

Organization for Security and Co-operation in Europe
“SUCCESSFUL PROSECUTION OF HUMAN TRAFFICKING –
CHALLENGES AND GOOD PRACTICES”
 Conference in Helsinki, 10-11 September 2008

**Combating trafficking in persons in Central Asia:
 Detection of Offences, Prosecution of Offenders,
 Assistance to and Protection of Sufferers**

By Yekaterina Badikova,
President for the Association of NGOs Against Trafficking in Persons in Central Asia
(AATIPCA)

(1) Historical overview

Institutions and practices similar to slavery have a long history of existence in Central Asia and its neighboring territories.

Slave trade, taking and enslaving captives, kidnapping of women and girls were widespread, and ancient laws always contained provisions stipulating slave owning, exchange, and trade.

Besides, many practices acceptable and sometimes encouraged in local communities in the near past in Central Asia were those considered similar to slavery or trafficking in persons according to the by international legal documents enforced in 20th century and in early 2000-ies.

These practices and institutions included:

- marriages arranged by families, without the consent of the to be spouses but their parents or guardians only;
- *kalym* (payment for the bride);
- obligation for a widowed woman to marry the brother of her deceased husband;
- bride kidnapping;
- taking hostages in order to secure a political agreement.

And, like in many other societies, gender inequality customs were wide spread in Central Asia, too.

Many of these traditions were practiced up to the end of 19th century. Some of them continued to exist, albeit illegally, under the Soviet regime.

Since the former Central Asian Soviet republics became independent states in early 90-ies, *“exploring gender issues reveals a complex amalgam of residues of formal Soviet gender equality and traditional family value, with some arguing that the imposition of the former partly accounts for the resurgence of the later”* [9]

In any case, the existence of these practices and attempts of some groups to revitalize them as “the cultural legacy” resulted in tolerance to these practices among the populations. Although rapes, bride kidnapping, arranged marriages are restricted by the law, it often happens that families prefer to omit reporting these cases but negotiate the marriage and reimbursement of damages.

The recent evidences proved that practices of enslavement also take place in modern Central Asian communities. For instance, this may be domestic servitude under the debt bondage.

The relative tolerance of local populations to practices similar to slavery, and, in some cases, to enslavement, served as fertile soil for the tolerance to trafficking in persons and forced labor practices found by the author and her NGO partners in recent years in 5 examined countries of Central Asia.

(2) Victims of Trafficking. Trafficking Vectors: From, Into, Through and Within Central Asia

“I don’t remember my father, and my mother died when I was 5. I grew up in my grandmother’s home, and the grandmother was alcoholic. She died when I was 10 and I was sent to the orphanage...”

That woman came to the orphanage and had a long talking with our teachers. After that, she came to our class and selected me and one more girl. She talked to us, asked about our families...

A month later the teacher told me that I was adopted by that woman...

The foster-mother told me that we would go to Emirates together, to buy some goods and to re-sell them in Tajikistan, in order to make some living. When we came to Emirates we went to a disco and she told me to dance. Meanwhile, she talked to a man. After that, she called me and said I must go with this man. She said she sold my virginity to this man and I had to work-off the debt for my adoption...”

“I was born and grew up in Russia although I am ethnic Kazakh. I met a Kazakh man there and we married. Soon after I had our son, my husband divorced from me. I thought it would be good for me and my little son to go to Taraz, Kazakhstan, where my relatives dwelled. But when I arrived there, they said they were too poor themselves to support me and my son. I found a job as a fish seller at local market, and this allowed me to make some money to buy food and to rent a room. Once, there was no electricity at the market during the whole day, and all my fish spoiled. The owner of the shop said this was my fault and required to pay off the price of the spoiled fish. This was about 5,000

tenge¹. I didn’t have this money and he said I could work-off this debt by painting the walls at his house. I agreed. He also said that I can live in his house, along with my son, and save the money I spent to rent the room.

We came to his house the next day. During two weeks, we lived in a barn, I painted the walls of his house, cleaned the rooms, and fed and cared chickens. After I had painted the walls, he said he will let me living in the barn, closer to the chickens, and leave my son living in the house, in more comfortable conditions. He said I can work for his family as a domestic servant. I had no choice. Where else could I go with 5-years-old son, with expired Soviet passport... I worked several months as the domestic servant and my son lived in the house while I lived in the barn. They didn’t allow me to see him. They said he was OK and that they educated him well. When I tried to enter the house to see my son the host beat me. I couldn’t escape without my son... When I managed to kidnap my son and to escape, I didn’t know where to go. We slept on the streets and begged. I was lucky to meet a priest one day. He referred me to an NGO. The NGO managed to find a job for me but they couldn’t help me to obtain a Kazakh passport although I am ethnic Kazakh... I decided to return to Russia since I didn’t see any possibility for my son to grow up and learn here. He doesn’t have documents and no one can help me with this. Perhaps, I will be more lucky when back in Russia...”

“I grew up in a village and was the elder one among my 10 brothers and sisters. Our father left to Russia to work on a construction site

¹ Around 30 US dollars.

somewhere in Chelyabinsk and we never saw him since that time. I had to feed the family and I needed to earn much money. ... When a stranger came to our house accompanied by our makhalla² leader and offered me a job in Russia, I was happy....

When we arrived, they put us in a small unheated house and said we will be living there until the construction is finished. They took our passports to register us and we never had the passports back. The construction site was guarded by men with guns and terrible big dogs... I didn't know if this was Kazakhstan or Russia. I only can say that it was winter, and snow was everywhere, and it was terribly cold..."

"... The director of the company said she found for us a job in Spain. She also said that we will enter the country with tourist visas because it is cheaper to arrange the tourist visas than the work permits. In Spain, she said, her partner would help up to obtain the work permit... When we arrived, some Russian-speaking people met us and said there was a strike in the factory where we had to go, and the owner decided to reject the new coming workforce. They offered us another job 100 km away from the place and we agreed. They took our passports to arrange the work permits and put us into a small bus having promised that they will come with our passports directly at the new workplace tomorrow afternoon.

The bus driver delivered us to some rural area... It was a big farm over high fence. They spoke only Spanish and we didn't understand a word. They explained us with hand language that we must pick up fruit there. When my friend started arguing that we arrived to work on a factory they beat us badly. What could we do? They were eight and we were only three... And, it is a shame but ...you know, I am a very peaceful person. I never, never fought, I never beat a person in my life. I know, it is bad for a man to be like this. But this is what I am. I am a good worker but a weak personality..."

"We were three children in the family, I, my brother and little sister. To make some living, our mother sold cheap clothes at local market. We didn't know our father... My brother and I went to school until we were 10. This was the year when our mother had our little sister. She said

she would be too busy with the baby and couldn't go to the market place to sell goods any more. She said my sister and I had to sell at the market to feed the family. So we did but people in our small city were poor and they couldn't buy many goods, so we never earned much money with selling clothes at the market. When I was 15 and my sister was 14, our mother said we all move to Kazakhstan to harvest tobacco there. The school classes started in September but we didn't go to school. We left to Kazakhstan. In Kazakhstan, our mother and us worked at the tobacco field, and our little sister helped us. We worked a month or so. One day mother said she was going to go to the oblast center to buy us some clothes. She took our little sister with her and left. She didn't return. The farmer said he borrowed her money to buy the clothes for us, and now we had to work off the debt. We worked in the field, along with the other people he hired. When all tobacco was harvested, the hired workers received some money and left, but we didn't. The farmer said he couldn't let us go because we are underage and police would arrest us if we would go anywhere without our mother. He said we had to stay in the farm and help him and his wife in the house and in the farm, until our mother comes and takes us."

"She offered us a job like sales persons in a big shopping mall in Dubai. She said there were a lot of Russian tourists there and the mall owners needed Russian-speaking personnel to serve the Russian customers. I've just completed my first year in the university, and my family didn't have money to pay for the next year. I thought, "Why not? I will go there, work during the summer vacation, and return in September with enough money to pay for the second year in my university." Two friends of mine needed money, too.

We left our small city, arrived in Almaty and proceeded to the aircraft without any border or customs control. She had friends everywhere in the airport and she escorted us through some internal entries and corridors. She said her sister would meet us in Dubai...

Her sister really met us at the airport, and took our passports to register us. She brought us to a big shopping mall and said we could take anything we liked, for the amount not exceeding 500 US dollars. She said this was a present from the employer. We took clothes and some jewelry, and shoes. After that, she brought us to an apartment and left, having locked us. In a few hours she returned with a man and said he was our owner and we had to pay off him our debt for the UAE visas, and air tickets, and the goods we'd taken in the mall. She said the amount of the debt for each of us was 10,000 US dollars. She said there was no any job in the shopping mall for the illegal workers like us, so we had to pay off our debts working as prostitutes...."

² Makhalla is the smallest administrative unit in Uzbekistan. Usually, it administers several households. The makhalla leader dwells in one of the households. Usually, this is a middle-age or elderly man, very much respected by the makhalla dwellers.

The main finding made by Central Asian NGOs in the course of the implementation of anti-trafficking programs funded by foreign donors is that **Central Asia is a source, transit and destination region for trafficking in persons.**

Typical victims of trafficking in Central Asia, known by the assistance providing organizations and law enforcement, are:

- teenage girls and (more often) young women trafficked for **sexual exploitation**;
- young (sometimes teenage) men, and middle age men and women trafficked for **labor exploitation**.

Cases of underage individuals, both boys and girls, sold by their parents or guardians for sexual exploitation and/or being filmed and pictured in pornography, were also reported.

There are also evidences of **exploitation** of underage individuals **in forced begging** and **minor criminal activities** like pick-pocketing or delivering small doses of illicit drugs to end users. This phenomenon is not studied yet so only less details about this criminal activity is known by the NGOs and law enforcement.

(3) Traffickers: Who Are Them and Why Do They Deal in Trafficking?

"Why do you name me "trafficker"?! I am not! I have a company, my business is legal, and I help poor people to find a job abroad because they cannot find a job here, in their home country! These people ask me to send them somewhere, they cry and say they will pay off all debts to me as soon as they start working abroad. I borrow them money to pay for the visa and ticket and nothing else. I don't have any links abroad but only agreement with the employer I found in the internet. So don't name me "trafficker". Otherwise I will sue you!"

"Yes, I am a pimp but I didn't exploit them... They came to me and said they want to work. I said I have work for them and they agreed. Of course, I didn't let them go alone. Where could they go without passports? Police would arrest them and I would have problems. I dressed them and feed them well and this cost me much money. They never paid off these money to me..."

I used to work as a prostitute when I was young, and my pimp was very cruel. Now, when I am a pimp myself, I am treating these girls like if they were my little sisters. I never expected they would testify against me, after all that good I did for them..."

"Why should I pay her? She arrived from her country, she was hungry and asked for any job and shelter. I gave her a job as a servant in my house, I let her to live in my house, and I gave her food. Why should I pay her?! This is not so much what she is doing in my house. She only cooks, and cleans the rooms, and does the laundry. That's it..."

"It is cheaper for locals to hire Karakalpaks or Uzbeks than local workers. To be on the safe side we take their passports and return them only after the construction is completed. This is the owner's business, not ours, to feed them and to provide the

lodgement.... These people are very modest and it is enough to feed them once a day with flat bread and noodles. And they work hard. If they don't, the owner will inform us and we will replace them with the other ones. We just return them their passports in such cases and let them go... We can easily find cheap replacement as there are lots of Karakalpaks seeking jobs here.... What? To pay them? Why should we? The owners were unhappy of their job, and the owners didn't pay us the money. Why should **we** pay any money to these bad workers? Should some of them be stubborn and ask for the money we would just inform the police and they would fine and deport them immediately."

" You know, they are just prostitutes, and they like to be like this. Otherwise they wouldn't be there. I use their services from time to time. It is important the business partners to see you in an informal situations. It is easier to make bargains when negotiating in an informal atmosphere. In a sauna, for instance.... We usually go here along with friends and business partners. And we order girls. .. I don't believe they were forced to serve us. If they were, they would cry and trying to escape, and so on.

But they didn't! They served us... I saw some bruises on their bodies, but I didn't pay much attention to it. You know, they are prostitutes, and there is no surprise if a client or their boss beat them for doing something wrong. This is a part of their job..."

"I am only a bus driver and this is not my business to find out whether my passengers were or were not deceived regarding the job, or will or will not they be exploited at the destination. I receive them at the station B. and deliver to A. The brigadier usually goes with them and he is the one who pays me the transportation fare. My job is to pass the border control without any problems for the passengers and the brigadier, and to deliver them to the point of destination. The brigadier is holding their passports during the whole trip. He gives them to me only at the border checkpoint and I go to the border guards since this is me who knows the guys well and who can arrange the crossing without any overpayment. Otherwise the brigadier had to pay much more for himself and his workers. Or the guys could arrest them all for illegal crossing... I always work with the same brigadiers and the same guys at the border. The ones whom I know well and whom I can trust."

The author's view is that traffickers are any persons who, knowingly or intentionally, commit any action listed in the definition of the term "Trafficking in Persons" given in the **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, Supplementing the United Nations Convention Against Transnational Organized Crime (UNTOCC)**.³ Therefore, all the persons whose opinions have been quoted in this section, were traffickers. Among them, there were recruiters, transporters and escorting agents, exploiters, and customers⁴.

³ The Protocol defines "**Trafficking in Persons**" like "*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*", and "**Exploitation**" as "*at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*". The Protocol stresses that the victim's consent to be exploitation is irrelevant *if this consent was received because of the usage of any means like* 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; and that the recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means mentioned above.

⁴ The readers might doubt whether the customers could be qualified as traffickers. The author's view that they could since they, in the majority of cases, could realize that the victims serve them and work for them due to the bounded situation and inability to make choice. Moreover, the customers are the ones who, generally, create and support the demand for the extremely cheap or free labor or sex services. Therefore, they are an important link in the whole

The typical chain of traffickers in Central Asia may consist, at a minimum, from a recruiter, transportation assistant, and exploiter. Very often, these three act in different country each: the recruiter in the country of victims' origin, the transporter in the country or countries of transit, and the exploiter in the country of destination. In the majority of trafficking cases known by the author and the NGOs in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, the recruitment was conducted by one or two persons. Many recruiters were young and middle age women, although men acted as recruiters, too. Often the victim was acquainted with at least one of the recruiters before the recruitment took place, and in cases of recruitment of laborers often an elderly and respected man from the victims' village or *makhalla*⁵ assisted the recruiters, being sure he was helping his villagers or *makhalla* dwellers to get a great opportunity of a well paid job abroad. Those recruited for further exploitation in commercial sex businesses abroad often reported that the recruiter was a young or middle age woman who had close friends or family members permanently living in or being citizens of the country of destination. Many recruiters had an occupation or a business in legitimate sector and combined their legal activities with the illegal ones. Some recruiters were owners and/or heads of travel agencies or companies licensed to act as intermediaries between the workforce in their home countries and employers abroad.

Recruiters usually had links with low- and middle-level officials who arranged exit and entry visas, if required, and assisted to issue the documents valid for the victims' travel abroad. In some cases these were legitimate documents, in the other cases some changes were made illegally in the initially legitimate documents owned by the victims. There were also cases when fully fake documents were provided to cross the border. Many victims reported that they didn't attract special attention by border guards even though their documents were obviously fake. There were also victims who stated that the border guards or other uniformed individuals let them, along with their escorting agents, to pass the check point without any examination of the documents. Some female victims, when being questioned by NGO staff, told they were raped by uniformed personnel at the borders, but rejected reporting such cases to law enforcement.

The other important associates for the recruiters were those who transported the victims from country of destination to the country of origin. The transporters were usually employees of transportation companies or small transportation business owners or employers⁶. Some victims reported aircraft staff members (usually hostesses) being involved in the collection of the victims' fake passport right in the aircraft, short before the landing in the destination port. Lacking of the passport, however, didn't prevent any of those victims from successful passing of controls (if any at all) in the destination airport and coming directly to the hands of receivers.

Receivers, in some cases, delivered the victims to the exploiters and exchanged them for certain amounts of money per each victim, or, in the other cases, brought the victims to the workplace and acted as exploiters themselves. Therefore, status of receivers was different in different cases. For those received the victims and resold them to the final exploiter, the criminal business of receiving and re-selling seemed to be the main

chain of trafficking. There would be no trafficking cases at all should there be no demand for the victims' labor and services, i.e. should there be no client or customer in the very end of the trafficking chain.

⁵ Makhalla is a small administrative unit in Uzbekistan. This term is informally used in the some regions of the other Central Asian countries to determine a group of neighboring households.

⁶ Minivan, bus, or truck drivers.

source of income, without any legal business or occupation used as a coverage for the illegal activities. Receivers whose purpose was to exploit the victims directly, often had some legal business related to entertainment, community services, construction works, or agriculture. Therefore, the role of the receiver was mixed with the role of exploiter in such cases.

The majority of individuals and groups exploited victims' labor and services had a legitimate occupation or legal business. Often, they exploited the victims in order to minimize the expenditures of the legal business. Some exploiters combined a business which was 100% legal, and exploitation of victims in some illegal business. Even in the cases of sexual exploitation, some exploiters combined the commercial sex business which gave the main part of their income with some legal activities which might brought less income but served as a shield for the criminal activities, and a source of modest income for hard times, if any. The majority of exploiters in the field of commercial sex, however, didn't have any occupation but pimping, and often originated from commercial sex workers themselves.

Exploiters usually acted in cooperation with other criminals, and criminal groups which exploited victims, always had hierarchic structure with clear distribution of criminal roles. In small groups consisting of 3 to 5 members, the head of the group coordinated the whole group's activities and directly supervised the victims. The other group members acted as guards and, in necessity, transporters within the area (city, town, etc.) where the victims were exploited. In bigger groups consisting of approximately 6-10 members the head might or might not supervise the victims directly but always coordinated the whole group's activities. The other group members acted as receivers, guards, transporters. The cases of corrupted low- and (more seldom) middle-rank officials involved into the groups' activities were also reported.

The groups of exploiters, especially the small ones, often used services of individuals generally independent from the group but rendered their services from time to time, on as-need basis. These were, first of all, taxi drivers who delivered the victims to the places of their "workplaces", and transported them back to exploiters upon the "work" was done. The author had a chance to interview some of those taxi drivers informally, and all the interviewed ones (totally 11 in Almaty and 6 in Astana, Kazakhstan, 8 in Tashkent, Uzbekistan, and 5 in Ashgabat, Turkmenistan) mentioned that they "delivered the girls" and prevented them from escape in the course of the delivery. Some of the interviewed taxi drivers mentioned that they worked only with one or two "mama Rosa"⁷, the ones to whom they trusted, since "the others could easily cause problems with the police and so on, you know..."

During the court hearings on some trafficking cases, the victims mentioned taxi drivers who regularly arrived to pick them up and to control them on their way to the clients and back. Some victims mentioned that taxi drivers collected the money paid by the clients and handed the money to the pimp. But no one taxi driver was ever brought to the court at least as a witness if not an associate intentionally cooperated with the group of exploiters.

(3) Why are there so less cases reported and even less traffickers convicted ?

⁷ Jargon name for a female pimp in Central Asia.

According to the NGOs, there are hundreds, if not thousands, of victims trafficked from, within, through and sometimes to Central Asia annually. The number of trafficking cases under investigation is usually several times lower, and even less cases were brought to the court to date.

Before discussing this issue in details, the author would like to pay the readers' and the audience's attention to the fact that it is generally uneasy to obtain the clear number of cases open against traffickers and sentences pronounced and convictions served.

There is no unified tool to register trafficking cases, and often the NGOs and IGOs, on one hand, and the law enforcement, on the other hand, have different methods to calculate the number of cases. The NGOs and IGOs usually speak about the number of victims to whom the NGOs provided return and rehabilitation assistance, and they usually register each victim as an individual "case" even if 10 victims were recruited by the same recruiter, provided with fake passports from the same source, and exploited by the same exploiter(s) in the same country of destination.

But the law enforcement and other governmental institutions often mean a criminal case instituted against the group of traffickers rather than a number of victims within that case, when speaking about the "case". Therefore, 10 cases (i.e. 10 victims) reported by the NGOs may be equal to 1 case against one or several traffickers recruited and/or exploited these 10 victims registered and assisted by the NGO.

There are also some more reasons for underreporting of trafficking cases, and for the low number of convictions

"We didn't know whether they were victims or not but they were, for sure, illegal migrants. You know, we are the police and we must follow the rules and enforce the law and keep order. The law reads that any illegal migrant shall be detained and deported, some of them with and the others without fine. We didn't fine them because they didn't have any money. We just put them, all 120 persons, into the buses and deported."

"Why do you name her "victim"? She is a prostitute and this is it... She knew that she will be working as a prostitute so why do you say she was deceived? Even if she didn't know initially that the pimp would make her to pay off the debt, this was only her fault. She shouldn't be so naïve. "

"You know, we opened the case, and interrogated the suspect. But after we held cross-interrogation with the pimp and the victims, the victims refused testifying. We had to suspend the case. Later, the suspect left to another country. And we closed the case..."

In late 90-ies, all Central Asian countries except for Turkmenistan included the article punishing "recruitment for the purposes of sexual or other exploitation" into their national penal codes. Very soon, it became obvious for the law enforcement and for the prosecutors, that these articles were hardly applicable to many trafficking cases since recruitment started in the jurisdiction of the country of origin while the exploitation (the purpose of the recruitment) took place in the country of destination, i.e. outside the jurisdiction of the penal code applicable to punish the recruitment. To collect the

evidences of exploitation, the law enforcement in the country of origin had to contact the law enforcement in the country of destination and ask them to collect the evidences. Theoretically, it was possible to do this all, either on the basis of a multilateral or bilateral agreement on legal assistance, or by exchange of appropriate letters between the law enforcement agencies and prosecutors' offices of the two countries. In fact, the requests for legal assistance were either implemented very slowly or weren't implemented at all. Without the evidences, the investigators were compelled to prove the guilt only with the evidences available within the jurisdiction of the country of origin. This weakened the charges and often let the defense lawyers to incline the court to minimize the offenders' sentence, or even to let them go free from the court room.

Investigators didn't consider the "recruitment for the purpose of exploitation" to be a "strong" article to bring the offenders to the conviction, and tried to charge them for other crimes, somehow related to trafficking in persons as it was determined in the protocol to Prevent and Suppress Trafficking in Persons. These might be the articles of the penal codes, which punished organized criminal activities in general, pimping, keeping and running of brothels, engaging a third person into prostitution, organizing illegal crossing of the state borders, kidnapping, illegal imprisonment of a person, and some other articles.

As a result, the official criminal statisticians registered few prosecution cases against traffickers, under the articles punishing "recruitment for the purpose of exploitation", and no one ever studied how many trafficking cases were investigated under the other articles and, therefore, were never registered as trafficking cases at all...

This situation had been improving very slowly in 2004-2006, when articles punishing "recruitment for the purposes of exploitation" were amended into the articles punishing "trafficking in persons" in Kazakhstan, Kyrgyzstan and Tajikistan. Uzbekistan has made such amendment in mid-September 2008, soon after the "Law on Combating Trafficking in Persons" was passed in the country (in May 2008), and the Protocol on Prevention and Suppression of Trafficking in Persons was ratified in June 2008.

Unfortunately, the author doesn't have the information about any amendments of the penal code of Turkmenistan.

The law enforcement of the countries which amended their legislations in last years, and have the article punishing "trafficking in persons" in their penal codes now, found very soon, that collecting evidences to prove the guilt under the amended articles had not become much easier than it was when "only" recruitment for the purpose of exploitation had to be proven. The investigators and prosecutors still state that it is extremely difficult to collect evidences from different jurisdictions in order to prove all the consequent episodes of a trafficking case. As a result, many cases have still been opened, investigated and brought to the court under the articles other than "trafficking in persons". In the same time, the law enforcement in Uzbekistan investigated dozens of cases opened under the article "recruitment for the purposes of exploitation".

One more reason for low number of prosecutions and convictions of traffickers is that victims refuse reporting their cases to and reject cooperation with law enforcement/ Why does this happen?

According to the NGOs provided return and reintegration assistance to Central Asian victims of trafficking, when victims report their cases to the police, the latter often view the victim as an offender and charge them for violation of the border-crossing regime, rules of stay in the country of destination, or illegal prostitution abroad. Thus, victims fear recriminations by either traffickers, border guards, customs or law enforcement

officers, and have little faith in the ability of the law enforcement to protect them and bring the traffickers to justice.

In recent years, when local police apprehended foreign citizens that were trafficked to Kazakhstan from the neighboring countries, they often deported them back to the country of origin as illegal migrants. Since March 2006, Kazakhstan has legal procedures to allow the victims to remain in the country for the period of investigation and court hearing. But law enforcement have no facilities, except for detention centers, and, *IF* funds are available, rented apartments, where the victims could safely stay before returning to their home country. In the majority of cases, the law enforcement didn't have these funds and approached NGOs seeking their assistance in temporary accommodation and providing meals to the victims. The need of obligatory psychological counseling for all victims of trafficking is slowly arising in the police's agenda, mainly due to the NGOs' training efforts.

Persistence of underreporting occurs due to the following interrelated factors:

- Difficulties in the collection of evidences from more than one jurisdiction;
- Registration and investigation of trafficking cases under the articles of penal codes other than articles directly punishing "trafficking in persons" or "recruitment for the purpose of exploitation";
- Prevalence of social stigma among female victims of trafficking, which impede development of conceptual differentiation between the process of trafficking and voluntary prostitution;
- Development of specific attitude towards migrants and especially migrant workers as "second-rate individuals" who can be exploited and abused without any legal consequences for the abusers;
- Poor conceptualization by the field authorities of trafficking crimes (both related to sexual and labor exploitation) as constituting a grave violation of human rights, which contributes to mistreatment of the victims by law enforcement agents;
- Focusing on offences committed by victims (often unintentionally, unknowingly, forcibly and under pressure by the traffickers) and charging the victims for these minor offences rather than investigating the whole chain or the crime of trafficking; in the result, victims would rather hide their victimization, being scared of charges for their own offences;
- A tendency among the part of the authorities to associate victimization only with overt signs of physical abuse, which fails to validate those victims who have suffered from psychological torture and abusive manipulation, including illegal seizures of identification documents, threats to disclose their dishonored status, and similar means;
- Links between trafficking crimes and other criminal activities, including corruption, and infiltration of criminal elements into the structures and institutions combating the crime, and, sometimes, into the organizations which provide assistance to victims;
- Limitations experienced by law enforcement in cooperation on investigation of trafficking cases that involve jurisdictions of two or more states, which decreases the likelihood of investigation and conviction in a trafficking case.

(4) Still, There Is Some Success. And More Job to Do, Too.

NGOs assisting victims of trafficking in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, have gathered much experience. They are professional in providing the direct assistance to victims and conducting awareness raising campaigns for populations at risk to be trafficked. The NGOs passed training sessions on assistance to victims, and developed a network of mutual cooperation and exchange of knowledge and experience.

The assistance by the NGOs included psychological counseling, medical examination and treatment, vocational training, and reintegration into communities where the victims originated from⁸. In order to raise the awareness among the risk groups and local populations in general, the NGOs conducted workshops and training sessions, and operated the hotlines. Shelters for victims of trafficking were established and run by the NGOs in Kazakhstan, Kyrgyzstan, and Uzbekistan.

Since the regional anti-trafficking program funded by USAID was expired in Kazakhstan and Kyrgyzstan in March 2008, the NGOs in these two countries have been continuing their activities on volunteering basis, and they are intensively looking for funding currently. The NGOs in Tajikistan and Uzbekistan received some financial support within the extension of the USAID-funded project covered these two countries. But this support is insufficient to implement the full scale of the anti-trafficking activities.

Therefore, the main challenge for the NGOs is funding which will be sufficient for the needs of victims' assistance, awareness raising activities, and training with protection and assistance professionals (police, prosecutors, health care providers, educators, and others).

In the same time, the NGOs improved their cooperation with law enforcement units which investigate trafficking cases, and this cooperation allows better assistance to the victims, and better results of the investigations and prosecutions, too.

A bright example of such cooperation is the case investigated and brought to the court in Aktobe, Kazakhstan, and Nukus, Karakalpakstan.

In August 2005, the police in Aktobe, Kazakhstan, opened a case against the group of Kazakhstanis who owned a car service and a café and exploited citizens of Uzbekistan there. Totally, there were 17 victims found at the car service and café. Men were exploited as laborers, and women suffered both from labor and sexual exploitation. There was one underage person among the exploited women, and she got pregnant in the result of the series of rapes.

When the police started the investigation, it became obvious very soon, that the victims were recruited and delivered to the exploitation site by some recruiters in Karakalpakstan, who had links with and acted in conspiracy with the owners of the car service station and the café. When received this information from their Kazakhstani colleagues, the police in Karakalpakstan opened a criminal case against the recruiters in Nukus.

As a result, both exploiters in Kazakhstan and recruiters in Karakalpakstan were brought to the court and sentenced to various terms of imprisonment.

In the course of investigation and court hearings, many victims (totally 13) agreed to cooperate with law enforcement. They were accommodated in a temporary shelter run by an NGO in Aktobe received funds from USAID's program on combating trafficking in

⁸ Appendix III contains the summary of data on the expenditures per victim and type of assistance, provided by 5 selected NGO partners in Kazakhstan

persons in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan⁹. The NGO provided psychological counseling and hired a lawyer who rendered legal assistance to the victims during the investigation and the court hearings.

The cooperation and common efforts of the NGO and the law enforcement allowed successful investigation and prosecution, although there were a lot of obstacles in that case. Upon the sentences were pronounced, the NGO in Aktobe cooperated with the NGO in Nukus, in order to secure the victims' return and especially the further assistance to them in their home country. The return was assisted by the law enforcers from both countries.

Currently, the victims continue receiving psychological consultancy on as-needed basis.

During the informal interviews the author conducted with the NGOs joined the Association of the NGOs Against Trafficking in Persons in Central Asia, and their partners, the following main challenges were mentioned:

- problems with issuing return documents for the victims returning to their home countries;
- unclear prospects of victims' future upon the return to the environment pushed her to the victimization before;
- sustainable trends for deviant behavior demonstrated by some victims;
- lack of cooperation demonstrated by public health and social services contacted by the NGOs seeking professional assistance for the victims passed the rehabilitation programs;
- attempts of media to unveil the victims' personality, notwithstanding of the security and safety requirements;
- long time of investigation and court hearings and lack of funds and the NGOs' resources to accommodate and feed the victims in the course of investigation and court hearings;
- victims rejected cooperation with the police after the case was reported, mainly due to mistreatment by the police who openly demonstrated stigmatizing attitude towards the victims, and sometimes re-victimized them;
- the police officers' skepticism expressed very often regarding the possibility to investigate the case successfully;
- mixing of victims of trafficking and victims of other crimes within one case, and unavailability of funds to assist any other individuals in need but only trafficking victims;
- the prejudice towards victims, openly expressed by many government officials who are responsible for combating trafficking; very weak understanding of the phenomenon of trafficking in persons by those officials, and, because of their rapid rotation from one post to another, low chances for them to study.

⁹ The funds were distributed through IOM which coordinated the regional program.

In order to meet these challenges, the NGOs developed training programs for the police, prosecutors and judiciary, and for health care and social assistance providers and expect to deliver the training sessions in the nearest future, as soon as the funds will be available, at least partly.

The NGOs also improve their attitudes to the victim assistance practices, exchange their experiences and develop common plans of actions for the future. The general view of the future activities by the NGOs' include spreading of the assistance to victims of any violent crimes rather than only to victims of trafficking. This approach is based on the conclusion that very often an individual suffered from any violent crime, and especially the sexual crime, is at highest risk to be trafficked.

The other reason to spread the assistance from only trafficking victims to the sufferers of the other violent crimes is that very often trafficking is underreported while other violent crimes become known by the police, and, assisting the victim of a violent crime, there is a high chance to find a trafficking case hidden under the "usual" violence.

The NGOs have plans to develop and improve their cooperation with law enforcement , prosecutors and judges, and hope to see more cases investigated and brought to the courts, more victims assisted and more traffickers convicted in the future.

BIBLIOGRAPHY

- 1) The OSCE's Decision No. 14\06 "Improvement of the efforts to combat trafficking in persons, including labor exploitation, on the basis of comprehensive and initiative approach", passed on the 14th meeting of the Council of Ministers of Member Countries on 5 December 2006.
- 2) The OSCE's Decision № 15\06 Combating Sexual Exploitation of Children, passed on the 14th meeting of the Council of Ministers of Member Countries on 5 December 2006.
- 3) Trafficking in Persons: Detection, Suppression, Assistance to Sufferers. Training Guidelines. By Badikova Ye.V., edited by Karimova N.E. and Muratova M.P., Tashkent, Uzbekistan, 2006
- 4) Core Principles of Justice on Cases Involved Child Victims and Witnesses passed by the Assembly General at its 36th plenary session on 22 July 2005
- 5) The OSCE's Decision No.557\Rev.1 "On the plan of actions of the OSCE on combating trafficking in persons" passed on 7 July 2005 at the 562nd Plenary session of the Permanent Council
- 6) Fertile Fields. Trafficking in Persons in Central Asia. A report prepared by Liz Kelly, Child and Women Abuse Study Unit, London Metropolitan University. International Organization for Migration, Vienna, Austria, 2005
- 7) Lykoshin N.S. "Bon ton in the East", Moscow, ACT:Astrel, 2005.

- 8) An Analysis of the Legal Framework Governing Prosecution of Traffickers and Victim Protection in Central Asian Countries. An article published in the quarterly journal "Connections". – By Katerina Badikova. – PfP Consortium, Garmisch-Partenkirchen, Germany, 2005, p. 29-39
- 9) Action-oriented research on Infiltration by Trafficking Networks into Organizations Working to Combat – or Working with Victims of – Trafficking in Persons. EC DG JHA Hippokrates Programme Report. International Organization for Migration, Geneva, Switzerland, 2004.
- 10) Women as Commodities. – By Nomi Levenkron, Yosi Dahan. – Center for Assistance to Foreign Laborers, Feminist Center "Woman to Woman" of the city of Haifa, Center "Adva" – Tel Aviv, Israel, 2003
- 11) Materials of the Conference "Global Fight Against Sex Trafficking" , 23-26 February 2003, Washington, DC, USA
- 12) Brussels Declaration On Prevention and Combating Trafficking in Persons passed on the European Conference "Prevention and Combating Trafficking in Person: Global Challenge for 21st Century", 20 September 2002, Brussels, Belgium
- 13) Sadovskaya Ye.Yu. Migration in Kazakhstan in the beginning of 21th century: main trends and perspectives. International Organization for Migration, Almaty, 2002.
- 14) Women, Law, and Migration. Materials of the National Conference. Edited by Michael Tschanz- International Organization for Migration (IOM), Almaty, Kazakhstan, 2001
- 15) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime passed by the Resolution 55/25 of the General Assembly on 15 November 2000
- 16) Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime passed by the Resolution 55/25 of the General Assembly on 15 November 2000
- 17) United Nations Convention Against Transnational Organized Crime passed by the Resolution 55/25 of the General Assembly on 15 November 2000
- 18) Saken Uzbekuly, "Khan Tauke and Zhety Zhargy law" , Almaty, Orkeniet, 1998.
- 19) Kenzhaliev Z.Zh., Dauletova S.O., Andabekov Sh.A., and others, "Materials on Kazakhs' common law", Almaty, Zhety Zhargy, 1996.
- 20) Shakarim Kudaiberdy-uly, "Genealogy of Turks, Kyrgyzs, Kazakhs, and khans' dynasties", Almaty, "Zhazushy", 1990.
- 21) Declaration of the Human Rights passed by the Resolution 217 A (III) of the general Assembly on 10 December 1948, and came in force on 30 September 1991

- 22) Convention on Elimination of All Forms of Discrimination Against Women passed by the Resolution 34/180 of the General Assembly on 18 December 1979, and came in force on 3 September 1981
- 23) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, dated 7 September 1956, passed by the Conference of Plenipotentiary Representatives , and came in force on 30 April 1957
- 24) Convention on Elimination of Forced Labor (Convention 105) passed on 5 June 1957 at the 40th Session of the General Conference of the International Labor Organization
- 25) Slavery Convention signed at Geneva on 25 September 1926 and amended by the Protocol opened for signature or acceptance at the Headquarters of the United Nations, New York, on 7 December 1953, came in force on 7 July 1955.
- 26) Convention on Forced and Obligatory Labor passed on 10 June 1930 at the 14th Session of the General Conference of the International Labor Organization
- 27) Combating trafficking in persons and assisting irregular migrants in Central Asia: achievements, trends, and lessons learnt. – The paper presented by Yekaterina Badikova at the CAMMIC Symposium at Toyama University , Tokyo, Japan, in August 2008. (to be published in late 2008 or early 2009 at Toyama University).