse effect of making them more vulnerable (Feingold 2005).

The definition of “human trafficking” has been controversial for many years. There was no internationally accepted definition until December 2000, when the United Nations Convention Against Transnational Organized Crime with its two supplemental protocols – 1) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; 2) the Protocol Against the Smuggling of Migrants by Land, Sea and Air – established the most commonly used and influential definition of human trafficking. According to the Protocol to

Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (adopted by General Assembly resolution 55/25 and entered into force on 25 December 2003), *“Trafficking in persons shall mean the 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs”* (UN CTOC-PPSPTPEWC 2003, Article 3, paragraph a).

On the basis of the definition given in the Protocol, it becomes evident that trafficking in persons has three constituent elements: The Act – recruitment, transportation, transfer, harbouring or receipt of persons; The Means – threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim; and The Purpose – for the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.

The definition contained in article 3 of the Protocol is meant to provide consistency and consensus around the world on the phenomenon of human trafficking in. Article 5 of the same Protocol, therefore, requires that the conduct set out in article 3 be criminalized in domestic legislation. Domestic legislation does not need to follow the language of the Trafficking in

Persons Protocol precisely, but should be adapted in accordance with domestic legal systems to give effect to the concepts contained in the Protocol.

In addition to the criminalization of trafficking, the Trafficking in Persons Protocol requires criminalization also of attempts to commit a trafficking offence, participation as an accomplice in such an offence, and organizing or directing others to commit trafficking. Therefore, national legislations should adopt the broad definition of trafficking prescribed in the Protocol. The legislative definition should be dynamic and flexible so as to empower the legislative framework to respond effectively to trafficking which:

- Occurs both across borders and within a country (not just cross-border),
 - Includes a range of exploitative purposes (not just sexual exploitation),
 - Victimizes children, women and men (Not just women and young girls),
 - Takes place with or without the involvement of organized crime groups
- (UN CTOC-PPSPTPEWC 2003).

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children was the first global legally binding instrument with an agreed definition on trafficking in persons. The intention behind this definition has been directed to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases.

Finally, the Protocol marked a significant milestone in international efforts to stop the trade in people. Although more than 110 States have signed and ratified it, translating it into reality

still remains problematic in many countries, including Armenia. Moreover, very few criminals have been convicted at a global scale and most victims are probably never identified or assisted.

THE PROBLEM

Human trafficking is increasingly recognized as a problem in Armenian society. Although trafficking has not reached such dangerous scales as in most western and eastern European countries, Russia, Japan, India, and the USA, the problem is seen to be widespread and rapidly growing. As it was previously mentioned, statistics are not precise on this matter and numbers differ depending on the source. However, it is estimated that for the past 10 years about 12,000 people (overwhelmingly women and young girls) were sent abroad for sexual and forced labor exploitation, sweatshop servitude, illegal child adoption, begging, forced marriage, and other purposes (AIPRG 2007).

According to the UNODC data, every year, about 700,000 people (mostly women) are trafficked to western European countries; 400,000 to Russia; 300,000 to Japan; 200,000 to India; and around 50,000 to the USA (UNODC 2007). The number of people (mostly women and young girls) trafficked both within and across national borders of Armenia is about 1,200 annually (ILO 2009).

It is a generally recognized fact that high poverty and unemployment rates, family violence, gender discrimination, economic instability, and corruption easily attract trafficking agents to recruit victims from the most vulnerable areas and export them to countries with well-organized

trafficking networks. Since Armenia has been one of the fragile states after its independence from the Soviet Union, it has provided conducive environment and opportunity for traffickers.

In general, the risk factors contributing to human trafficking in Armenia, specifically for the purposes of sexual exploitation, can be classified into two main groups: individual factors and external factors.

Individual factors:

- Poverty (self or family)
- Lack of work opportunity
- Dependents (children)
- Illiteracy or minimal education
- Family dissolution
- Orphanage and homelessness
- Drug use and alcohol addiction
- Sexual orientation

External factors:

- Gender discrimination
- Domestic physical and sexual violence
- Ease of migration due to weak border controls
- Globalization policies
- Public corruption
- Developed trafficking networks
- High demand of prostitution

(IOM 2001).

The IOM Report 2001 on the situation of trafficking in Armenia stated that “the primary cause of trafficking in persons is the relative and absolute impoverishment and lack of decently paid job opportunities since the collapse of the USSR and the subsequent transition to a market economy... on the other hand are gender roles and inequalities that make women particularly vulnerable to certain forms of trafficking such as that of the sex trade, to serve the needs of men” (IOM 2001, 16).

As it was mentioned previously, Armenia is primarily a source country for women, young girls, and children trafficked mostly to the United Arab Emirates and Turkey for the purpose of commercial sexual exploitation. For the purpose of forced labor, Armenian men and women are trafficked mostly to Turkey and Russia (OSCE 2007).

The majority of victims of trafficking in Armenia are of the average age of 14 to 32. They originate mainly from poor rural and urban areas of the country (mostly Southern region), where they are under a tremendous pressure from family members to make an earning in any possible way. It has been reported that, in Armenia, about 80% of the village women and young girls fall into trafficking by choice, only to run away from miserable living conditions. For women, the pursuit of the basic needs of food, clothing, housing, and the lack of employment opportunities at home are primary elements contributing to their vulnerability. For children, issues related to sexual and physical abuse, family disintegration, school abandonment, teenage pregnancy, homelessness, and drug use appeared to combine with economic needs of children and their parents/caretakers to create a risk of being trafficked (IOM 2001).

On an interview with 147 Armenian young girls (ages of 18-25), conducted by the Armenian NGO “Hope and Help” in Dubai, the United Arab Emirates in 2005 with the assistance of the IOM, majority (80%) acknowledged that they were aware of the consequences, only 20% were

tricked into prostitution. However, even though most of the trafficked girls knew they would work as prostitutes in Dubai, they did not know and did not realize that they would be kept in brutal, inhumane conditions of slavery, being completely unable to escape from their exploiters (IOM 2001).

Upon arrival at the “promised” destination, victim’s passports are taken away and they are locked up in a house under strict control and surveillance. If the victims resist cooperating with the traffickers, they are threatened to be handed over to the authorities of the country they reside in illegally, for which they will be put in jail. In most cases, the victims are beaten, raped, and physically restrained to prevent them from leaving. Traffickers also threaten to inform the women’s families and their hometown officials that they are working abroad as prostitutes. Left with no documentation, lack of financial resources, insufficient knowledge of language, and fear from being imprisoned leaves very little, almost no alternatives for the trafficked person to either continue the prostitution activity and hope for the best, try to escape and face the worst or commit suicide or be killed by captives (IOM 2001).

Until 2002, government officials in Armenia have tended to dismiss the suggestion that trafficking presents much of a problem in the country. Societal tolerance of the commercial sexual exploitation of women and children, taboos regarding sexuality, and a culture that discourages the reporting of suspected trafficking and sexual exploitation activity have further contributed to the invisibility of the phenomenon.

Since 2002, the government of Armenia has started to take some steps to address the problem of human trafficking. Although the first legislation to specifically outlaw trafficking and to provide criminal penalties went into effect in the summer of 2003, it still does not include various important provisions that the international treaties require for effective and

comprehensive fight against human trafficking. Particularly, the Criminal Procedural Code (CPC) of the Republic of Armenia has not designed the way to properly address the issues of investigation, prosecution and punishment of suspected traffickers, leaving victims of trafficking vulnerable to criminal prosecution.

Although numerous initiatives and activities have been conducted by the government to address the problem during the last eight years, there are still significant gaps in many areas of the anti-trafficking response, particularly in legal and policy documents. For proper and effective implementation of anti-trafficking activities, first of all, it is necessary to develop and adopt such policy documents (the NAP and NRM) that are clearly defined, well-formulated, and comprehensive.

THE PURPOSE OF THE STUDY

This study aims to evaluate the anti-trafficking policies of the Republic of Armenia. It analyses the major anti-trafficking policy documents developed by the government of Armenia and tries to understand what efforts have been made by the government in this field as well as to what extent they helped advancing legislation and practice of institutions that are essential for fighting effectively the human trafficking in the country. It also aims to find out whether there has been any significant progress in the key areas of anti-trafficking response during the last 10 years.

However, the focus is on the analysis of the major anti-trafficking policy documents – the National Action Plan to Combat Trafficking (NAP) and the National Referral Mechanism

(NRM). Further, findings regarding main challenges and drawbacks in the policy documents are discussed.

Finally, through the consideration of discussed and analyzed data and findings, the paper comes up with practical and implementable recommendations.

METHODOLOGY

The methodology applied in this study is based mainly on secondary data analysis. As criteria to concepts and methods employed in the analysis and evaluation of the major anti-trafficking policy documents – the National Action Plan to Combat Trafficking (NAP) and the National Referral Mechanism (NRM) – Eugene Bardach’s Eightfold Path Approach is used, which is described below.

Eugene Bardach’s Eightfold Path Approach:

- Step 1 – Defining the Problem
- Step 2 – Assembling Some Evidence
- Step 3 – Constructing the Alternatives
- Step 4 – Selecting the Criteria
- Step 5 – Projecting the Outcomes
- Step 6 – Confronting the Trade-Offs
- Step 7 – Deciding
- Step 8 – Telling the Story

However, from the given eight steps, the emphasis is put on the three of them – defining the problem, projecting the outcomes, and telling the story – since the purpose of the study is not to

develop a policy but to analyze and evaluate policies that are already developed, adopted, and being implemented.

For the purpose of the study, a number of international and domestic law documents, legal acts, and reports concerning human trafficking have been reviewed and analyzed. The main sources for measuring the impact of policies on the advancement of anti-human trafficking response in Armenia are the United Nations Organization Resolutions and the United States Department of State Trafficking in Persons Annual Reports.

Comparative analysis method is also used to reveal whether the national legislation and policy documents referred to human trafficking correspond to the norms of international law and treaties. Literature review has provided statistical data and evidence on various cases of trafficking in human beings in different countries, including Armenia, as well as various points of view of experts on the problem.

Primary data, which serve the exploratory and illustrative purposes in this study, were collected through in-depth interviews with six victims of trafficking and self-administered questionnaires provided to seven experts in the field.

ANTI-TRAFFICKING POLICIES OF THE REPUBLIC OF ARMENIA

Although the issue of human trafficking has existed in Armenia for about two decades, only a few years ago have some steps been initiated to address the problem. Until 2002, the Armenian government determined that there was no trafficking in Armenia and that it was too early to talk about “modern slavery” or take initiatives against it. It was only after the US Department of

State's Trafficking in Persons Report 2002 that the government of the Republic of Armenia decided to take the issue of trafficking seriously and undertake measures against it.

Since 2000, the US Department of State annually releases its "Trafficking in Persons Report" on almost all the countries in the world, which is considered as the most comprehensive worldwide report on the efforts of governments to combat trafficking in persons. Using a minimum threshold of 100 persons to trigger an investigation, the State Department places the countries into three Tier categories, according to compliance of countries with the Victims of Trafficking and Violence Protection Act of 2000:

- Tier 1: Countries whose governments fully comply with the Act's minimum standards
- Tier 2: Countries whose governments do not fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards
- Tier 3: Countries whose governments do not fully comply with the Act's minimum standards and are not making efforts; if they do not make any significant efforts within 90 days from the date of report, the country may face economic sanctions from the USA (USDS 2002).

The US State Department "Trafficking in Persons Report 2002" placed Armenia into Tier 3 (countries that ignore the issue and do not undertake proactive steps to solve it), compelling the government of Armenia to take actions (USDS 2002). And starting from 2002, the Armenian government has decided to undertake some steps to address the problem of human trafficking in the country.

The most notable impact of actions to stop human trafficking in the country was the establishment by the Prime Minister of Armenia of an Interagency Counter-Trafficking Commission (IAC) in 2002, modeled on the Organization for Security and Cooperation in Europe (OSCE) Treaty on Stability and the United Nations Principles and Guidelines on Human Rights and Human Trafficking. Designed to coordinate efforts between the Government of Armenia, NGOs, donor agencies and the United States Government in order to comprehensively address the problem, the Commission effectively did only one thing – ensuring that representatives from the United States Embassy in Yerevan were heavily involved in the formulation of the Armenian government’s anti-trafficking policy framework.

Different legal and policy frameworks have been developed to address human trafficking in Armenia, mostly in the broader context of organized crime, sexual exploitation and migration. Nevertheless, very often these frameworks have failed to envisage the human rights implications for trafficked people, particularly women and children.

The most important policy frameworks, which are legal documents adopted by the National Assembly of the Republic of Armenia and aimed at fighting human trafficking in the country, are the National Action Plan to Combat Trafficking (with the implementation period of two years) and the National Referral Mechanism strategy document adopted by the Armenian government in November 2008.

The IAC drafted two National Action Plans for the Republic of Armenia, designed for two years (from 2004-2006; and from 2007-2009) and to specifically designated for the Commission’s implementing partners goals and responsibilities. There were twelve government

agencies involved in the Commission and responsible for developing, implementing, and monitoring of the NAP and NRM: Ministry of Foreign Affairs (chair-agency), the Office of the Prosecutor General, the Police, Ministry of National Security, Department of Migration and Refugees, Ministry of Labor and Social Issues, State Department of Statistics, Ministry of Education and Science, Ministry of Health, Ministry of Culture and Youth Issues, State Customs Service, and the Ministry of Trade and Economic Development. The National Action Plans laid out five main goals: Legislation and Law Enforcement, Surveys, Prevention of Trafficking, Assistance to Victims of Trafficking, and Sharing of Experience. Although the Commission has been expected to meet on a monthly basis to discuss the progress of its target goals and to evaluate the performance of each of its implementing partners, in reality it happened only a few times a year.

Besides the IAC, another body involved in the anti-trafficking sphere in Armenia is the International Working Group (IWG) – IOM, OSCE, UNDP, US Department of State, and several NGOs – the representatives of which are expected to participate in the IAC’s all meetings. However, the representatives of the IAC have not often been invited to the meetings. Moreover, their status is not clearly spelled out in the governmental decisions, but practically they are considered to be observers.

In addition to the IAC and IWG, several national NGOs have also been involved in the fight against trafficking in the country and, to some extent, in the anti-trafficking policy development process. Among the local NGOs, “Democracy Today” and “Hope and Help” have taken major steps and measurements for mainly public awareness raising on human trafficking throughout Armenia, specifically in the most vulnerable regions. They have conducted thorough

investigations, surveys, and interviews with the victims of trafficking not only in Armenia but also out of national borders. They have also published booklets and produced a documentary movie about terrible consequences of human trafficking. The US Embassy funding allowed the “Democracy Today” to publish a book “Human Trading”, which was translated in different languages and distributed around the world. The US assistance to support these efforts totaled approximately US \$22.4 million, of which about US \$12.2 million was allocated for US-based training and exchange programs. Two other national NGOs – ASA (Armenian Sociological Association) and ARS (Armenian Relief Society) – have also contributed to anti-trafficking response in Armenia (AIPRG 2007).

The most important measure – Legislation and Law Enforcement – had to serve four key goals, some with overlapping implementing partners. The first, handled by the Office of the Prosecutor General and the Police, was the analysis of existing legal frameworks regarding the issue of trafficking in Armenia. The second, involving the Police, Office of the Prosecutor General and the Ministry of National Security, was to foster discussions and recommendations on drafting a separate law on combating trafficking. The third one was the drafting of amendments and revisions to the Criminal Administrative, Criminal Procedural, and Labor Codes, handled by the Ministry of Foreign Affairs, Police, Ministry of National Security, Office of the Prosecutor General, Department of Migration and Refugees, and the Ministry of Labor and Social Issues. And the final goal, left to the Police, Office of the Prosecutor General, Ministry of National Security and Ministry of Foreign Affairs, was the fostering of regular exchanges of information on traffickers engaging in sex industry between Armenian and foreign law enforcement bodies.

Nevertheless, it is worth to mention that confidence was not high enough in the Commission's ability to make any kind of impact on human trafficking response. Moreover, some members of the Commission were even in doubt as to whether human trafficking existed in Armenia.

Government Actions to Address the Problem of Human Trafficking:

- October 14, 2002 – The Prime Minister created a new committee (IAC) to study human trafficking and subsequent exploitation of women from Armenia and proposed solutions to the problem.
- March 25, 2003 – Armenia ratified the UN Convention against Transnational Organized Crime and signed one of its protocols – the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
- August 1, 2003 – The new Criminal Code of Armenia came into force, according to which human trade and trafficking is a criminal offence and is subject to punishment in the form of a fine from 300 to 500 times the minimum wage or incarceration in prison from 1 to 4 years.
- September 2003 – A specialized Police Department for Combating Organized Crime (“6th Department”) was established as the main Law enforcement body dealing with trafficking in drugs and human beings.
- January 15, 2004 – The Armenian government approved its first National Action Plan on Combating Trafficking for 2004-2006, a program intended to stop illegal trade of women.
- March 30, 2004 – The Armenian government and the UNDP approved the “Anti-trafficking Program: Capacity Building Support and Victims Assistance Project”.

- May 16, 2005 – Armenia ratified the Council of Europe Convention on Action against Trafficking in Human Beings.
- June 8, 2005 – The Prosecutor General of the Republic of Armenia established a new department to fight human trafficking in the country – an anti-trafficking unit (3 people staff).
- February-July 2006 – The UNDP representatives worked with the Armenian government representatives towards increasing the legislative and policy frameworks on human and drug trafficking.
- February 20, 2007 – The Armenian government approved its second National Action Plan on Combating Trafficking for 2007-2009.
- 2008 – The National Assembly of Armenia adopted the Anti-Human Trafficking on Air Act aiming at identifying and saving human trafficking victims on airplanes before take-off.
- November 2008 – the Armenian government adopted the National Referral Mechanism strategy document, an important legal document aimed at addressing specific targets and goals as well as implementation means and monitoring of the anti-trafficking measures in the country.

ANALYSIS OF THE POLICY DOCUMENTS AND FINDINGS

The primary goal of any public policy should be directed at maximizing social welfare. Any policy emerges from the interrelationships between intentions and actions of political participants. Citizens elect politicians to carry out policy platforms, and politicians create policy

frameworks for bureaucrats to implement. Senior bureaucrats order lower-level officials to carry out policy decisions, and so on. Thus, through many chains of cause and effect or commands and responses, policy emerges in stages. Through distinguishing between policy goals and outputs/outcomes, we can find out if policy intentions have turned into reality, and when policies have been successful or flawed.

As Dipak Gupta put it, “A policy is a course of action decided upon by a government and involving a choice among competing alternatives. When policies are shaped by government officials, the result becomes a public policy” (Gupta 2001, 46). Policy should derive from the interactions of public opinion, interests, elites and ideas which are then filtered and structured by the institutions that guide the measure through the political system. According to Peter John, any policy should emerge from the will of the people, constitutional checks and balances then modify political decisions, and groups and experts influence at the formulation and implementation stages. At any stage of policy process, people’s values and social norms should be taken into account since they are shaped by experience, and the resulting values and norms then condition the efficacy of public policy (John 1998).

Now, let’s look at the most important anti-trafficking policy frameworks of the Republic of Armenia, which are legal documents adopted by the National Assembly and aimed at fighting human trafficking in the country – the National Action Plan to Combat Trafficking and the National Referral Mechanism strategy document. Through the analysis, we will see how they have been designated and formulated, and whether they served the purposes of addressing and eliminating the problem or were just preposterous efforts by the government to deal with it. As

criteria to concepts and methods employed in the analysis and evaluation of the policy documents, Eugene Bardach's Eightfold Path Approach is applied.

Step 1 – Defining the Problem:

Problem definition is a crucial step in the policy-making process giving both a reason for doing all the work essential to complete the project and a sense of direction for gathering evidence (Bardach 2005). At this stage, first, the problem should be identified, then clearly and comprehensively defined and formulated in order to properly address the problem. Policies are created to meet or, at least, to make progress toward the established goals and objectives, otherwise there is no sense to have them.

The two National Action Plans and National Referral Mechanism strategy document are lenient and not well-formulated. Besides, they are merely descriptive not diagnostic. These policy documents describe only what actions will be undertaken to address the problem of human trafficking in Armenia and outline the implementation period and the body (government agency) responsible for implementation of the action. Definition requires not only to describe the problem but also to make some diagnosis asserting that some conditions are the causes of other conditions, which should be taken into consideration.

Both documents, for most actions to be undertaken, lack an important component of such kind of legal paper – narratives that explain the ways and means of implementation of a given action. It is necessary to incorporate narratives to each action statement clearly defining how that particular action will be carried out. In addition, to be effective in implementation stage, the

definitions should also include a quantitative feature, which is missing in most parts of the NAPs and NRM.

The National Action Plan specifically emphasizes the “Legislation and Law Enforcement Action” that requires analysis of legal framework covering the issue of trafficking in the RA; discussions and recommendations on drafting a separate law on combating trafficking in Armenia; and drafting amendments and revisions to the RA Criminal, Administrative, Criminal Procedural and Labor Codes. So, the first step for the government has been directed at legislative amendments, which then could provide a solid ground for the implementation of the NAP. However, this process is still unfinished.

The legislative definition of “trafficking in human beings” reflected in the NAPs and NRM is more expansive than definitions found in international treaties. This is probably due to the fact that the modification of Armenia’s legislation in accordance with international instruments on human trafficking is still an ongoing effort. Although the Republic of Armenia has embraced in principle the foremost international anti-trafficking conventions, its overall legislative effort to adopt the specific provisions of these conventions has been less focused and lacks the comprehensive, multi-directed, human rights-based approach to combating trafficking that the conventions endorse. From a systemic point of view, lower normative acts, such as decrees and regulations specifying the implementation of laws, are notably missing. As a result, there is a gap between the laws and their implementation.

Both the Palermo Protocol and the CoE Convention embrace a definition of trafficking that is designed to address comprehensively the phenomenon of trafficking at all stages, to be gender-

neutral, and to account for the variety of methods through which exploitation may be exercised against victims. Moreover, both treaties also include in the definition of trafficking two further provisions intended to establish explicit protections for victims of trafficking. The first guarantees that the purported consent of a trafficking victim to exploitation does not constitute a defense to a charge of trafficking. This is a recognition of the fact that many trafficking victims are not fully aware of the fate that awaits them when they voluntarily involve themselves in early stages of the trafficking process.

The second provision creates a lower threshold for trafficking that involves children (anyone under eighteen) by removing the requirement that the means – force, coercion, abduction, fraud, etc. – included in the definition be present when children are trafficked for the purpose of exploitation. The UN Convention acknowledges through this lower threshold that trafficking often involves children, many of whom may be exploited without resort to the sort of force, coercion, or fraud that may be necessary to exploit adults.

By looking at the Armenian Criminal Code, we can see that the definition of trafficking adopted in Armenia after the ratification of the Palermo Protocol generally tracks with that of the international instruments above. However, there are still legislative gaps, which further create problems in the implementation of anti-trafficking actions outlined in the NAPs and NRM.

Particularly, Article 132 of the Armenian Criminal Code, originally adopted in August 2003 and amended in June 2004, defines trafficking as “the purchase or sale, recruitment, transportation, transfer, harboring or receipt of persons, committed for the purpose of exploitation, forced labor or services, slavery or practices similar to slavery, or dependency or taking of organs or tissues of a person” (RA CC, Article 132). The language is nearly identical in

several respects to the Palermo Protocol/CoE Convention language and the Armenian provision is similarly comprehensive in terms of the multiple stages of trafficking, the various forms it can take, and gender-neutrality.

However, there is one significant difference between the Armenian definition of trafficking and that of the international conventions. The Armenian definition does not require that the trafficking occur via force, coercion, abduction, fraud, deception, or abuse of vulnerability. This lack of a means requirement essentially lowers the threshold for prosecuting trafficking in adults in Armenia to that of trafficking in children under the international conventions.

Moreover, criminal liability for trafficking in children in Armenia is somewhat clouded by the fact that a separate provision, Article 168, criminalizes child trafficking but does not define the offense or indicate how it supplants or interacts with Article 132. The main portion of the Armenian definition of trafficking in Article 132 does not contain any direct mention of children, possibly because that definition does not include the means requirements that the international conventions use to differentiate between children and adults. Rather, Article 132 makes trafficking involving minors an aggravating circumstance. This overall lack of clarity in defining “child trafficking” further creates difficulties during the prosecution and punishment stages (RA CC, Article 132 and 168).

The anti-trafficking prevention activities listed in the NAPs do not sufficiently respond to the need of addressing root causes of human trafficking. This is a serious flaw because targeting the root causes should be the key objective of prevention in a country considered to be predominantly a country of origin of trafficking victims.

In the NAPs and NRM the broader violations of children and women's social, economic, cultural, civil, and political rights are not considered. The human rights of trafficked persons should be at the centre of all efforts to prevent and combat trafficking as well as to protect, assist and provide redress to victims. Anti-trafficking measures should not adversely affect the human rights and dignity of persons, particularly the rights of those who have been trafficked, smuggled, or internally displaced. Trafficked persons should not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.

Therefore, there is a need to include in both policy documents and legislation a point that requires the state to ensure that trafficked persons are protected from further exploitation and harm and have access to adequate physical and psychological care. Moreover, such protection and care should not be made conditional upon the capacity or willingness of the trafficked person to cooperate in legal proceedings.

There is little said about children in the NAPs. Children who have become victims of trafficking should be identified as such and provided with appropriate assistance and protection. Full account should be taken of their special vulnerabilities, rights and needs.

It is mentioned in the NAPs and NRM that the government's responsible agency shall cooperate with the Interpol, Europol and SECI on identification of criminals (traffickers) and their victims, share experience, and exchange with information concerning trafficking. But it has not been defined what should be done in case of their identification in foreign countries and how they should be repatriated. It is necessary to clearly define in the NAPs and legislation, and specifically include in the NRM, that safe return is guaranteed to particularly trafficked persons

by both the receiving State and the State of origin. Trafficked persons should be offered legal alternatives to repatriation in cases where it is reasonable to conclude that such repatriation would pose a serious risk to their safety or to the safety of their families.

Armenian law does not yet criminalize various associated processes that constitute important elements in the broader phenomenon of trafficking, such as the knowing use of the services of a trafficking victim or the alteration, concealment, or retention of identity documents for the purpose of facilitating trafficking. Criminalizing such practices could offer powerful tools to law enforcement authorities and other legal persons criminally liable for involvement in the trafficking process, another tool that is not yet available in Armenia.

Penalties for trafficking violations found in the RA Criminal Code are not severe enough to deter those involved in the process. One indication of this lenience is the fact that trafficking may be sanctioned with a fine, a punishment that international treaties do not contemplate and that many traffickers can easily afford. Similarly, punishments for trafficking under aggravating circumstances are not significantly dissuasive. The minimum penalty is two years of correctional labor and the maximum penalty under the most egregious circumstances is eight years imprisonment. In comparison with other countries, they commonly punish trafficking under such circumstances with up to twenty years or even life imprisonment. Moreover, while Armenian law appears lenient toward offenders, it still subjects victims of trafficking to prosecution for crimes they may have committed during the process, even under conditions that often amount to duress or compulsion.

Finally, it is also worth to mention the following fact that in 2003, the IAC with assistance of international organizations drafted the so called “Concept Paper” and the first National Action Plan. The National Strategy to combat trafficking in human beings and the corresponding NAP

for the period 2004-2006 was based on that Concept Paper, which almost with the same content has been reflected in the NAP. However, the Concept Paper was simply too short (two pages only) to provide the necessary details when conceptualizing the issues. As such, it could not serve a good basis for the development of the NAP and, moreover, for its implementation (AIPRG 2007).

The first National Action Plan listed tasks and activities aimed at prevention, protection and prosecution. In total of about US\$11,000 was allocated for its implementation from the state budget. It foresaw that most activities would be funded – and to a large degree implemented – by international organizations (OSCE 2007). This is very problematic since, either at that time or currently, the IAC has no real coordination power over the activities of international organizations or NGOs. Thus, the policy documents should clearly delineate the responsibilities of respective actors in all fields of the anti-trafficking response.

Step 2 – Assembling Some Evidence:

Data collection is another important step in the policy-making cycle. According to Bardach, data are facts and information that have “meaning” in the sense that they can help sort the problem into different logical or empirical categories. Evidence is needed mainly for three purposes, all of which are relevant to the goal of creating realistic projections of possible policy outcomes: for assessing the nature and extent of the problem, for assessing the particular features of the specific policy situation, and for assessing policies that have been thought to have given effective response to problems in situations similar to this one but in other jurisdictions and at other times (Bardach 2005). So, in order to develop a policy that will effectively and comprehensively address the problem, it is necessary first to deeply investigate and collect adequate data on it.

In our case, there is no clear evidence on how the data were collected and analyzed before developing the NAPs. Information about trafficking in human beings in, from and through Armenia has been and still remains sketchy and often unreliable. Existing limited knowledge about the profile of trafficked persons, vulnerability factors influencing the occurrence of trafficking and modus operandi used by traffickers has been generally based on information gathered from Armenian victims of trafficking who had returned home, had been identified and assisted. Even this limited information available has not been systematically collected and analyzed, according to the IWG observations. NGOs that assisted victims of trafficking did not have the capacity to provide generalized data due to lack of financial and human resources, and each governmental agency provided at best basic data referring to their particular area of responsibility only (OSCE 2007).

Although it is clearly stated in the NAPs that surveys shall be conducted in Yerevan and other regions of the RA with the purpose of collecting and analyzing data on human trafficking as well as victims identification, the IWG assessments and reports prove that insufficient research were done before the development either of the first or the second NAP. Experts responsible for data collection relied mostly on information and data provided by international and domestic NGOs, which conducted research in Armenia (OSCE 2007).

Thanks to the efforts of the UNDP, ILO, IOM, and UMCOR, some data have been provided to the government agencies. Besides, probably the most serious research in trafficking in human beings in Armenia was implemented with the support of the US Department of State and the OSCE Office in Yerevan in 2005 by two national NGOs – the Armenian Sociological Association (ASA) and the Armenian Relief Society (ARS). The ASA prepared a report on the trafficking situation in Armenia and the ARS issued a report on awareness of trafficking in

human beings in special and boarding schools. The objective was to identify trends and routes of trafficking in human beings in the Republic of Armenia. The findings helped the government place trafficking for labor exploitation more firmly on the agenda of the anti-trafficking response and provided valuable information on the problem (OSCE 2007).

The law enforcement agencies reported that had collected data on victims of trafficking, nevertheless, it was unclear how that data was analyzed since the wider anti-trafficking community has not received statistics or other information about it. No generalized data were shared with either the IWG or local NGOs.

Step 3 – Constructing the Alternatives:

Formulation of policies and then specification of policy alternatives are undoubtedly of significant portion of the policy-making process. The alternative courses of action help form a “policy stream” that flows parallel to the current of events. At some point, the appropriate policy proposal that has been under tentative consideration may be coupled with the pressure to challenge the problem since new events have propelled onto the agenda. Officials then should select the one policy from the number of policies that best address the problem (Heineman, Bluhm, Peterson, and Kearny 1997).

As Thomas Birkland put it, “Public policy is about determining which of various alternative policies will most achieve a given set of goals in light of the relations between the policies and the goals” (Birkland 2005, 112).

In our case, there is no evidence that any policy alternatives have been designed. However, as the IWG reported, either the NAP 2004-2006 or the NAP 2007-2009 were drafted by the IAC with insufficient consultations with the wider anti-trafficking community in Armenia. Moreover, in fact, the NPA 2004-2006 was written by one member of the IAC with the intention of

submitting the draft to the interested parties for their proposals and inputs. No terms of reference were developed for the drafter and no formal decision was made by any government agency about its development. It has not been clarified how the comments and proposals would be incorporated in the draft and who would be responsible for revising the document based on the recommendations made by the interested parties – both national and international (OSCE 2007).

Step 4 – Selecting the Criteria:

Every time a policy problem is identified, some statements of goals are adopted. The goals are what the adopted policy alternative should accomplish. Goals are broad, formal, long-term problem-solving achievements that are desired. Goals are then translated into objectives. Objectives are more concrete statements about desired end states, with time tables, target populations, and resource limits. Then criteria are applied. Criteria are the measurable dimensions of objectives. Criteria are used to compare how close different proposed policy alternatives will come to meeting the goals of solving the problem. Criteria set the rules to follow in analyzing and comparing different proposed policy alternatives (Moran, Rein, and Goodin 2006).

The selection of criteria should depend on the public interests being served. The criteria and their measures should be unambiguous. They should be relatively straightforward and simple to measure. Their application should produce uniform results, no matter who does the measuring of different alternatives. And repeated measurements of the same alternative should produce the same results.

Criteria and measures should be appropriate to the unit of analysis. Such significant criterion as political and social viability asking to what extent a proposed policy alternative will be

acceptable to relevant powerful groups, decision makers, legislators, administrators, and citizens should be considered. Moreover, since many public policies are implemented by public agencies, administrative operability should be used as criteria for judging proposed public policies.

Finally, evaluation criteria need to be determined very carefully, as they determine which effects will be investigated for the alternatives.

In our case, again, there is no evidence what criteria have been selected and applied to the NAPs and NRM. However, judging by actions undertaken by the government for the past seven years and the current state of affairs in regard to anti-trafficking response in the country, we can assume that such evaluative criterion as efficiency, and practical criteria as legality, robustness, and improvability to make the policy documents reliable and valid were not considered properly.

Step 5 – Projecting the Outcomes:

At this stage, an important thing is designing the so-called “Outcomes Matrix”, which considers undesirable side-effects, ethical costs, conflicts of values, and magnitude of each of policy alternatives. However, as it was mentioned previously, there is no evidence that any policy alternatives have been designed. Thus, it is senseless to talk about this.

Step 6 – Confronting the Trade-Offs:

As Bardach put it, “It sometimes happens that one of the policy alternatives under consideration is expected to produce a better outcome than any of the other alternatives with regard to every single evaluative criterion” (Bardach 2005, 47). In this case, that policy alternative dominates leaving no space for trade-offs among the other alternatives, and selection and decision are obvious.

However, considering additional trade-offs will give more reliability and validity to the policy to be chosen. For this stage, it is necessary to have several policy alternatives to evaluate once again and make the “best” choice that will properly and comprehensively address the problem, giving the desired outcome. Again, there is no information on the existence of any policy alternative designed besides the existing one.

Step 7 – Deciding:

Only after many iterations of the above steps – redefining the problem, re-conceptualizing alternatives, reconsidering criteria, reassessing projections, and re-evaluating the trade-offs – the policy framework is ready to be adopted and become a law.

In our case, as it has been already mentioned, the NAPs have been written by one member of the IAC; formal revisions and decisions were not made by all government agencies involved in the process; and the NAPs and NRM were quickly adopted by the National Assembly of the Republic of Armenia without public debates.

Moreover, from the beginning of 2006, the OSCE and UNDP representatives urged the government to initiate the preparation of the second NAP for 2007-2009 so that the plan could reflect international experience and could be discussed before its adoption by the government with all relevant stakeholders, including civil society. They reported that the national strategy was in need of a serious recovery since it could not in its present form serve as a good basis for the formulation of the second NAP. However, the IAC was of the opinion that the national strategy has been sufficiently spelled out and that it does not have to go through essential

changes for the next 2007 – 2009 National Action Plan, which further was adopted without any significant amendments (OSCE 2007).

As to the NRM, which was designed in 2004 but adopted only in November 2008, the plan for its implementation is unclear and not properly formulated, which results in practically no funding from the state budget and insufficient human resources allocation. The development and institutionalization of the NRM depends foremost on the main national actor – the Inter-Agency Commission. However, the IAC lacks a clear division of roles and responsibilities and it does not have a clear mandate to coordinate the national anti-trafficking response.

The major gap within the NRM as it functions today, besides the lack of coordination and money, is the lack of institutionalized referral. There is no legal or sub-legal act requiring law enforcement agencies to refer victims of trafficking to specialized service providers as well as specifying the roles and responsibilities of service providers. Sometimes, law enforcement agencies refer victims to NGOs, in other cases they do not. Many operational details have not been settled. For instance, it is not clear which NGO should be contacted, for how long the NGO should provide assistance, and what kind of assistance it should provide.

To close this gap in the NRM, the roles and responsibilities of individual NRM actors should be clearly outlined in an interim regulation (a sub-legal act) which will specify the roles and responsibilities of all actors in details. This regulation should be periodically updated to ensure that best practices are considered and procedures adapted based on lessons learned.

Step 8 – Telling the Story:

After the decision is made and the policy documents are adopted, the implementation process starts, the effectiveness and efficiency of which highly depends on how well and how comprehensively they are formulated.

In our case, as the IWG's assessment team noticed, at the end of 2006, three years after the NAP was adopted, information about the Anti-Trafficking National Strategy and National Action Plan was not sufficiently disseminated throughout the regions of Armenia and even people who worked in the field had little or no idea about these documents. Although Armenian media, which was relatively interested in trafficking issues, had to provide and publicize the information on the NAP and activities included in it, its coverage often lacked professionalism and sometimes put the victims at risk of re-victimization (OSCE 2007).

During the assessment, the representatives of the IWG repeatedly stressed the need to assess the achievements of the first NAP and take lessons learned into consideration when preparing the second NAP, which in turn should concentrate on those areas that have not been properly implemented previously. Nevertheless, the second NAP for 2007-2009 was also drafted by the IAC without sufficient consultations with either the IWG or the broader anti-trafficking community in Armenia. Moreover, there was no detailed and thorough analysis of the previous NAP implementation and no Work Group or Expert Team was established to draft the new NAP (OSCE 2007). Meanwhile, international experience clearly demonstrates that a multi-agency approach is a necessary prerequisite for successful development and implementation of a National Action Plan.

Currently, the IAC suffers from key operational and planning deficiencies: officially, it is an advisory body to the government and it does not have decision-making and coordination powers.

Taking into account this fact, its current role in elaborating the NRM and NAP as well as reporting on their implementation seems illogical from a structural point of view. It lacks real coordination, proper records management and systematic follow-up on meetings. Thus, Armenia needs to improve the coordination of its anti-trafficking response at the state level.

Outcome:

Although Armenia had been taking proactive steps towards eliminating the problem of human trafficking in the country, only in 2005, it achieved some progress and was placed from Tier 3 to Tier 2 on the USDS Watch List. From 2005 to 2009, the US Department of State placed the Republic of Armenia on the same Tier 2 Watch List. According to Trafficking in Persons Report 2009, Armenia's efforts to increase compliance with the minimum standards were assessed based on its commitments to undertake future actions, particularly in the areas of improving victim protection and assistance. While the government elevated anti-trafficking responsibilities to the ministerial level and adopted a National Referral Mechanism, it has yet to show tangible progress in identifying and protecting victims or in tackling trafficking complicity of government officials. The Armenian Government made some notable improvements in its anti-trafficking law enforcement efforts, but it failed to demonstrate evidence of investigations, prosecutions, convictions, and sentences of officials complicit in trafficking (USDS 2009).

According to the UN, US Department of State, and IWG assessments and reports, the two most important legal and policy documents developed to address the problem of HT in Armenia (NAPs and NRM) failed to have any noteworthy improvement due to notable shortage of both financial and human resources necessary for the implementation. The state authorities paid limited attention to the issue, and efforts to combat trafficking in human beings remain erratic

due to, particularly, a lack of adequate law enforcement mechanism. Armenian legislation does not include various provisions that the international treaties require for effective fight against human trafficking. The gaps between Armenian law and the international instruments have yet to be addressed to achieve full compliance with the UN Palermo Protocol and CoE Convention on human trafficking and migrants smuggling. The RA Criminal Procedural Code has not designed the way to properly address the issues of investigation, prosecution and punishment of suspected traffickers leaving victims of trafficking vulnerable to criminal prosecution. There is still a lack of institutionalized and formalized victim protection mechanism (OSCE 2007).

It is mainly due to poorly developed, not comprehensive, and lenient policy documents (the NAP and NRM) that the anti-trafficking response in Armenia has been inconsistent. The government of Armenia has made efforts to address the problem through its numerous initiatives and activities, nevertheless, it failed to achieve any significant progress. Armenia needs to improve the coordination of its anti-trafficking response at the higher state level.

CONCLUSION AND RECOMMENDATIONS

To sum up, for the actions to be successful and make any kind of impact on human trafficking response, it is necessary to demonstrate high level of confidence. The government officials should show political will in their actions to deal with the problem. A more constructive approach is needed to solve the problematic issue of our society and country at large, without which any effort could hardly produce progressive result.

Since the end goal of this study is to provide recommendations that can be practical and implementable, to each and every step discussed in the paper recommendation could be suggested. However, some of the most crucial recommendations are selected for the practicality of them.

One of the biggest problems that cause serious challenge for Armenia is the definition of the concept of human trafficking. Due to vague, improper, and incomprehensive definition of the term in legislation, criminal code, policy and strategy documents, the implementation process of anti-trafficking activities and measures, particularly investigation, prosecution and punishment of suspected traffickers, goes not in a designated way producing low, if not any, outcome. Thus, there is an urgent need to harmonize legal definitions in accordance with international standards.

For the NAP and NRM to function properly and be effective, first of all, it is necessary to have such kind of legislation that will serve as a solid ground for their implementation.

Regarding legislation, there are several recommendations for the reform. The lack of adequate legislation on trafficking at the national level has been identified as one of the major obstacles in the fight against trafficking. Thus, the development of an appropriate legal framework that is consistent with relevant international instruments and standards would play an important role in the prevention of trafficking and related exploitation.

Particularly, first, Armenian anti-trafficking legislative provisions do not encompass some of the more aggressive measures of the CoE Convention. The amended provisions do not independently criminalize the knowing use of the services of a trafficking victim. Instead, other portions of the Armenian Criminal Code separately address the crimes that often accompany

trafficking, but they do not do in such a way that collectively reduces demand for the services of trafficking victims. For instance, Articles 261 and 262 address involvement in and organization of prostitution, but neither provision criminalizes the knowing use of the services of trafficked prostitutes. Similarly, Article 133 addresses illegal deprivation of freedom (other than kidnapping), which could include forced labor, but it does not criminalize the knowing use of the services of forced laborers. Law enforcement agencies are therefore left with limited options for combating the various criminal processes that accompany trafficking. Thus, there is a need to incorporate in the legislation comprehensive criminal penalties associated with trafficking, as it will provide stronger basis for the prosecution and punishment of the criminals.

Second, Armenian law has not explicitly incorporated the full range of penalties for trafficking violations that the UN Palermo Protocol and CoE Convention require. Perhaps the most noteworthy of these penalties is confiscation of assets derived from criminal offenses under the Conventions. Despite the availability of this form of punishment in Armenia, it is not included among the sanctions applicable to a trafficking offense. Given the fact that trafficking qualifies as a form of organized crime and often involves significant profits, asset confiscation could be a powerful tool in undermining the effectiveness of trafficking networks. Besides, confiscated profits could also be directed into a reparation fund for victim assistance in Armenia.

Third, concerning aggravating circumstances, Armenian legislation is comprehensive but still lenient. It contains all of the aggravating circumstances envisaged in the international instruments, divided into two tiers. The first tier includes acts committed with prior agreement of more than one person, or with life-threatening violence, or against minors, or via an official post, among others. The second one creates stiffer penalties for the first tier acts when they are committed by an organized group or result in the death of the victim through negligence. In

terms of punishment, however, the first tier calls for correctional labor of up to two years or imprisonment for four to seven years, while the second tier requires imprisonment for five to eight years. These penalties are not severe enough for trafficking violations committed under aggravating circumstances. Thus, more strict punishment is required, as it will highly increase the deterrence value of the law.

Fourth, children's issues are often overlooked in legislation. Full account should be taken of their special vulnerabilities, rights and needs; the legislation should give primary consideration in all responses. It is also essential to strengthen national and community-based child protection systems that prevent and respond to violence, exploitation and abuse. Such an approach will consider the human rights of children as a central concern and promote child participation at every stage, with a view to more effectively preventing all forms of exploitation of children.

Finally, Armenian law does not include measures explicitly exempting victims of trafficking from punishment for crimes committed under compulsion. This leaves victims vulnerable to conviction for various offenses, including the use of forged or altered documents, illegal border crossings, or participation in a criminal association. Thus, there is a need to make amendments in the Criminal Code exempting victims of trafficking from criminal prosecution. These are people suffered from the crime that need care and assistance, but not conviction and punishment.

Moreover, legislation should incorporate a provision on the state obligation to ensure victim assistance by allocating adequate financial resources or establishing a state-administered shelters, which are currently run by international NGOs and almost fully dependent on them financially. Subsidiary legislation, such as decrees and regulations, needs to be developed specifying the functions and the division of roles among anti-trafficking actors.

Regarding the projects outlined in the NAP and NRM, the following recommendation is suggested. The Armenian government should make more efforts to raise public awareness of human trafficking through public information campaigns. In the case of victims, the campaigns should also address basic human rights standards and make victims aware that trafficking is a crime, they are being victimized, and they can seek the protection of law.

Although several international organizations, such as the IOM, ILO, UMCOR, and UNDP in cooperation with the local NGOs “Democracy Today” and “Hope and Help”, have implemented programs of awareness raising and prevention activities in the country, there is still a huge need for massive awareness raising activities, specifically in the regions. Increasing awareness of different target groups, including policymakers, law enforcement officers, medical and social service officials, will enhance their readiness to address the human trafficking problem adequately and probably will strengthen their institutional capacity to counter it. To maximize public knowledge and awareness, anti-trafficking campaigns should be conducted with media professionals in cooperation with civil society and local NGOs.

Also, as it has been noted, the NAP and NRM during the implementation stage of anti-trafficking activities have seriously suffered from being both under-staffed and under-funded. Thus, the government of Armenia should allocate more financial and human resources for adequate implementation of all the activities outlined in both policy documents.

Finally, since human trafficking is a severe international problem, preventing and combating it requires a comprehensive international approach. The global trafficking should be answered with a global response. Cooperation of states, international and regional organizations, and local

NGOs are vital in fighting trafficking. Governments should act together to stop the crime that deprives countless victims of their liberty, dignity, and human rights.

Therefore, the Armenian government should closely cooperate and collaborate with other states, international and regional organizations, intergovernmental agencies, and major NGOs in trying to address the problem of human trafficking. Implementation has largely remained low due to the lack of coordination, supporting, monitoring, and evaluation mechanisms and resources. Cooperation and collaboration will obviously provide an opportunity for Armenia to receive grants or financial assistance for the purposes of addressing the problem of trafficking. With sufficient financial resources and coordination and implementation staff, the government will be able to effectively implement its obligations. Besides, costs will be lower and benefits will be larger.

To sum up, sharing sustainable “best practices” and strategies will significantly improve the implementation, monitoring, and evaluation process in the country, eventually leading to better and more efficient results.

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