

**WOMEN AS COMMODITIES:
TRAFFICKING IN WOMEN IN ISRAEL 2003**

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About The Hotline for Migrant Workers

The Hotline for Migrant Workers is a non-political organization whose goal is to protect the rights of migrant workers and victims of trafficking in women in Israel. The Hotline's volunteers regularly visit migrant workers awaiting expulsion in jail. Their activities also include providing migrant workers with information about their rights, humanitarian aid, legal advice and advocacy. In the public sphere the organization campaigns for change in government policy that will help to eradicate the modern forms of slavery existing in Israel.

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About Isha L'Isha - Haifa Feminist Center

Isha L'Isha is a Jewish-Arab feminist center that strives to change Israeli society by promoting women's rights, empowering women, eradicating all types of violence against women, and engendering solidarity between women. The Center seeks to disseminate a feminist awareness, to build up a leadership of Arab and Jewish women, to empower impoverished women, and more.

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About Adva Center

The Adva Center is an independent, action-oriented policy analysis center focusing on equality and social justice in Israeli society. The center offers alternatives to current social policy trends for social change organizations and decision-makers. The Adva Center is active in four areas: advocacy, research, organizing social coalitions, and conducting in-service training courses and symposia on issues relating to equality.

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INTRODUCTION

Trafficking in human beings worldwide, and in Israel, is steadily increasing. Its main victims are the weakest sectors: inhabitants of poverty-stricken countries, minorities, children, and women. Human trafficking has many faces, but the most common form, and the one that is the focus of this report, is trafficking in women in the sex industry. The report examines the policies of the Israeli authorities (Knesset, Israel Police, prosecuting authorities, courts, and other agencies) toward trafficking in women, and discusses the effects of these policies on the victims. As far as possible, the report seeks to convey the point of view of the victims, in terms of their experiences as sex slaves in Israel, documenting the violations of their human rights.

Trafficking in women in its current form has existed in Israel since the early 1990s. The reasons leading up to its present scale involve both global and local processes; and there are both “supply” and “demand” aspects to this development. The break-up of the Soviet Union contributed greatly to the increase in the supply of women available for prostitution. The economic upheaval and the collapse of the social safety nets in the countries of the former Communist bloc brought about a situation in which millions of destitute men and women need to struggle just to survive. Trafficking in women also thrives because of the enormous demand, estimated at a million visits to brothels in Israel every month.¹ The indifference to this phenomenon demonstrated by both the enforcement agencies and the general public indicates that the purchase of sex enjoys a high level of legitimacy in Israeli society.

Until 2000, victims of sex trafficking were perceived as criminals who had entered the country clandestinely in order to engage in shady business in Israel. The prosecuting authorities instructed the Israel Police not to interfere in what went on in brothels, other than in exceptional circumstances. Accordingly, the police preferred to use pimps as intelligence sources for investigating other crimes, treating trafficking in women as an insignificant offence. Victims of trafficking rarely gave evidence about the crimes perpetrated against them, and the authorities simply arrested and deported them. In May 2000, Amnesty International published a highly critical report about trafficking in women in Israel. In the wake of the wave of public revulsion evoked by the Amnesty Report findings, the Knesset hastily passed Amendment No. 56 to the Penal Code, explicitly prohibiting trafficking in women for purposes of prostitution.²

Legislation is one thing, however, and enforcement is another. Enforcement of the law was minimal, and the penalties handed down by the courts were significantly lower than the maximum sentences laid down in the law – 16 years in prison. In 2001, the USA stepped up its involvement in fighting the trafficking of women worldwide, threatening to cut off economic aid to countries failing to combat the phenomenon within their borders. This threat suddenly became tangible when Israel was ranked in the group of countries failing to take steps to eradicate trafficking in women. The U.S. warning succeeded in effecting changes in the states threatened with sanctions.

¹ Calculated on the basis of 3,000 sex slaves x 10 clients a day on average x 30 days a month. See also the study by Ilan Keren, Bella Chudakov, Ilana Belmaker, Julie Cwikel, *The Motivation and Mental Health of Sex Workers*, Center for Women’s Health Studies and Promotion and Department of Social Work, Faculty of Health Sciences, Ben-Gurion University of the Negev, Be’ersheva, 2002.

² The amendment to the law in no way addressed human trafficking for other purposes.

However, in Israel, the struggle to eradicate trafficking has barely begun, and most authorities do not live up to their declared principles. Sometimes their operations amount to no more than a sham – a case of lip service only. As this report will show, efforts to combat trafficking in women in Israel are still not proportionate to the extent of the phenomenon and the gravity of the offense.

METHODOLOGY

The report is based on exclusive information gathered directly from victims of trafficking in women by volunteers of the Hotline for Migrant Workers (“Hotline”) and Isha L’Isha. The information includes the following:

In-depth interviews: Conducted with 106 women – 17 detainees in lockups, 40 detainees in prison awaiting deportation, 41 prosecution witnesses waiting to give evidence, and 8 women who had run away from their traffickers. The interviews were based on a questionnaire specially developed by the Hotline, containing 159 questions relating to all stages of the sex trade. The first part concerns the woman’s situation in her home country, how she was recruited, her journey to Israel, and the smugglers who brought her in; the second part focuses on her experiences of trafficking in Israel – how she was sold to different brothels, the clients, the pay, the way she was treated, and her physical and mental condition; and the last part examines the end of the trafficked woman’s experiences in Israel – her arrest, escape, testifying against traffickers, and deportation. The interviews were carried out by a male or female interviewer who was either Russian or Romanian-speaking or was accompanied by an interpreter. No one else was present at the interviews unless specifically requested by the woman. Prosecution witnesses and women in custody awaiting deportation were selected at random for interview, which took place with their consent. For the group of runaways, all women who agreed to cooperate were interviewed. Of the interviewees, 48% were from Moldova; 28% from the Ukraine; and 14% from Russia.³ These percentages are consistent with the statistics for women held in custody and deported.

Statistics of women in custody awaiting deportation: The Hotline volunteers documented information for all the 1,267 women held in the Neve Tirza Women’s Prison and deported between 2000 and 2002. The information includes: country of origin, age, how long they waited for a court hearing, how long they waited to be deported, etc.. These statistics were collated from an analysis of the records of the Administrative Tribunal for Review of the Detention of Illegal Aliens (Custody Review Tribunal), before whom the women appeared prior to their deportation, as well as from volunteers’ interviews with judges – before November 2002 at the Neve Tirza Women’s Prison, and subsequently at a new detention facility in Hadera.

Questions submitted to the authorities under the Freedom of Information Act: Questions were submitted to the Ministries of Justice, Internal Security, Health, and Interior, as well as to the Israel Police and the Israel Prison Service. The only two bodies to reply were the Police and the Prison Service. The report draws on their responses.

³ The remainder: 6% from Uzbekistan, 2% Belarus, and 2% for whom there is no information.

This report is also based on the report of the government interministerial task force for fighting and monitoring trafficking in women (“interministerial task force”),⁴ the minutes of the sessions of The Parliamentary Inquiry Committee on the Trading in Women, chaired by MK Zehava Gal’on (“Parliamentary Inquiry Committee”),⁵ earlier reports published on the trafficking of women in Israel,⁶ symposia, case law, research,⁷ and articles that have appeared in the Israeli press.

⁴ The task force was set up following a request by the Attorney-General to the ministers of Justice, Internal Security, Labor and Social Affairs, and the police commissioner, on September 17, 2002. Headed by Chief Superintendent Avi Davidovitch, the task force includes representatives from the police and prosecuting authorities, as well as the ministries of Labor and Social Affairs, Interior and Foreign Affairs. The task force published a report about its activities in December 2002.

⁵ In 2000, Israel parliamentarian MK Zehava Gal’on initiated the setting up of a parliamentary inquiry committee to study the phenomenon of trafficking in women, to combat it, and to change perceptions concerning the women involved from criminals to victims of crime.

⁶ 1997 Israel Women’s Network Report, 2000 Amnesty Report, 2001 Hotline for Migrant Workers Report, Awareness Center reports, and additional Hotline for Migrant Workers reports sent to the United Nations in the 2001-2003 period.

⁷ For example, Professor Julie Cwikel of Ben-Gurion University researched the mental and physical health of women in the sex industry. Her study examined 55 women interviewed by the research team at brothels. This team subsequently carried out a similar study at the Neve Tirza Women’s Prison, but at the time of writing its findings have not been published.

CHAPTER 1: TRAFFICKING IN WOMEN WORLDWIDE

Trafficking in women for the purpose of sex has been known since the dawn of history. Trafficking in women in its present form began at the end of the nineteenth century between many countries in Europe and the Americas. At that time, Englishmen, Frenchmen, Italians, as well as Jews from Poland and Russia, trafficked women against their will, using means that included force, deception, and drugs. The main destinations of this trade were Argentina, the Ottoman Empire, and the United States.⁸ In order to distinguish it from the trading of slaves from Africa, trafficking in women originating in Europe was known as “white slavery” or the “white slave trade.”⁹ In the last two decades, trafficking in persons has grown significantly. According to United Nations estimates, worldwide millions of women, men and children are trafficked every year. The sex industry is one of the main reasons for human trafficking.¹⁰ Most of the sex slaves are impoverished women from developing countries, but there are no precise figures. The International Organization for Migration (IOM) puts the number of persons trafficked annually to Western European countries at tens of thousands, two thirds of them from Eastern Europe.¹¹ The profits from trafficking in women are estimated at around seven billion U.S. dollars annually.¹²

The phenomenon of trafficking of women cannot be understood only as an aggregate of random decisions taken by individuals, in a variety of locations and at different times, which are unrelated to one another. Such methodological individualism ignores structural (political, economic, gender and cultural) aspects of the phenomenon, and limits the discussion to the private sphere, detached from the public sphere of the State and civil society. In contrast, an analysis of the political economy of trafficking in women puts structural factors, such as class, gender, race, culture, and nation, at the heart of the discussion, revealing their interactions. Such an analysis sets trafficking in women in a broader historical context, enabling a more in-depth understanding of the phenomenon. It makes it possible to show how factors such as a particular economic system, a gender-based distribution of labor on the job market, and sexist ideologies

⁸ Williams P., “Trafficking in Women and Children: A Market Perspective in Illegal Immigration and Commercial Sex,” in: Williams P. (ed), *Illegal Immigration and Commercial Sex*, London, 1999, pp. 145-171. Writing in his autobiography about his adolescence in Vienna, Stefan Zweig observed: “The present-day generation has not the faintest idea about the widespread phenomenon in Europe... The services of a female prostitute could be engaged at any time and at any price, a woman could be acquired for a quarter of an hour or an hour just as readily as one could buy a pack of cigarettes or a newspaper.” See also: Altman, Dennis, *Global Sex*, University of Chicago Press, 2001, pp. 11-12. Controversy still rages over Jewish involvement in trafficking. Some contend that they were involved to a major extent. Others argue that this is an exaggeration stemming from anti-Semitism. On the involvement of Jews in running brothels and recruiting Jewish women, see: Less, Nelly, “Prostitution and Trafficking in Jewish Women at the Beginning of the 20th Century” (Hebrew), *Kivunim Hadashim* (New Directions), 5:2001, pp. 214-225. On trafficking in women at the end of the 19th century and the reaction of international organizations, see: Berkovitch, Nitza, *From Motherhood to Citizenship, Women's Rights and International Organizations*, Johns Hopkins University Press, 1999, pp. 41-43, 75-77.

⁹ The term “white slavery” has come under considerable criticism, inter alia because of its racist distinction from “black slavery” which was perceived as legitimate. See: Doezenia, Jo, “Loose Women or Lost Women?” *Gender Issues*, Vol. 18. No. 1, Winter 2000, pp. 23-50.

¹⁰ Bales Kevin, *New Slavery - A Reference Handbook ABC-CLIO*, 2000, p.24.

¹¹ Strandberg Nina, *What is Trafficking in Women and What Can Be Done*, Kvinforum, 1999.

¹² “Women as Chattel: The Emerging Global Market in Trafficking,”

<http://www.usaid.gov/wid/pubs/q1.htm>

push women to adopt survival strategies such as emigrating to other countries or prostitution (many female migrant workers are dragged into prostitution against their will).

Trafficking in women and globalization processes

The increase in trafficking in women is bound up with globalization processes, which have accentuated the inequalities between developed and developing countries, increased the need to migrate in order to keep body and soul together, and enabled high-speed and relatively cheap mobility between countries. The global economy has compelled countries looking for economic assistance to fall in line with a neo-liberal socio-economic ideology, and to make “structural adjustments” in order to cope with their huge national debts. Such adjustments include cutting back government regulation and spending, opening up local markets to foreign investors, privatization, and removing subsidies to the local economy. Poor countries are forced to institute such changes as a condition for receiving aid from the International Monetary Fund (IMF) and the World Bank.¹³ These changes have led to social and economic deterioration in many countries: a sharp growth in unemployment and poverty, shrunken welfare services, an increase in crime, the development of a black market and with it an expansion of the “informal” labor market whose workers are defenseless.¹⁴ This grim state of affairs explains why labor migration and prostitution are often used as survival tactics.¹⁵

The processes of globalization have brought about a uniform, global commercial and cultural market, as well as a worldwide sex industry. They have encouraged the growth of accessible sex markets, where there is a large demand for foreign – “exotic” – women, as a new source of sexual stimulation.¹⁶ Trafficking in women is also supported by the way that the rules of a market culture have come to underpin human activities such as sexual relations, and is part and parcel of the commodification of sex.¹⁷ This commodification is reflected in a dramatic mushrooming in centers of prostitution, where suppliers and consumers of sex services from all over the world meet, and of sex tourism marketed through modern communications that traverse the barriers of countries and cultures. Large numbers of Internet sites market sex tourism “packages,” or offer brides from Russia to potential “bridegrooms.”¹⁸ In addition to global economic-cultural processes, attention should be paid to social and cultural factors in the countries of origin of trafficked women. Women who end up in prostitution

¹³ The position of the International Monetary Fund and the World Trade Organization on structural adjustments is more radical than that of the World Bank: Altman, pp. 27-34.

¹⁴ In 1989, the population of the CIS included 14 million poverty-stricken people. In the mid-1990s, this figure rocketed to 147 million. Minnesota Advocates for Human Rights, “Trafficking in Women: Moldova and Ukraine,” December 2000, p. 8.

<http://www.mnadvocates.org/vertical/Sites/TraffickingReport>.

¹⁵ Sassen Saskia, “Women’s Burden: Countergeographies of Globalization and the Feminization of Survival,” *Journal of International Affairs*, 53, No. 2, 2000, pp. 503-524.

¹⁶ Altman underscores the homogenization of the culture of consumption of sexual services in the context of globalization.

¹⁷ The International Labour Organization (ILO) estimates that millions of people make a living from the sex industry in Indonesia, the Philippines, Thailand, and Malaysia, representing between 2% and 14% of these countries’ GDP. Millions of people live off these revenues: Altman, pp. 110-111.

¹⁸ Taylor Ian, Jamieson Ruth, “Sex Trafficking and the Mainstream Market Culture,” *Crime, Law & Social Change* 32, 1999, pp. 257-278.

generally come from countries where women's status is low to start with. They do not enjoy equal opportunities in education or employment, but generally their work is a vital source of income and indispensable to their families' survival.¹⁹

The countries of the former Soviet Union are a textbook example of the link between trafficking in women and countries which have switched over to a capitalist economy and adapted themselves to the rules of the global market. It is true that women were discriminated against on the labor market earlier, but after the breakup of the Soviet Union and the ensuing economic changes, their socio-economic status worsened considerably. This is reflected in the strengthening of conservative values which increased the inequality between men and women and provided legitimization for the discrimination against and abuse of women.²⁰ In light of the worsening economic situation, many women had no job opportunities. They were unable to turn to the collapsing social welfare system, which could no longer guarantee even minimum subsistence levels. In 1996, women made up two-thirds of the jobless, and 87% of the women in urban areas earned less than twenty-one dollars a month.²¹ In the Ukraine unemployment levels among women reached 80%, with 70% of families having incomes which did not even reach subsistence level. Similarly, in Bulgaria and Croatia, unemployment was 80%. In Moldova, incomes dropped by 70% between 1993 and 1998, with 90% of the population existing on less than two dollars a day.²²

As a result of these conditions, women physicians, engineers and teachers have been forced to accept jobs for which they are vastly overqualified.²³ For lack of any other option, some of them work on the "gray" market, devoid of any regulatory mechanisms, including domestic work and sexual services. In the absence of labor legislation or other appropriate civil legislation, sexual harassment has also increased, and advertisements appear in the press offering work to young women "prepared to provide services free of any moral restrictions."²⁴ In addition to spiraling unemployment levels and discrimination, child day care centers and retirement homes have been closed down, and pensions and other allowances have been slashed. The responsibility for caring for the young and the elderly has primarily fallen on women, who are often the sole breadwinners in single parent families or when their husbands are jobless or have walked out on them. These women try desperately to find employment in richer countries in order to escape their predicament, and in order to ensure survival for themselves and their families. Sometimes they are forced to become part of the sex industry and its trafficking in women.

Against this background it is possible to understand why the countries of the former Soviet Union have become a prime source of the trafficking in women into Europe, the United States, the Middle East, and Israel. Women from Latvia, the Ukraine, Russia, and Moldova have joined local women and "exotic" women from East Asia, Africa, and Latin America. According to official statistics, every year 50,000 women leave Russia

¹⁹ Johnson Diane, "Trafficking Women into the European Union," *New England International and Comparative Law Annual*, 1999, pp. 1-19.

²⁰ "Trafficking in Women: Moldova and Ukraine," p. 16.

²¹ Williams, p. 152.

²² Sassen, p. 8.

²³ Caldwell G., Galster G., Kanics J., Steinzor N., "Capitalizing on Transition Economies: The Role of Russian Mafia in Trafficking Women for Forced Prostitution," in: Williams P. (ed.), 1999, pp. 42-74.

²⁴ "Trafficking in Women: Moldova and Ukraine," p. 21.

on a permanent basis. Hundreds of thousands of women leave as migrant workers for a limited period of time and then return. The government of the Ukraine has estimated that since the collapse of the Soviet Union, some 400,000 women and young girls who have left have been working in various forms of prostitution.²⁵ The head of the Moldavian security services has put the number of Moldavian citizens working illegally outside Moldova at around 600,000, and according to a Moldavian parliamentarian, some 50-60 women leave Moldova every day in order to work in prostitution.²⁶

Areas of trafficking in women

Trafficking in women can occur at the global, regional, and local levels. An example of global trafficking is the trafficking in women from the Ukraine into Israel, or the trafficking in women from the Far East into the USA. Regional trafficking takes place between countries with a common border, such as Burma and Thailand, or Nepal and India. When women are transferred from the former Soviet Union to Israel via Egypt, this is a combination of global and regional trafficking in women. Trafficking on a local level takes place when women are traded between traffickers in the same country. In Israel there is intensive trafficking on all three levels. It takes place in a variety of ways and means: it manages to traverse the country's borders with impunity, and it takes place almost undisturbed within the country as well. Trafficking in women is a complex activity requiring a coordinated network linking traffickers in the country of origin with go-betweens and traffickers in the country of destination. What makes possible trafficking in women in Israel on all levels is the existence of an international network of criminal organizations, most of whose members are from countries of the former Soviet Union.

Organized crime and trafficking in women

The collapse of the Soviet Union significantly weakened the rule of law and the central government's control over both economy and society. The resultant vacuum was rapidly filled by numerous criminal organizations, with businesses and investments in fields like banking and the oil industry.²⁷ For these organizations, trafficking in women represents an attractive source of income, since it combines a low risk level with high profits, compared with drugs and arms trafficking.²⁸ In addition, the authorities tend to arrest and punish the women rather than their traffickers. The criminal organizations operate almost unchecked, mainly by paying bribes. These backhanders serve to "top up" the meager salaries of public officials and government functionaries, and in return for this the traffickers gain access to the women's documents. The criminal organizations also bribe officials and guards at border crossings to allow them to smuggle in the women.²⁹ A report by the United Nations' Industrial Development Organization (UNIDO) found that blackmail and corruption of government officials are

²⁵ Altman, p. 108.

²⁶ "Trafficking in Women: Moldova and Ukraine," p. 26.

²⁷ In 1993 there were some 5,000 criminal organizations operating in Russia. In 1994 their numbers shot up to 8,000. Caldwell estimates that they control 40,000 businesses and 550 banks, since 70%-80% of businesses in cities pay them protection money and they are responsible for 40% of GDP. Caldwell, p. 51.

²⁸ Compared with drug trafficking offences, for which generally sentences of over 20 years are imposed, offences of trafficking in women are considered minor. Hauber, Laurie, "Trafficking of Women for Prostitution: a Growing Problem Within the European Union," *Boston College International and Comparative Law Review*, Vol. 21, 1998, pp. 183-198.

²⁹ "Trafficking in Women: Moldova and Ukraine," p. 7.

the primary factors in the growth of trafficking in women and prostitution in Moldova and the Ukraine.³⁰

Trafficking in women offers the traffickers a wealth of advantages: it is a source of ready cash, the profits that can be made from it are continuous rather than one-time, the return on investment period is quick, and the woman can be resold for further profit. The payment to the women is low, and frequently they are paid nothing whatsoever. It is hard to find another form of criminal activity in which the cost-benefit ratio is so high. The traffickers recruit the women, finance their subsistence and travel expenses, arrange the documentation needed in order to move from one country to another, and pay the various go-betweens on their itinerary. Traffickers who have no independent sources of financing turn to established criminal organizations and repay the loans from the trafficked women's income. Even women who turn to prostitution with full knowledge of what they are doing, as a last resort, are unable to manage without the traffickers' services, since they are without resources and are unable, without assistance, to overcome the hurdle of the immigration authorities in the country of destination. It is important to emphasize that as the countries of destination tighten their immigration controls, the women are forced to rely increasingly on criminal organizations to arrange for their illegal entry and stay in these countries.

Trafficking in women – definition and approaches

“Trafficking in women” is not the same as prostitution, and not every prostitute is involved in it. “Trafficking in women” designates a wide-ranging category of methods of exploitation and violence on the labor market involving female migrant laborers. This category includes various kinds of prostitution, the entertainment industry and domestic work. The definition of trafficking is a complex matter, not just because of the range of activities that it covers, but also because of differences of opinion, ethical, ideological and political alike. The argument over the issue of what trafficking in women is, as well as over the appropriate ways of dealing with the phenomenon, sparks fierce debates. The feminist discussion about trafficking in women is split along ideological lines, stemming from attitudes to the question of prostitution.³¹ At the heart of the differences is the question of whether a woman can validly choose prostitution as an occupation. What is termed the “neo-abolitionist” approach argues that prostitution constitutes a human rights violation. It sees prostitution as a practice which subjugates women to male control and reproduces traditional patterns of oppression and inequality in socio-economic power relations. This point of view tends to define any woman involved in prostitution as the victim of a patriarchal society, and prostitution as the result of the coercion and deception of women in order to employ them under conditions of modern slavery.³² For neo-abolitionists, there is no significant difference between prostitution and trafficking in women.

³⁰ “Trafficking in Women: Moldova and Ukraine,” p. 9.

³¹ The debate between the positions is sometimes presented as a clash between a liberal outlook which endorses prostitution and radical feminism which advocates abolishing it. See: Anderson A. Scott, “Prostitution and Sexual Autonomy: Making Sense of the Prohibition of Prostitution,” *Ethics* 112, July 2000, pp. 748-780.

³² One of the organizations to advocate this position is the Coalition Against Trafficking in Women. According to the founder of the coalition, Kathlyn Barry: “When the human being is reduced to a body, objectified to sexually service another, whether or not there is consent, violation of the human being occurred.” For a discussion of the issue, see: Bishop R., Robinson L., *Night Market - Sexual Cultures and*

In contrast to the approach that views all women involved in prostitution as victims, a different perception distinguishes between prostitution as a result of coercion and prostitution out of “free will.” This approach condemns prostitution as a result of coercion, as well as the working conditions and the exploitation of the women employed in prostitution. However, it argues that a woman’s right to autonomy also includes rights over her own body, so that prostitution can be a legitimate occupation that constitutes a reflection of women’s freedom of choice and autonomy, subject to the proviso that their choice of prostitution is a free one.³³ This is a prevalent approach among movements working for the rights of women working in prostitution.³⁴ It defines women involved in prostitution on a voluntary basis as sex workers, not prostitutes. Its proponents argue that totally rejecting prostitution leads to the criminalization of the women involved in prostitution and violates their rights as human beings and as workers, so that the situation of many women becomes even worse – particularly impoverished women from the Third World working in prostitution in order to gain a livelihood. Adherents of this approach also agree that the criminalization of prostitution increases women’s dependence on criminal organizations that violate their rights and live off their earnings.

Viewing women involved in prostitution as victims, they argue, reflects a conservative and moralistic attitude that reinforces negative stereotypes. The women are depicted as passive and weak, something which – they contend – exacerbates the violation of their rights and promotes racism towards women of Asian and East European origin. For those who take this approach, the desired solution is to cease treating prostitution as a criminal offense and to focus on the women’s rights, health and safety. The debate about the importance of the distinction between prostitution by coercion and prostitution by choice is also reflected in international conventions on trafficking in women. The 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others condemns all those who exploit women involved in prostitution, even if the women involved have given their consent. The Convention has been criticized because of the absence of a distinction between prostitution by coercion and prostitution by choice. In contrast, the 1993 Declaration on the Elimination of Violence against Women makes an implicit distinction between prostitution by coercion and prostitution by choice, in the same spirit as the resolutions of the Fourth World Conference on Women held in Beijing in 1995.³⁵

By now it will be clear that the link between trafficking in women and prostitution is a controversial one, depending on a variety of value-related, ideological, and political positions, both within and outside the feminist movement. The current standard

the Thai Economic Miracle, Routledge, 1991, pp. 219-249. MacKinnon C., *Feminism Unmodified: Discourses on Life and Law*, Harvard University Press, 1987. For a discussion of the feminist debate on trafficking in women, see: Doezema J, “Forced to Choose,” in: Kempadoo & Doezema, pp. 34-51.

³³ Murray Alison, “Debt Bondage and Trafficking,” in: Kempadoo & Doezema, pp. 51-68.

³⁴ This approach is held, for example, by Thailand’s “Global Alliance Against Trafficking in Women” organization.

³⁵ At the Beijing Conference, two positions were presented. The coalition advocating abolishing prostitution drafted a new convention calling for the abolition of all forms of prostitution. The convention was rejected. Doezema considers that there has been an international shift away from the endorsement of abolishing prostitution, towards a stance that distinguishes between prostitution by coercion and prostitution by choice.

international legal definition of “trafficking in persons” was formulated at the UN and was endorsed by the General Assembly in November 2000. Most international organizations fighting to uproot trafficking operate according to this definition. It appears in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, appended to the Convention Against Transnational Organized Crime, together with a protocol on smuggling of migrants and a protocol on trafficking in arms. The State of Israel signed the Convention and the Protocol to Prevent, Suppress and Punish Trafficking in Persons. The purpose of the Protocol is to combat trafficking in people, particularly trafficking in women and children, and to protect its victims while respecting their human rights. The protocol defines trafficking in persons as follows:

a) 'Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.³⁶

The Protocol has explanatory notes concerning a variety of expressions. The expression “abuse of a position of vulnerability” refers to any position in which an individual has no choice other than to agree to be abused or exploited. It is important to note that the definition of trafficking is not limited to women and prostitution alone, but relates to all persons and includes practices such as the mail order of brides, forced labor and slavery arrangements such as debt bondage. The Protocol acknowledges the distinction between prostitution by coercion and prostitution by choice, but deliberately refrains from defining “the exploitation of the prostitution of others or other forms of sexual exploitation.” This is due to the fact that during the negotiations the various country representatives could not come to a common understanding.³⁷ While there was across-the-board agreement that prostitution by coercion falls under the definition of trafficking in women, many countries opposed defining prostitution by choice as “trafficking in women.” The result was a compromise in which the term was not expressly defined.

The different interpretations of trafficking in women have practical ramifications, because they lead to different policies for dealing with the phenomenon and its victims. There are a number of alternative approaches toward trafficking in women. As the differences contribute to an understanding of the phenomenon of trafficking and the diverse responses to it, we will present these in some detail.³⁸

³⁶ http://www.unodc.org/pdf/crime/final_instruments/383e.pdf. In all, 148 countries took part in the Palermo conference which drafted the convention, including the Protocol to Prevent Trafficking in Persons. Most of them signed the convention.

³⁷ “Forced labor,” “slavery,” and “forced provision of services” are defined in international law. See: Doezema pp. 40-41.

³⁸ The distinction between the approaches is based on: Wijers M., Van Doorninck M., “Only Rights Can Stop Wrongs: A Critical Assessment of Anti Trafficking Strategies,” Paper presented at EU/IMO STOP European Conference on Preventing and Combating Trafficking in Human Rights - A Global Challenge

The moral approach: This approach relates primarily to prostitution, but a general ignorance concerning the differences between prostitution and trafficking in women makes it relevant to our discussion. The moral approach condemns all forms of prostitution. Its emphasis on the immoral and illegal nature of prostitution aggravates the isolation of the women engaged in it and their stigmatization, thereby increasing their vulnerability. It reinforces the distinction between “good” women and “bad” women, of whom the latter do not deserve protection and whose suffering is seen as the just outcome of immoral behavior. Under this approach, fighting prostitution involves punishing all those involved, including the women. The debate in Israel often fails to distinguish between trafficking in women and prostitution in general.

The public order approach: Like the moral approach, the public order approach also relates primarily to prostitution and not to trafficking in women. Here prostitution is perceived as a violation of public order and a danger to public health. This is one of the key arguments of those who advocate institutionalizing prostitution. The solutions, according to those who take this position, are to introduce strict regulation, mandate regular medical checkups, and designate areas in which prostitution may be engaged in. A number of countries have legislation regulating prostitution, but many of them focus specifically on tax collection. This approach is criticized for its inattention to the fact that many of the women involved in prostitution are in fact victims.

The criminal approach: This approach sees trafficking in women as a criminal activity that must be eradicated by passing draconian legislation, enforcing it vigorously, and imposing strict penalties on individuals involved in organized crime, who are viewed as bearing the sole responsibility for trafficking in women. This approach ignores social and economic factors and sees trafficking as an accumulation of private decisions and activities by those involved in organized crime. Because the trafficked women often violate laws banning prostitution and their stay in the country is illegal, they are sometimes viewed as criminals. As such, they are likely to suffer from stigmatization, which will remain with them when they return to their countries of origin. This approach also leaves the women vulnerable to revenge on the part of the traffickers and the pimps, particularly when they have testified against them. Generally speaking, when traffickers are put on trial, the women’s interests are subordinated to the interest of the prosecution. For example, the residence permit issued to them is limited to the purpose of giving testimony, while ignoring their own needs, including the need for rehabilitation and compensation. In other words, taking the criminals to court does not necessarily protect the victims’ rights.

Immigration approach: Here trafficking in women is viewed primarily as a problem of illegal immigration, similar to that of migrant workers. This approach centers on defending the interests of the State, which is viewed as combating unwanted foreigners attempting to enter its borders without authorization. For those taking this position, combating trafficking in women is similar to preventing illegal immigration: what is needed is an efficient and tough border control system; a policy of limited immigration, which as far as possible prevents the entry of women; and the imposition of draconian limitations on marriages between locals and non-nationals. There are also

for the 21st Century, 2002; <http://www.walnet.org/csis/papers/wijers-rights.html>; “Trafficking in Women for the Purpose of Sexual Exploitation, Mapping the Situation and Existing Organizations Working in Belarus, Russia, the Baltic and Nordic States,” by the Foundation of Women’s Forum, Stifelsen Kvinnforum, Stockholm, 1998.

countries like Bangladesh, which impose limitations on the exit of women from their territory in order to prevent trafficking.

Human rights approach: Its adherents argue that countries are duty-bound to take action in order to eliminate the trafficking within their borders and to rehabilitate its victims. Within this approach exist the two versions mentioned above. The first version views prostitution itself as a breach of human rights and aspires to abolish it, while the second version distinguishes between prostitution by choice and prostitution by coercion in violation of the women's rights. The infringement of human rights includes fraud, physical abuse, violence, debt bondage, blackmail, curtailment of freedom, and arduous working conditions. The human rights approach supports a no-holds-barred war on trafficking, along with assistance to victims. Its adherents advocate defending the women's rights even if they chose to engage in prostitution without coercion.

Prostitution-as-a-job approach: Like the human rights approach, this approach focuses on the rights of the women as workers, but unlike the former it focuses on prostitution and relates only indirectly to trafficking in women. Trafficking in women is viewed as deriving from women's inferior status in society and on the job market. This inferiority is ascribed not only to the fact that the trafficked persons are women, but also to the fact that they are illegal migrant workers in a gray, unregulated market that makes their servitude possible. Adherents of this approach call for the inclusion within the formal job market of women working in prostitution, with provision of employment opportunities, safeguarding their rights as workers, and giving women the opportunity to benefit from the safety net of a welfare state. Labor laws that protect weak workers must recognize this group as also deserving of protection. Recognizing these rights will provide women with protection against the traffickers and pimps.³⁹

To sum up, the method of combating trafficking in women and the attitudes toward its victims are to a large extent determined by the approach taken, with each serving different interests. There is a fundamental difference between those approaches whose goal is to combat organized crime and those approaches whose goal is to support women. Treating trafficking as a problem of illegal immigration centers around the interests of the country of destination, in contrast to treating trafficking as a human rights problem, which requires putting the women's needs first. States tend to focus on combating prostitution, illegal immigration and organized crime. In contrast, civil society organizations tend to focus on defending the victims of trafficking.

This report is informed by the belief that trafficking in women constitutes a breach of human rights. It focuses on the rights of the trafficked women as human beings and as workers. These rights include the right to freedom of movement, the right to physical integrity, freedom from servitude and violence, freedom from persecution and arbitrary arrest, the right to medical and psychological treatment, etc. These rights impose an obligation to act on the part of the countries of origin and destination, in order to enable the women to exercise these rights.

Trafficking in women is an extreme example of the repression and humiliation of women and the violence, physical and sexual, to which they are subjected. Adopting a human rights-centered approach and recognizing the trafficked women's special

³⁹ Some of the International Labour Organization's conventions on protecting the rights of workers who have no valid work permit constitute a legal basis for dealing with women's rights.

problems is likely to contribute not only to the fight to abolish trafficking in women, but also to help to empower women and thereby subvert efforts to turn them into victims in the future. At the beginning of the 21st century there is growing awareness, on the part of some countries at least, of the limitations of those approaches that focus on the interests of the State, while ignoring the rights of the trafficked women and the economic, class, and gender circumstances that allow women to become victims of trafficking. Perhaps the Protocol to Prevent, Suppress and Punish Trafficking in Persons and the effort that went into defining trafficking are harbingers of a change. As shown by the present report, Israel's attitude toward trafficking in women continues to center on the interests of the State, all the more forcefully in the wake of the September 2002 establishment of a so-called "Immigration Authority," whose real purpose is, in fact, to expel thousands of foreigners. This report not only reveals Israel's policy concerning the phenomenon of trafficking in women: it also examines the policy outcomes in terms of the victims. The report tries to focus on the voices of the women themselves – voices that normally remain unheard – and to recount their experiences as trafficked women – modern sex slaves.

CHAPTER 2: VICTIMS OF TRAFFICKING – MYTH AND REALITY

Following the break-up of the Soviet Union, the social and economic systems of the states of the former Soviet bloc collapsed and millions of people found themselves either out of work or employed at wages too low to make a living. Women were the first to be thrown out of work. These circumstances provided a powerful incentive to seek employment abroad. Perhaps because of the fact that it is almost impossible to migrate legally in search of work, due to the rigid immigration policies of the countries of Western Europe and North America, many women are enticed by job offers abroad appearing in the local newspapers. One-third of the women interviewed for this study claimed that they did not know that the job advertised was prostitution; they reported that they had answered job offers to work as waitresses, cleaning workers, child carers and the like. The remainder knew that they were to be employed in prostitution, but the working conditions promised them were entirely different from those they encountered in practice: a salary of a thousand dollars a month, a limited number of clients a day, and the possibility of leaving their employers after paying back the cost of bringing them to Israel.

The victims

Statistical data

Because of the criminal nature of the phenomenon and the fact that it takes place in the underworld, estimating the total number of victims of trafficking of women in Israel is a tricky business, and even more so estimating the number of women who enter Israel every year for this purpose. Estimates of the Israel Police and other official bodies and agencies put the number of trafficked women in Israel at between 1,000 and 3,000.⁴⁰ In the past, human rights organizations have estimated that these figures relate to the number of women brought in every year, and not to their total number.⁴¹ According to figures presented by a lawyer representing women traffickers, some 6,000 women arrive in Israel every year.⁴² The difficulty of corroborating these estimates is compounded by the way that the sex industry is divided up between brothels which are clearly visible to everyone, “escort agencies” which send women out to the customer’s home or hotel, and “discreet meeting places” installed in apartment buildings throughout the entire country. As a result, it is in fact impossible to estimate the number of victims of trafficking. The only precise figure available is the number of trafficked women arrested on the grounds of being in the country illegally and expelled from Israel.⁴³

⁴⁰ Lutzky M., Interim Report of the Parliamentary Inquiry Committee, December 2002 (Hebrew), p. 9; Report of the Interministerial Task Force (Hebrew), p. 8

⁴¹ In the 1997 report of the Israel Women’s Network, Professor Menahem Amir estimates the number of women imported annually into Israel at around 1,000.

⁴² Minutes of the session of the Parliamentary Inquiry Committee held on June 18, 2002: “Testimonies of brothel owners” (Protocol No. 28).

⁴³ In the 2000-2002 period, a total of 1,267 women were expelled following detention at Neve Tirza prison. Some 79% of them – 1,004 – were victims of trafficking. It should be noted, however, that this number reflects only the limited number of places available at the Neve Tirza facility, and not the number of trafficked women in Israel.

Countries of origin

Most of the victims of trafficking who were arrested and expelled between 2000 and 2002 came from Eastern European countries, primarily Russia, Moldova, and the Ukraine. In the past year the number of women arrested from the Ukraine and Russia has declined, but there has been a marked increase in the number of women from Uzbekistan. While there are only five Uzbek women included in the interviews, their numbers in detention centers and among prosecution witnesses are rising steadily. On February 25, 2003 the Hadera detention facility housed 79 women, of whom 19 were from Uzbekistan. Of the 38 women housed at the prosecution witness hostel in Tel Aviv on the same day, 13 were Uzbeks. These figures indicate, in our opinion, an upward trend in the recruitment of victims from Uzbekistan.

Age, education, and marital status

The ages of victims of trafficking in detention at the Neve Tirza Women's Prison in 2001-2002 ranged from 16 to 45; the average age was 23.⁴⁴ Most were in their twenties, but exceptions were encountered: Hotline volunteers were asked by an organization from the country of origin to help to locate a 52-year-old victim. At the other end of the scale, 11 interviewees reported that one or more minors were employed in prostitution with them.⁴⁵ The total number of minors brought into Israel is not known. It is difficult to identify them, since most of them arrive with forged documents. According to the report of the interministerial task force, there is no deliberate recruiting of minors,⁴⁶ although they are in great demand.⁴⁷ The interviews indicate that traffickers have sometimes panicked upon discovering a minor and hurriedly sold her, apparently in fear of the police who are compelled to take action in the case of under-age prostitution, which is illegal. Since 2001 the Elem (acronym for Youth in Distress in Israel) Association, which also deals with the sexual exploitation of minors, has located seven under-age girls who were victims of trafficking – the youngest of them just 11 years old.⁴⁸

Ten percent of the women interviewed were university graduates, 15% were university students, and 15% were taking vocational courses. The vast majority, 71%, were unmarried. Divorced women and widows comprised 15%, and just 6% were married.⁴⁹ Sixty-nine percent had no children, while 20% had one child and 5% two children.⁵⁰ Although the women who were interviewed were not asked directly about

⁴⁴ Similar statistics were found in the in-depth interviews: the age of the women interviewed ranged between 16 and 31, with an average of 22; Prof. Cwikel told the Parliamentary Inquiry Committee on July 11, 2001 that the age range of the women in her study varied between 18 and 38, but most of them were aged under 25, being on average 22 years old.

⁴⁵ Trafficking in minors has also been addressed in court rulings: see for example, the case of a minor who was trafficked and got pregnant, whereupon the accused arranged an abortion for her: Serious Crime Case (Tel Aviv-Jaffa) 1060/02 *State of Israel vs. Dimitry Ilinski*, District Court Reports 2002 (2), 8152.

⁴⁶ Report of the Interministerial Task Force, p.8.

⁴⁷ Minutes of joint session of the Parliamentary Inquiry Committee (Protocol No. 32), and the Parliamentary Committee for the Advancement of the Status of the Child (Protocol No. 172) held on July 10, 2002: "The treatment of minors, victims of trafficking in persons."

⁴⁸ Ibid. The project located 45 minors in the Tel Aviv area alone.

⁴⁹ There are no data for the remaining 8%.

⁵⁰ There are no data for the remaining 6%. According to a number of testimonies, traffickers in women prefer women with children precisely because they tend to be more obedient. They are more dependent on

their parents, many women explained that their fathers had left home when they were small and that their mothers had brought them up on their own.

Employment

Contrary to the widespread myth, only 9% of the women reported that they had engaged in prostitution in the past. Twenty-nine percent of the women reported that they had been out of work in their country of origin, and those who had been employed reported that they had worked in a variety of jobs: as secretaries, shop assistants, teachers, seamstresses, hairdressers, and in other occupations. Their average wage in their country of origin was 38 dollars a month. This makes it easy to understand the attraction of the promise of a salary of a thousand dollars a month. A woman does a simple calculation: if she works outside her own country, even in prostitution, within a year she will be able to accumulate what looks to her like an enormous amount of money – \$12,000 – and break out of the vicious circle of poverty. If she does not take up this opportunity, the only thing she can expect is a subsistence wage and bringing up her children under the same conditions of poverty and deprivation that she experienced herself. It is very much a question of the devil and the deep blue sea – a classic case of “Hobson’s choice.”

The trafficking chain

Recruitment in the country of origin

Women are recruited into prostitution outside their own countries in a variety of ways: advertisements in the newspaper, personnel agencies, friends and acquaintances, women who have engaged in prostitution abroad and returned.⁵¹ Recruitment may be overt, as when the recruiters are upfront in suggesting to the women that they engage in prostitution, or covert, when women answer job adverts for positions as shop assistants, waitresses, models, etc., and are transported to brothels abroad under false pretences. The interview statistics indicate that 66% of the trafficked women came to Israel in response to information from acquaintances. H.A. from Uzbekistan gave the following description of the circumstances which brought her to Israel: “This year we had a baby, he’s seven months old now. I wasn’t working, I was just looking after the baby. My husband would bring us food once a month. When he stopped coming, I had nothing to eat. My milk dried up and I couldn’t breastfeed the baby any more, and he was hungry. I was desperate. My sister told me that there are people who arrange cleaning work and that I’d earn a thousand dollars a month. I thought that with that kind of money, within six months I’d be financially secure for a few years. If I’d known that I would be sold into prostitution in Israel, I’d rather have starved to death together with my baby.”⁵² In another case: “My step-father beat me all the time. One day, after he’d given me a beating, I was crying in the park. A young woman came up to me and asked what was wrong. I told her, and she said that she had an excellent suggestion for me, which would enable me to earn a lot of money and not see my parents for a long time.”⁵³

the traffickers because they want to send money home to support their families and are afraid that their children will be harmed if they escape or cooperate with the authorities.

⁵¹ A widespread phenomenon both in Israel and worldwide is that of women who have bought their freedom from their traffickers in return for undertaking to provide them with other women in their stead.

⁵² H.A.’s testimony was taken on January 14, 2003 at a hostel for prosecution witnesses in Tel Aviv.

⁵³ S.M.’s testimony was taken on December, 12, 2002 at a hideaway apartment

The trip to Israel

Until 2000, trafficked women entered Israel in a variety of ways. Many of them came in via the airport or harbor, as tourists or immigrants (*olim*), using forged documents or forged marriage certificates.⁵⁴ Tightened controls of these gateways have brought about a change in the routes used by the women to enter the country, but a few of them – according to the interviews, 17% - are still brought over by plane. According to the report of the interministerial task force, the reasons for this are to be found in “loopholes in the supervisory mechanisms at border crossings... border officers who do not have the requisite skills, and who use out-of-date technical equipment.”⁵⁵ On the other hand, sometimes controls are over-zealous, resulting in embarrassing incidents, such as denying entry to a 14-year-old girl from Poland who had come to visit her grandmother in Israel, the authorities claiming that she had come to engage in prostitution.⁵⁶ Most victims of trafficking are smuggled into Israel through one or more countries of transit. The most common country of transit is Egypt, through which 72% of the women interviewed transited. Of them, 51% landed in Hurghada, 7% in Sharm el-Sheikh, and 3% in Cairo.⁵⁷ From there they were transferred to Israel via the Sinai desert. Women from Moldova and Uzbekistan sometimes transit via Moscow and from there continue on to Egypt.

From the airport, the women are transferred to a hotel until the arrival of a man who gives them a prearranged code word, at which point they are supposed to follow him. The use of a code is intended to prevent “misunderstandings” between smuggling networks: “They organize things in such a way as to prevent one of them ‘stealing,’ as they call it, girls from another... Naturally there are a lot of disputes, there have already been murders, arson attacks.”⁵⁸ “Stealing” women was described at the trial of Suleiman Abu-Shalibi, accused of trafficking in women and additional offenses. In this case a double abduction occurred: the women were abducted by another man smuggler, and then returned to the “original” trafficker. The trafficker made arrangements “with a man from Moldova to transfer a group of people, including a number of women who were being sent for the purpose of prostitution, from the meeting place at Sharm el-Sheikh to Israel. As soon as the appellant found out that the group had been taken by taxi by smugglers not working on his behalf, he instructed his agent in Egypt to repossess the group, and the agent did in fact manage, by threat of arms, do so and transfer them to his vehicle.”⁵⁹

⁵⁴ Hotline for Migrant Workers, *Trafficking in Women in Israel 2001*, p. 2. In the early 1990s many articles were published in the Israeli press on the various methods used by traffickers in women.

⁵⁵ Report of the Interministerial Task Force, p. 17.

⁵⁶ Sinai, Ruth, “Israel deported a 14-year-old girl from Poland on suspicion of coming to engage in prostitution” (Hebrew), *Haaretz*, A7, June 28, 2002.

⁵⁷ 17% of the women did not know the location from where they entered Israel, and there are no statistics for the remaining 22%.

⁵⁸ From the testimony of Police Superintendent Pini Aviram in the minutes of the session of the Parliamentary Inquiry committee held on June 19, 2002 (Protocol No. 29).

⁵⁹ Miscellaneous Criminal Application 5893/02 *Suleiman Shalbi vs. State of Israel* Supreme Court Reports 2002 (3), 373, 374.

Entering Israel via Egypt

Women are smuggled into Israel across the Egyptian border together with goods, drugs, weapons, and migrant workers.⁶⁰ Cross-border smuggling is done in groups of between three and 48 women. It can take between 10 minutes and two weeks to cross the border, depending on the smugglers' skill and the military's level of vigilance at the crossing points. A trafficking victim described the smuggling process as follows: "We were arranged in Indian file, one after the other. They counted us, like you count sheep. Later I found out why. They got a thousand dollars for every girl who got through. We walked like that for half an hour, once we sat down, once we ran, once they told us to lie down. It was March and the sand was cold. We came to a barbed wire fence and they told us to climb over it. A jeep came by on the other side and they told us to get in. But the jeep didn't stop. We had to jump into it as it was moving. They covered us with a tarpaulin and there was no air. Some of the girls passed out."⁶¹ In contrast to the stringent – sometimes over-stringent – controls at airports and seaports, the Egyptian border is fairly porous and the military catch only a small percentage of the smuggling operations.⁶² The ease with which the victims are smuggled into Israel is contrary to the United Nations Protocol, which stipulates in Article 11 that countries must strengthen their border controls in order to prevent trafficking in persons.⁶³

A fair number of women are raped on the way by the Bedouin smugglers, who see a woman who is destined to engage in prostitution as fair game and public property. Y.B. testified as follows: "I was promised that I would work in Israel as a dancer, but as early as Egypt I found out that I was going to engage in prostitution at a parlor in Eilat. I tried to run away but a Bedouin got hold of me and beat me. In the evening, four Bedouin raped me, one after the other... After the second one, I didn't feel anything. They came back in a number of rounds. I lost consciousness and didn't come round until the morning when I found myself in a tent with other women. The girls tried to support me and said that the Bedouin had brought me into the tent, half-naked, and told them to look after me. I was bleeding and I couldn't walk, it hurt so much between my legs... I wanted to die. I didn't believe that this was happening to me. Other women helped to drag me along until we reached the border."⁶⁴ The women's *via dolorosa* does not come to an end when they enter Israel. In the case of Suleiman Abu-Shalbi mentioned above, if the trafficker for whom the smuggling was carried out did not pay, the accused used to keep back women under his control "as a guarantee that payment would be made in full."⁶⁵

⁶⁰ Migrant workers who enter Israel illegally pay their smugglers thousands of dollars to get them into the country. According to Hotline figures, migrant workers from Moldova and Romania pay between \$4,000 and \$5,000 to enter Israel in this way.

⁶¹ Minutes of the session of the Parliamentary Inquiry Committee held on December 12, 2001 (Protocol No. 20).

⁶² Becker, A., "Chase" (Hebrew), *Haaretz Supplement*, August 9, 2002, p. 28; E. Arbeli, "11 infiltrators from Egypt arrested, including girls" (Hebrew), *Haaretz*, A6, August 9, 2002; Zilberstein, Y., "Some 3,000 call girls waiting in Egypt to be smuggled into Israel" (Hebrew), *Maariv*, May 30, 2002, p. 17.

⁶³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁶⁴ Y.B was interviewed on April 15, 2002 at the Kishon lockup in Haifa.

⁶⁵ Serious Crime Case 1099/02, *State of Israel vs. Suleiman Abu Shalbi*, Count 4 of the indictment.

Selling the victims

The sale is one of the most salient expressions of the women's status as sex slaves. There are a number of methods. At least 16% of the women interviewed were auctioned off. Traffickers are invited to the auction – in an apartment, at a hotel, or at a brothel, in order to check out the female merchandise, and then they bid against each other. The women gave accounts of the examinations they had to endure, including poking around in their private parts and inspecting their teeth, like the slave auctions of old. A women trafficker corroborated these accounts: “She’s made to stand naked in the middle of the room... They touch her breasts, her ass, in order to see if she has anything to grab. They check her tongue, her teeth, to see if she’s healthy. They touch her private parts... They tell her, ‘walk forward, backwards, strike poses like a model, wiggle it honey, bend over it. Lower. Let’s see what you’re worth. And dance. Like a belly dancer.”⁶⁶ There is also a more private sale between seller and buyer, which according to the interviews at least 24% of the women had experienced. H.A. gave an account of the sale: “I didn’t understand where they were taking us in the middle of the night, but when I saw a lot of naked women in the apartment it began to dawn on me... They asked me to strip... I was so terrified, I wet my pants.”⁶⁷ In the course of the sale, the traffickers maintain tight security to make sure that the women do not escape.

Thirty percent of the women interviewed were bought while they were still in their countries of origin, and when they arrived in Israel they already knew which pimp they belonged to. This is particularly common among women returning to Israel for the second time. There has also developed in Israel the phenomenon of “petty entrepreneurs” who buy a woman, keep her in their homes and insist that she engage in both prostitution and domestic work. V.B. testified that she was sold to a private individual in Upper Nazareth: “He used to arrange about 25 customers a day for me. I had to prepare food for him. If I didn’t prepare meat for him, his favorite food, he’d shout at me and beat me. When I came home, worn out from all the clients, he would say to me: ‘It doesn’t matter how many customers you’ve had today, I’ll always be your last customer.’ He came to my room every night and raped me. He loved hearing me screaming with pain.”⁶⁸ A less common method involves transferring the ownership of a woman “as an inheritance,” for example if the pimp died.⁶⁹ Many victims of trafficking were sold and bought more than once and experienced different methods of sale.

The point of the sales was to “acclimatize” the women who had just arrived in Israel and to “refresh” the supply of women, because “the clients want fresh meat.”⁷⁰ As a result, another sales method has been devised – that of “bartering” between traffickers. A women trafficker who testified spoke of another trafficker who asked “whether I know someone involved with girls and want to swap one for another. I remembered Sasha, who told me that if I hear that somebody’s selling or swapping a girl, I should

⁶⁶ Makover, Shery, “Blue and White Slavery Israel-style, *Maariv*, Weekend Supplement, June 14, 2002, p. 16.

⁶⁷ H.A.’s testimony was taken on January 14, 2003 at a hostel for prosecution witnesses in Tel Aviv.

⁶⁸ The testimony was taken on September 11, 2002 at the Kishon lockup in Haifa.

⁶⁹ Interview conducted on May 23, 2001 at the Neve Tirza prison, and interview conducted on March 03, 2003 at a hostel for prosecution witnesses in Tel Aviv.

⁷⁰ The constant exchanging of women between the traffickers has another purpose, which will be presented below.

contact him.”⁷¹ Sometimes the trafficker acquires more than one woman in what is known as a “package deal.”⁷² The price of a woman in the sex industry is not fixed; it varies between \$5,000 and \$10,000. The price depends on a large number of factors, such as appearance, age, and the quality of her forged documentation.⁷³ Interviews identified additional factors that influence the price, including scars, prominent moles, birth marks, and experience. Traffickers who cannot afford to buy a “whole” woman establish “joint ownership” and divide up her earnings between them. The women are sometimes hired out from one brothel to another, generally for the sum of 500 shekels a day.

The sale frequently ends up with the woman being raped by her new owners. The “right” to have sex, including by force and without a condom, with the women they have acquired, is taken for granted by the traffickers. Some justify this on the grounds of “trying out the merchandise,” or “giving lessons in prostitution,” and there are some who simply do with the women as they wish, since after all they belong to them. Here is A.N.’s testimony about the first night: “He took me to a room and explained to me that he had to teach me to work because I’d never been a prostitute. He put a blue film in the VCR and ordered me to give him a blow job. I refused, but I had no choice. Afterwards he insisted that I have sex with him. I didn’t want to. He told me that I have to, otherwise he’ll send me back and sell me to a far worse place. I was forced to do it. When I left the room, crying, he brought in the girl who had had ‘the lesson’ in the morning.”⁷⁴ And this is how things look in the eyes of the brothel owner from Netanya, who became an agent for the police: “When the girl comes, her boss immediately has sex with her. He has to be the first to check her out. Maybe she just doesn’t know how to work? Maybe she doesn’t know how to pamper the client, make him feel good?”⁷⁵

Among pimps, a distinction is made between selling, which is considered “legitimate,” and abduction. According to the report of the interministerial task force, abductions occur when gangs are fighting over areas of operation, or during disputes.⁷⁶ It is interesting to note that when trafficked women talk about their abductions, they say that they were “stolen,” even though the word “abduction” exists in Russian and Romanian. This reveals that they have internalized the attitude toward them as objects or goods. A.K. recounts her abduction in the following terms: “I was ordered to a hotel in Tel Aviv. Three men were waiting for me in a room. They forced me to go down to the parking lot with them, put me in the trunk of the car and drove off. I don’t know where, but later I realized I’d been taken to Haifa, and they told me that a certain man was my new owner. This man explained to me in our first conversation that he doesn’t buy women, he only steals them, and that from now on I will work for him.”⁷⁷ The abduction of women is dealt with very severely by the courts: “The abduction was

⁷¹ Miscellaneous Application 1207/01 (Haifa), *State of Israel vs. Fedloon and Others*, District Court Reports 2001 (1), 11806, 11809.

⁷² See for example Miscellaneous Application 1207/01 (Haifa), *State of Israel vs. Alexander Schreiber and Others*, District Court Reports 2001 (3), 4111, 4117.

⁷³ Report of the Interministerial Task Force, p.9.

⁷⁴ A.N.’s testimony was taken on July 02, 2003 in a hideaway apartment.

⁷⁵ Makover, Shery, “Blue and White Slavery Israel-style,” *Maariv*, Weekend Supplement, June 14, 2002, p. 16.

⁷⁶ Report of the Interministerial Task Force, p. 10.

⁷⁷ The testimony was taken on September 18, 2001 at Neve Tirza prison.

carried out by exploiting the problematic status of the girls who were illegally present in Israel and who were afraid ... to complain to the police about what was going on... The threat of ‘stealing’ the girls is also... characteristic of an inhuman approach, which relates to people as if they are objects which can be stolen, violating their freedom, and all for the sake of avarice.”⁷⁸

Daily “life” at the brothel

The daily reality of victims of trafficking in brothels consists of servitude, humiliation, violence, abuse, and deceit. This section presents its main components, but it is not an exhaustive account of the daily regime to which they are subjected. To this very day.

Servitude, deceit and abuse

As explained above, the process by which the trafficked women are enslaved begins when they are recruited, irrespective of whether they were duped with promises of other work or “chose” to engage in prostitution. The process of their enslavement continues when they are sold and in the fact that they are treated as property. The most widespread method of perpetuating their servitude is by creating a “debt” – hence the term “debt bondage.” When they come to Israel, they are charged for the cost of being brought into the country and acquired. The trafficker makes it clear to the woman that she has to work for free or for a paltry sum until she has paid off her debt. Although most of the women cover their “debt” in the first month and sometimes as early as the first week, the debt will remain forever, because of exponential rates of interest on the original debt, demands that the women contribute to the costs of running the brothel (rent, food, and contraceptives), or “fines” imposed on them for offenses supposedly committed. Being sold to another trafficker generates a new debt, and when the woman is close to having paid it off in full, she is resold, and so it goes on. The women have little chance of getting full payment out of the trafficker and of being released from their debt bondage.

Another expression of the servitude or enslavement of women is the confiscation of their passports or other identifying documents by the traffickers. The confiscation of such documents means depriving them of an identity, limiting their freedom, and creating an obstacle to escape. Most of the women interviewed had no identifying documentation whatsoever. Forty-one percent had forged papers while they were engaged in prostitution. Some of the women told how they were forced to acquire their papers from the pimps and the price was added to their “debt.” Depriving the trafficked women of their freedom also includes controlling their food. Eight percent of the women interviewed reported being starved. In a trial involving a woman from Hungary who was brought to Israel on the pretext that she would be employed as a dancer, but was instead forced to engage in prostitution, the judge noted in his ruling that “even the food that was provided to her was not sufficient in quantity.”⁷⁹ Limiting or withholding food is normally imposed as a punishment, or if the woman’s proportions are not to the

⁷⁸ Criminal Case (Jerusalem) Jerusalem 171/99 *State of Israel vs. Majed Halisi*, District Court Reports 2000 (3), 859, 861. See also Serious Criminal (Jerusalem) 5049/02 *State of Israel vs. Ofer Hasson and Others* District Court Reports 2002 (3), 5832; Miscellaneous Criminal Application 7429/091 *State of Israel vs. Adal Abu Saned*, Supreme Court Reports 2001 (3), 2152.

⁷⁹ Criminal Appeal 1578/99 *Rami Biton vs. State of Israel* Supreme Court Reports 2001 (4), 476.

pimp's taste. A woman from Moldova recounted that she weighed 64 kilos (around 141 pounds or 10 stone) when she came to Israel. The pimp thought she was too plump, and imposed a draconian diet consisting exclusively of tomatoes, cucumbers, and diet soft drinks.⁸⁰

The women's weakness and their massive dependence on the traffickers make them victims of fraud and abuse which are designed to extract maximum profits from them. The work regime imposed on them reflects this very clearly. All the women interviewed worked in prostitution seven days a week, having at most one day off a month. Thirty-four percent of the women reported that they worked during their menstrual periods, against their wills, using diaphragms to prevent leakage of blood. Sometimes they were only given one diaphragm, and were told to take it out after each sexual contact, rinse it, and put it back. This is how M.P. described her treatment: "The woman pimp made it quite clear to me right from the outset that I wouldn't be allowed time off during my period, because I already owed them a great deal of money and it would take me a lot of time to repay the debt. She gave me a diaphragm and explained to me how to use it in order to prevent the blood from leaking out. One day I was with a client and I had a particularly heavy period. I began to bleed and the client got annoyed and yelled at me. After he'd gone, the woman pimp came to me and I hoped that she'd let me off working until the end of my period. Instead, she screamed at me for 20 minutes non-stop, and told me to use two diaphragms next time and not just one."⁸¹

The women reported that they worked up to 20 hours a day, with the average being 13 hours.⁸² Ten of the interviewees spoke of being required to be on standby round the clock and to be ready for a client with just a few minutes' notice. Between each client they were forced to do all sorts of things, such as washing towels and bedclothes by hand, preparing food for the pimp and his family, and washing the brothel floors. Although the sex industry has a vast cash turnover, the women who provide the sex services receive very little. According to the interviews, traffickers charge between 100 and 600 shekels for a sexual encounter, depending on time and type. The charge for anal sex or orgies is higher. On average the women receive around 40 shekels an hour, about 20 shekels a client. Thirteen percent of the women interviewed did not receive a penny from their pimps.⁸³ This is how a trafficking victim described her conditions of pay: "The woman pimp paid us only 10 shekels per client. She said that she wouldn't waste even a cent on us and that she was losing money hand over fist because of us. She forced me to take part in orgies together with other girls when the clients wanted this and said that she'd go bust if she had to pay us more."⁸⁴

⁸⁰ V.T.'s testimony was taken on September 09, 2001 in a hideaway apartment.

⁸¹ The testimony of M.P., a Moldavian national, was taken on January 07, 2003 at the Michal detention facility in Hadera.

⁸² See also Protocols No. 13 and No. 20 of the Parliamentary Inquiry Committee: the average number of hours per day according to Professor Cwikel is 12, but there are also women who work 18 hours a day. According to Health Ministry figures, half of them work over 8 hours a day, with figures going up to 17 hours a day.

⁸³ According to the interim report of the Inquiry Committee, each client is charged between 120 and 150 shekels, from which the pimp takes 100-130 shekels (p. 9). According to the inter-ministerial team's report, the client pays on average 180 shekels, of which some 40% goes to the brothel, 45% to the pimp, and just 15% to the woman.

⁸⁴ From an interview with Y.M., conducted on April 15, 2002 at the Kishon lockup in Haifa.

Often even the tiny payment that the women receive finds its way back into the pimps' pockets, normally through the imposition of fines. The "fine" is set by the pimp according to the severity of the "offense" committed by the woman: leaving the brothel or receiving a phone call without permission, a dissatisfied customer, what he considers unsatisfactory make-up, use of chewing gum, and so on and so forth. The level of the "fines" varies between \$100 and thousands of dollars, the latter an enormous sum indicating that the whole purpose of the "fines" is to avoid paying the women, or reducing the amount paid as much as possible. From the testimony of a trafficking victim: "I came to the hotel, but the client wasn't in the mood and asked me to go back to the [massage] parlor. I cried and begged him not to do it, because the pimp would think that the client wasn't satisfied with me and I'd get a fine. He told me not to worry, called the [massage] parlor and explained that it wasn't my fault and asked them not to fine me. Just because of this – me telling somebody that we get fined – I got a fine of \$3,000."⁸⁵

Charging inflated prices for services and products is another standard way of exploiting the victims of trafficking. Because most of the women have no passports, they are forced to use the pimps in order to transfer money to their countries of origin, and the pimps charge them a commission for this service.⁸⁶ Inflated payments are also charged for airline tickets.⁸⁷ Pimps and traffickers, who customarily incarcerate the women, sometimes charge enormous sums for contraceptives they buy for them. This forces women to choose between risking their lives, or paying vastly inflated prices for contraceptives whose real cost is minimal. The most widespread method to avoid paying the women is to sell them. The sale generates a new debt to the pimp who bought the woman, who then has to once more work without pay until she has paid off her "debt." These sales between brothels serve a number of additional purposes. The sale disconnects women from the supportive ties that they have built up among themselves, thereby increasing their dependence on the traffickers. "Refreshing" the supply of women that the brothel offers its clientele is also intended to increase demand for their services.

Violence toward the victims of trafficking in women

When the true state of affairs in which the trafficked women have become embroiled becomes clear to them, many of them want out, since even if they knew that they would be engaged in prostitution, they did not imagine it would be under such conditions. A complex set of threats and violence, both physical and mental, is then brought to bear on them, to prevent them from leaving. The threat to harm them and their families in their countries of origin is common. In Israel, the traffickers dissuade women from going to the police for help, boasting of their connections with them. They also threaten the women that if they do contact the police, they will receive long prison sentences, because being illegally in the country and engaging in prostitution are serious offenses in Israel (even though this is not actually the case). The women, who are unfamiliar with the local law, tend to believe these threats because they coincide with their ideas of the legal authorities in their own countries. Traffickers also regularly warn the women

⁸⁵ From the testimony of A.K., a Ukrainian national, taken on April 14, 2002 at the Neve Tirza prison.

⁸⁶ Report of the Interministerial Task Force, p. 9.

⁸⁷ *Ibid.*, p. 10. The pimps are afraid that the women will testify against them and hence they keep a tight watch over when they leave Israel, dictating to them when and how they do so.

that if they try to run away, they will be caught and sold to a far worse place, in the West Bank, where they will not survive because of the abuse they will suffer in the hands of the Arabs.

Traffickers' threats have also been made public in the testimonies given in court by victims of trafficking. In one case, a woman was warned that if she tried to run away, she would be sold to "an Arab village," and they would track her down in Israel as well as abroad.⁸⁸ And in another case: "when one of the complainants called 'Janna' refused to accept clients, Accused No. 2 drove her to the beach and threatened to drive her to the Georgians, and then 'you'll see what bad is.' On the beach Accused No. 2 showed Janna the pillars on the breakwater and threatened to tie her to a pillar, leave her there all night, and then in the morning decide whether or not to drown her. As a result of the threats of Accused No. 2, Janna ceased her resistance to working in the [massage] parlor."⁸⁹ In another case a woman related that she knew about a "headhunter" who went out looking for women who had run away and returned them to their pimps.⁹⁰ This phenomenon does indeed exist for migrant workers, and advertisements about "runaway" migrant workers, with their photos and a promised monetary reward are to be found on advertising columns all over Israel; in the past they used to appear in the Romanian papers.⁹¹

The interviews with victims of trafficking indicated that threats are extremely effective. Although the traffickers do employ security measures, including guards, 52% of the women interviewed reported that the brothel was not locked and that they could leave it, although they had to ask permission and report to the pimp exactly where they were going. Forty percent of the women talked about incarceration, locked doors and barred windows.⁹² The incarceration of women was described in the trial of woman trafficker Valery Guntov: "The entire time she was there, the appellant incarcerated her: in the [massage] parlor in the morning, and in the evening in her apartment. During these four months the appellant beat Complainant No. 1 all over her body, shouted at her and cursed her."⁹³ In another case, one of the accused "was among those who incarcerated the women, locked them in the apartment, and took away the key, leaving them without any possibility whatsoever of contacting the outside world." The court held that "incarceration was intended to prevent the women from terminating their activities at any given moment, holding on to the traffickers' 'investment.'"⁹⁴

Victims of trafficking are also exposed to manifestations of physical violence. Twenty percent of the women interviewed reported violence on the part of the pimp, while 9% reported violence on the part of the clients. Four percent reported violence on

⁸⁸ Miscellaneous Criminal Application 5958/01 *Alex Axelrod vs. State of Israel* Supreme Court Reports 2001 (3), 690.

⁸⁹ Serious Crime Case (Tel Aviv-Jaffa) 1064/02 *State of Israel vs. Genady Badian and Others* District Court Reports 2002 (2), 8330, 8331.

⁹⁰ From the testimony of A.T., a Moldovan national, taken on December 9, 2001 at the Neve Tirza prison.

⁹¹ Hotline for Migrant Workers, *For You Were Strangers – Modern Slavery and Trafficking in Human Beings in Israel*, 2002, p. 13.

⁹² The question was not applicable to 2%, since they were either arrested or escaped before they were taken to the parlor, and there are no figures for the remaining 6%.

⁹³ Miscellaneous Criminal Application 3184/02 *Meir Egison vs. State of Israel* Supreme Court Reports 2002 (2), 1122.

⁹⁴ Miscellaneous Application (Tel Aviv-Jaffa) 91222/01 *State of Israel vs. Valery Guntov and Others* (unpublished).

the part of both pimps and clients. Violence is also used toward the women by other people working at the brothel, as shown by L.N.'s testimony: "The cashier who worked at the parlor used drugs. One day, after a row, he went to the kitchen and came back with an enormous knife. I managed to grab a pillow and used it to protect myself. He stabbed the pillow and all its stuffing spilled out. I tried to hide and he came up to me and started to beat me with the knife handle. I've never been beaten like that. I had a lot of injuries. He wasn't fired, and it wasn't until he attacked another woman that he was thrown out. He continued coming to the parlor as a client, abused us, hit and humiliated us."⁹⁵ Another piece of testimony: "I came to Israel at the age of 18 to work as a cleaner. They sent me to work in prostitution, 18 hours a day. The quota was 30 clients a day. No fewer. If I accepted even one client less, they beat me, but they beat you so as not to leave any marks, because clients don't like to see a woman with bruises."⁹⁶

Women are known to have been murdered in the sex industry in Israel, but it is not always clear whether the women who were murdered were victims of trafficking. It would appear that the murder of a woman by a pimp means a loss of "merchandise," a source of revenue. Nevertheless, this does happen sometimes, even if it is a question of "making an example of somebody" so that the other women will know what awaits anyone who breaks the "house rules." In October 2002, 42-year-old Svetlana Lukatzky was knifed to death.⁹⁷ Her body bore the signs of extreme violence: she had been beaten, bound, and stabbed. In June 2002 the Israel Police (Northern District) asked the Isha L'Isha Feminist Center for its help in identifying the body of a woman who had died of strangulation. The corpse had been found dumped in an area where there was known to be a lively sex trade, and the garments worn were indicative of the possibility that the woman had engaged in prostitution. There were no identifying documents. To this day, her identity has not been established.

Trafficked women are also victims of "indirect" violence, which is not carried out against them personally. An example is the arson attacks on brothels which occurred against a background of underworld settling of scores, or as a result of the activities of religious fanatics like Yariv Baruhim, tried on charges of murder and arson⁹⁸ Baruhim decided to stamp out prostitution in Tel Aviv, and on the night of August 15, 2000 he set fire to a brothel at 51 Golomb Street, causing the deaths of four women. Two have never been identified, probably because they were victims of trafficking. After a number of months, another brothel was opened in the very same apartment, but the police closed it down. The Israeli Coalition against Trafficking in Women holds an annual memorial service at this location for the women who died in the fire. In an arson attack on a brothel in Be'ersheva on December 21, 2001, two women sustained severe burns over 60% of their bodies. In the wake of a request by Advocate Ahuva Salzberg and the "Physicians for Human Rights" organization to the Israel National Insurance

⁹⁵ L.N.'s testimony was taken on February 02, 2003 at a hideaway apartment

⁹⁶ The testimony of K.T., a Moldavian national, was taken on November 25, 2001 at the Kishon lockup in Haifa.

⁹⁷ Immerglick, Shira, "Suspicion: Call girl's murderer – not his first victim," *Maariv*, October 27, 2002, Internet edition.

⁹⁸ Serious Criminal Case (Tel Aviv-Jaffa) 1140/00 *State of Israel vs. Yariv Bruchim and Amnon Shushtari* District Court Reports 2002 (2), 6883.

Institute, it was decided to recognize the arson attack as a “work accident” and to award the two women compensation.

All the women who work in prostitution and the victims of trafficking in women can also be robbed with ease. Moreover, because the women are present in Israel illegally they are afraid to make a complaint to the police, and their pimps do not exactly tend to request the assistance of the police with any alacrity. In the sentence handed down against a man who had robbed brothels, the court commented: “The places targeted for carrying out the crimes as well as the victims were selected with premeditation. They were escort service premises, whose personnel hesitate to complain to the police for all sorts of reasons, including being in the country unlawfully and fearing harsh punishment by the criminals if they make a complaint against them. As for the clients whose money was stolen, some of them will decline to complain, so that their families will not find out what their loved ones do by way of recreation.”⁹⁹

The mental and physical health of the victims of trafficking in women

Numerous studies point to the damage caused to women engaged in prostitution. Such damage is greater in the case of trafficked women, and this should come as no surprise given the terrible experiences described above. Professor Julie Cwikel of Ben-Gurion University has examined the mental health of 55 women engaged in prostitution in brothels in Israel. Because 82% of them came to Israel illegally, it may be deduced that they are victims of trafficking. Symptoms of depression were diagnosed in a third of the women examined, and 19% were found to be suffering from clinical depression requiring treatment. Symptoms of post-traumatic stress were found in 26%. Some of the post-traumatic symptoms were manifestly related to the conditions of their employment, to sexual attacks, systematic abuse, and rape.¹⁰⁰ Thirty-two percent of the women interviewed reported that they received no medical care whatsoever when they fell ill. Women who become pregnant are dependent on the benevolence of the pimp – whether he lets them have an abortion, at their own expense, of course, and allows them to continue working, or sends them back to their country of origin. Some of the women were forced to continue working in prostitution even after they discovered they were pregnant.

Because the women are not entitled to state health care, they are sometimes forced to use the services of medically unqualified persons, or of individuals who are qualified to treat – animals: “When I said I wanted a doctor, they laughed at me. After a month, they brought a doctor and I told him that I hadn’t had my period for three months. The doctor claimed that I was pregnant and made an appointment for me to have an abortion. I said that I couldn’t be pregnant because I was careful. He stubbornly insisted, saying he could feel the fetus and demanded a thousand shekels from me. I resisted, and they had to use force to take me to him, but fortunately that day I got my period. Afterwards I found out that the doctor who checks the women at the parlor is a

⁹⁹ Serious Criminal Case (Tel Aviv-Jaffa) 1077/02 *State of Israel vs. Suleiman Dawari and Others* (Israel Supreme Court site <http://www.court.gov.il>, and Miscellaneous Criminal Applications 6439/02 *Ezra Ellis vs. State of Israel*, Supreme Court Reports 2002 (2), 960, in which women in brothels were robbed at knifepoint, as well as when threatened with mace and stun guns.

¹⁰⁰ Keren Ilan, Bella Chudakov, Ilana Belmaker, Julie Cwikel, *The Motivation and Mental Health of Sex Workers*, Ben-Gurion University of the Negev, Be’ersheva, 2002. Also, minutes of the session of the Parliamentary Inquiry Committee held on July 11, 2001 (Protocol No. 13).

veterinarian.”¹⁰¹ Most of the women explained in the interviews that they were allowed to use a condom, but nine women said that they were ordered to have sexual relations without a condom. V.G. testified: “One day a client arrived. The pimp’s wife said do everything to make sure that he doesn’t ask for his money back. I started to put a condom on him and he objected. I was scared of the pimp’s wife who warned that they’d sell me to a place where I’d have to pay back a debt for a whole year. As I had no choice, I did it.”¹⁰² In most cases in which oral sex takes place, no condom is used.

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Clients, pimps, and traffickers in the sex industry

If the struggle for survival is what creates the “supply” of trafficked women, then it is the “clients” who create the “demand” for this female “merchandise.” The pimps and women traffickers are the link between these two. In the terms of the “free market economy”, women traffickers and pimps may be viewed as “entrepreneurs” in an “industry,” taking advantage of a “market segment.”

Contrary to widespread myths to the effect that migrant workers are the main source of the large-scale demand for prostitution services, the interviews indicate that the overwhelming majority of the clients are Israelis, with foreigners making up a minority only. The women were able to identify specific characteristics of the clientele. Religiously observant Jewish men were identified as having sidelocks and a yarmulke (skull cap), and the women testified that they remove their yarmulke on entering the brothel and put it back on when they leave. There has been testimony about brothels giving a discount to soldiers in uniform. Another group of clients was identified as Arabic speakers, although it was not clear whether the women could distinguish between Arabic-speaking Israelis, Palestinian citizens of Israel, and Palestinians from the Palestinian Authority. Tourists and migrant workers comprised the smallest group of clients. These findings conflict with the position of the police, according to which foreign workers are to blame for the flourishing of trafficking in women. At a conference held at Beit Berl College in 2001, Israel Police Commander Yossi Sidbon, head of the Tel Aviv police district, explained why trafficking in women had grown: “In the Tel Aviv area today there are about 200,000 foreign workers and tens of thousands of Palestinians who come from the [Palestinian] Authority. What can you do?— they just need sex services.”¹⁰⁴ The interviews that we conducted with the women show that these claims are completely unfounded.

The interviews reveal that the clientele include minors, even 11-14 year olds. In one case the visit to a brothel was given as a bar mitzvah present to the 13-year-old “man.” Another woman reported the following experience: “The woman pimp sent me to a group of five minors aged 14-16. They were waiting for me in a [bomb] shelter, put a mattress on the floor and raped me. The other minors standing in line watched and laughed... I didn’t think that I could feel so humiliated. Even now I don’t believe that it happened and I just want to cry. The next day I hurt all over and I couldn’t get up. I

¹⁰¹ From the testimony of A.R., taken on June 06, 2002 at a hiding place.

¹⁰² From the testimony of V.G., a Moldavian national, taken on February 12, 2003 at a hideaway apartment.

¹⁰³ See also the minutes of the Parliamentary Inquiry Committee session held on July 11, 2001 (Protocol No. 13).

¹⁰⁴ Dayan, Arieh, “The advertisement, the offer, the pimp, the smuggling, the policeman, the sale, the expulsion” (Hebrew), *Haaretz*, February 26, 2002, p. B3.

told the woman pimp that I couldn't work and she said she didn't care. I had to bring her money and not just be there. She treated her dog better."¹⁰⁵ The overwhelming majority of the clients are men, but three women reported women clients. All the victims of trafficking agreed that the worst clients are the drug addicts. The drugs impair their sexual functioning, but they blame the woman for this state of affairs and are sure that if they give her a "good shaking," their sexual potency will increase. The combination of drugged clients and a pimp who does not rush to help has sometimes lead to women sustaining serious injuries.¹⁰⁶

According to the interviews, women who knew that they would be engaged in prostitution in Israel were promised up to seven clients a day. Nobody prepared them for the real state of affairs of up to 30 clients every single day. True, there were women who reported having three to four clients a day, at least some of the time, but most told of far more, in one case up to as many as 37 clients a day.¹⁰⁷ Here is the testimony of a victim of trafficking: "In Russia I was told that I would have two to three clients a day. When I arrived, the pimp told me as early as the first day that the minimum number of clients a day would be 20. I was horrified. That day I had my period, but I was immediately told that I had to accept 20 clients a day even when I had my period, otherwise I'd be fined or they'd sell me to the occupied territories and it was far worse there."¹⁰⁸ The number of clients depends on the popularity of the sex parlor and of the woman. The way that the men treat the women depends totally on the goodness of their hearts. There are clients who help women to make contact with the outside world and even extricate them from the brothel, but far more prevalent are cruel rapes.¹⁰⁹ Most are indifferent to the women.

Seventy-eight percent of the traffickers of the women interviewed are Israelis who are not native-born; most of them are from the former Soviet Union.¹¹⁰ It can be assumed that their familiarity with the countries of origin, their connections there, and the fact that they speak Russian and Romanian are a "professional" advantage. Although most of the pimps are men, women also operate as pimps,¹¹¹ and there are couples who run a brothel as a "family business"¹¹² and father and son businesses.¹¹³ The traffickers do not necessarily have a criminal background. Many of them traffic in

¹⁰⁵ From the testimony of V.G., a Moldavian national, taken on February 12, 2003 at a hideaway apartment.

¹⁰⁶ From a conversation with A.N., a prosecution witness from Moldavia, on June 18, 2002

¹⁰⁷ According to testimony given by A.M., an Uzbek national, in March 2003 at a hideaway apartment. Prof. Cwikel told the Parliamentary Inquiry Committee that most of the women said that they were told they would have 4-5 clients a day, but in fact they serviced 12, 15, 20, 25 or 30 clients a day, irrespective of their state of health or wellbeing.

¹⁰⁸ N.K.'s testimony was given on January 16, 2003 at the Michal detention facility in Hadera.

¹⁰⁹ Serious Criminal Case ((Tel Aviv-Jaffa) 1210/01 *State of Israel vs. Yosef* (not yet published).

¹¹⁰ Russia (23%), Caucasus States (22%), Ukraine (18%), and 3% from other countries in the former Soviet Union. 11% of the women were only able to say that the traffickers were from one of the countries of the former Soviet Union but did not know which country, while they had no idea as far as 23% were concerned.

¹¹¹ Serious Criminal Case (Tel Aviv-Jaffa) 1119/01 *State of Israel vs. Hana Devir* District Court Reports 2001 (3), 43917.

¹¹² Miscellaneous Criminal Applications 9190/02 *Ben David Yaish vs. State of Israel* Supreme Court Reports 2002 (3), 70; Serious Criminal Case 1097/01 *State of Israel vs. Sergei and Irena Schachtman* (unpublished).

¹¹³ Criminal Appeal 1578/99 *Rami Biton vs. State of Israel* Supreme Court Reports 2001 (4), 476.

women at the same time as maintaining regular jobs, or after they have been fired and cannot find another job. The interviews recount the tales of a plumber who ran a brothel at night, a hi-tech worker who was laid off and became a pimp, and a family from the provincial town of Afula in whose house lived an 18-year-old victim of trafficking in women. She shared a room with the couple's four-year-old son. In the morning the father would drive his wife to work, the child to preschool, and the woman to her clients all over town.

Court cases report reveal similar tales: for example a driver who had worked for Tnuva, Israel's largest foodstuff (particularly dairy) marketing company, and Coca Cola, and became a women trafficker.¹¹⁴ A husband and wife who jointly trafficked women were described at their trial as follows: "In his home country the accused was a fire officer for eight years and when he retired he opened a clothing business. The female accused had a fitness club, she was a professional athlete and trainer. When they came to Israel the accused worked in a variety of jobs including cleaning. They wanted to give their children a good education [for which they needed more money]."¹¹⁵ At another hearing of the case of a trafficker in women, the lawyer representing two of the accused women argued that "the two women are of fine character, one is a pharmacist and the other is a preschool teacher."¹¹⁶ Sometimes people who have worked in marginal positions in the sex industry, such as cashiers or guards, decide to try their luck as women traffickers. This, for example, turned out to be the case at the trial of Eli Ben Zakan, whom the attorney for the prosecution presented as a man without prior convictions, that "worked as a driver who, among other things, drove girls who were sent out to engage in prostitution. He saw that this was an easy way to make money and wanted to jump on the bandwagon."¹¹⁷

The unbearable ease of trafficking in persons in Israel at the beginning of the twenty-first century has produced a "guild" of traffickers and pimps. At one of the Parliamentary Inquiry Committee sessions, one of the persons present admitted that he headed a group of people from the sex industry working to institutionalize prostitution. He argued that the factor responsible for trafficking in women was not the traffickers, but the Interior Ministry, because "it decides at the airport who can enter the country and who can't."¹¹⁸ In other words, the women traffickers see themselves and their business as legitimate. This distorted and chauvinist outlook is expressed in the fact that they relate to the women as sexual objects, whose function is to satisfy male needs. In an interview, a women trafficker named Jackie Yizdi said, "Men always understand more and have more smarts and more intelligence than women. Men are more highly developed... Are you going to tell me that a woman can do what a man does? No... Why are all the key positions and the most sensitive affairs not managed by women? Because women aren't the smartest. I'm not a chauvinist, but it's hard to find a woman

¹¹⁴ Serious Criminal Case 1064/02 *State of Israel vs. Genady Bedian and Others* District Court Reports 2002 (2), 8330.

¹¹⁵ Serious Criminal Case (Tel Aviv-Jaffa) 1097/01 *State of Israel vs. Sergei and Irena Schachtman* (unpublished).

¹¹⁶ Serious Criminal Case 910/02 *State of Israel vs. Simeon Dushker and Others* (not yet published).

¹¹⁷ Serious Criminal Case 1113/01 (Tel Aviv-Jaffa) *State of Israel vs. Eli Ben Zaken* (unpublished); and Miscellaneous Application (Haifa) 4299/01 *State of Israel vs. Alexander Schreiber and Others*, District Court Reports 2001 (3), 4111, 4115.

¹¹⁸ Minutes of the session of the Parliamentary Inquiry Committee held on June 18, 2002: "Testimonies of brothel owners" (Protocol No. 28).

who can come up to a man's level when it comes to brains. They have certain limits. Generally speaking a woman always has a mental handicap. Up to a certain point she has some understanding, and beyond that she can't figure out a damn thing."¹¹⁹

The myth of the “happy hooker”

In the public discourse that takes place in many parts of the world, including Israel, there is a prevalent myth according to which most women have chosen prostitution of their own free will and that they are “happy hookers,” content with their lot. This myth is reflected in the way the authorities relate to the issue, and sometimes it even deludes the victims themselves. Not all the women interviewed described themselves as victims. Some women reported having been treated well. However, it is important to remember that their yardsticks are the adverse conditions back in their own countries. One of the women claimed that the only bad thing that had happened to her in Israel was being kept in jail for a protracted period. In the description of her life in the “good” brothel, there is a glaring disparity between her experiences and her conclusion: “I would sit in the lobby with some other girls, all quiet. We were forbidden to talk. I would sit there wearing thin pantyhose and freezing in the air conditioning... The meetings with the clients were short, just 15 minutes. If they needed longer, I would call the guard and ask for a two minutes’ extension, but I wasn’t allowed to stay more than 17 minutes. If I went over, I’d be fined. After the client finishes, you rush to the shower for a couple of minutes, the water was never hot enough, and go back down to the freezing lobby. I didn’t have a lot of clients, maybe because I didn’t know how to smile. You see, you have to smile there in the lobby, to smile and not laugh, perish the thought, laughing was forbidden. On the first day they explained the rules to me: You must smile all the time and sit up straight, not lean back on the sofa. Laughing is forbidden and so is talking to each other because the client may think he’s being made fun of and leave. They installed cameras in the corners and the owner of the brothel saw everything that was going on. But he was a good “boss,” he never hit me and if I can maybe I’ll go back to work for him.”¹²⁰

¹¹⁹ Shavit, Oriah, “End of the brothel,” *Haaretz Supplement*, November 2, 2001, p. 24.

¹²⁰ The testimony of N.S., a Russian national, was taken in November 2001 at the Neve Tirza prison.

Essay written by a victim of trafficking about the circumstances which brought her to Israel (abbreviated version)¹²¹

I want to tell you a little bit about the situation of those poor countries which God has forgotten. Moldova, which was once a country of warmth, friendliness, and wine, is now a world whose inhabitants do not live, but struggle to survive. The government, or “those at the top,” try to keep things organized, but not in the country – in their pockets. The inhabitants of this forgotten world used to think that when the political situation changed, things would improve; now the regime has changed, and now we don’t even have anything to hope for. I always believed that a woman could sort a country out, but apparently the time hasn’t yet come for a woman to govern. In Moldova, a simple woman has to work somewhere so that her child and her husband won’t starve to death. Why? Isn’t \$35 enough in order to live in Moldova? No! That’s just the point. It’s enough to exist, not to live. And where does she go, this Moldavian woman? Abroad, of course, through acquaintances who offer her a big salary and also save her the need to pay for her trip. And that’s why she’ll risk her life and her health... The women who come to work in Israel in all kinds of jobs, in the end come to the same work – satisfying the sexual needs of people “who need it.” And in Israel you have an enormous number of people like that. This same girl, out of stupidity or innocence, goes off in the hope of looking after a child or stuffing envelopes, and finishes up in a closed place where she has to pleasure the clients in return for 20-30 shekels a day, or a month. This same girl, who for the first time in her life has decided to take such a leap, simply has no alternative. When she’s promised “mountains of gold with peaks of diamonds,” she simply loses her sanity at the shock after crossing the border, out of the terror of falling into the hands of the Arabs, a situation from which there’s no escaping alive, and the sheer overwhelming terror of dying at the hands of the man to whom she belongs... Why don’t the countries to which our girls are forced to go because of the pressures of unbearable poverty take any steps in order to enable them just to work! Does a girl really want to have dozens of clients a day, and then spend the rest of her life regretting it? But apparently that’s really the way the country thinks. It does take steps, but not in order to protect these women – no, in order to deport them. Yes, the girl will go home, but in another month she’ll turn up again – after all, you can’t feed a child on air, and then she’ll come back again and again, until finally she’ll fall into the hands of some monster and won’t come back again. If the girl had been given a chance to come here legally, would she really risk her health?... How many times do girls, because they’re stupid and are trying to save money, after working for a year with 10 clients a day, discover that they’ll never be able to be mothers. And why do girls have to go through all this misery and suffering – in order to regret it all their lives? But if they were to come in legally and without problems, no girl would bury her life and her future. And who’s to blame for this? Certainly not us!... Maybe you have children at home and they aren’t crying, but you have a heart and you can understand us. What we ask is this: Give us the possibility of working legally in Israel, and I promise you: you’ll find Russian girls not in massage parlors, but in cleaning jobs.

¹²¹ From an essay written by A.H. a victim of trafficking from Moldova, aged 19, in a creative writing course for prosecution witnesses in Tel Aviv. The course was organized by the Hotline together with journalist Yuli Kromchenko, who also translated the essay.

CHAPTER 3: HOW THE ISRAELI AUTHORITIES DEAL WITH TRAFFICKING IN WOMEN

Prior to 2000, the Israeli authorities not only denied that trafficking in women occurred within its borders. It perceived the state as the victim – of both trafficked women and pimps - operating in tandem in order to deceive it. This distorted view was clearly reflected in the State's response in the 1995 case of Muchnik heard by Israel's High Court: "Another grave phenomenon with which the Interior Ministry has found difficulty coping with recently is the importation of young women from Russia for the purpose of sexual services... The phenomenon has reached extremely worrying proportions and the Interior Ministry, in conjunction with the Israel Police, is trying to come to grips with it... Expulsion orders are issued... The young women and their employers use a variety of ways to get the women into Israel, and there are no means that they will not resort to."¹²² The grave offense is not trafficking in women, but entering Israel illegally. The way to deal with this offence is expulsion, not taking traffickers to court and rehabilitating their victims.

What, if anything, has changed since then?

Legislation

Although a broad array of international conventions prohibits trafficking in persons, such trafficking, and specifically trafficking in women, is increasing throughout the entire world. There are many reasons for this state of affairs, primarily the states' unwillingness to take concerted action against trafficking and weak enforcement mechanisms. Legislation is one of the normal ways of shaping the rules for what is acceptable and unacceptable behavior in each society. However, the law stipulates the ideal situation, not necessarily the real one. The key to the disparity between the ideal and the real lies in effective law enforcement. In this chapter we will scrutinize the available legal tools for combating trafficking in women in Israel, and then proceed to examine the extent to which these are implemented in actual practice.

International conventions

Many twentieth-century international conventions referred to the trafficking in persons and especially the trafficking in women. The conventions formulated at the end of the twentieth century and the beginning of the twenty-first referred more broadly to the rights of the victims and the duty of the countries of origin and destination to protect them and contribute to their rehabilitation. The definition of trafficking in persons has been broadened to include phenomena like servitude, debt bondage, forced marriage, fraud, etc. Another new factor is the increasing emphasis on international cooperation in combating trafficking, based on the realization that this is a transnational phenomenon that cannot be tackled in the framework of each country separately. Eradicating trafficking in persons combines increasing attention to the rights of the victims with a perception of trafficking as a problem of international crime and of migration. Israel is signatory to a number of international conventions that require it to act against trafficking in women, but in 1998 the United Nations' Human Rights

¹²² Supreme Court 2394/95 *Svetlana Muchink vs. Interior Ministry and Others*, 49(3) 274, 277.

Committee found that Israel's attitude to the trafficked women in its midst did not comply with the spirit of the conventions.¹²³

Under the International Covenant on Civil and Political Rights, ratified in 1991, Israel undertook to protect the human rights of all persons within its borders.¹²⁴ The State was required to adopt suitable means to suppress, investigate, and bring to court anyone who infringed these rights. In 1991 Israel also signed the Convention on the Elimination of All Forms of Discrimination Against Women, which requires that signatories take all the appropriate measures "to suppress all forms of trafficking in women."¹²⁵ The most important legal instrument as far as trafficking in women is concerned is the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted in 2000 ("the UN Protocol").¹²⁶ All of the components described in Chapter 2, such as sexual exploitation for the purposes of prostitution, forced labor, servitude, and fraud, components that are utilized when recruiting the women, fit the definition of trafficking. The Protocol requires signatories to combat trafficking in persons, especially women and children, to protect the victims of trafficking, to respect their human rights, and to establish a criminal definition of the trafficking in persons. Israel signed the Protocol in November 2001, but has not yet ratified it. Israel's Justice Ministry is supposed to take steps in order to adapt the country's legislation accordingly.

Israeli legislation and trafficking in women

Trafficking in women developed for about a decade before the Israeli legislature considered the matter. However, even prior to the legislation of a law against trafficking, the Penal Code included prohibitions against offenses that are part of trafficking, such as pimping (procurement), soliciting for the purpose of prostitution, incarceration, rape, assault, slave or forced labor, and passport retention.¹²⁷ The offenses related to trafficking are also proscribed in other legislation, such as the Equal Rights for Women Law, and laws protecting the rights of the victims of sex offenses.¹²⁸ However, only a very small number of indictments were brought in cases in which these offenses were committed against foreign women, and the penalties handed down for them were rather mild.¹²⁹ A turning point occurred in 2000. In the wake of the uproar over media revelations and over the publication of the Amnesty report on trafficking in women in Israel, a parliamentary inquiry committee was set up, headed by MK Zehava Gallon. The end of the year saw the passing of Amendment 56 to the Penal Code,

¹²³ CCPR/C/79/Add.93 Concluding Observations of the Human Rights Committee – Israel, adopted on 28.07.1998, Paragraph 16.

¹²⁴ International Covenant on Civil and Political Rights, 1966.

¹²⁵ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, Article 6.

¹²⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. 2000.

¹²⁷ § 199 of the Penal Code (1977), §§ 201-202 of the Penal Code, §§ 369-371 of the Penal Code, § 377 of the Penal Code, § 345 of the Penal Code, § 192 of the Penal Code, § 378 of the Penal Code, § 418 of the Penal Code, § 376 (i) of the Penal Code.

¹²⁸ § 6 (ii) of the Women's Equal Rights Law (1951) stipulates that all women are entitled to protection against sexual exploitation and trafficking in her body; § 68 of the Courts Law [Consolidated Version] (1984), Regulations Amending the Rules of Procedure (Questioning of Witnesses and Taking the Testimony of a Complainant about a Sexual Offense Not in the Presence of the Accused) (1996).

¹²⁹ Hotline for Migrant Workers, *Trafficking in Women in Israel*, 2001, pp. 9-10.

which explicitly defined the offense of trafficking in persons: “An individual who sells or buys a human being in order to employ that person in prostitution or who acts as an intermediary for the aforesaid buying or selling shall be sentenced to a sixteen year jail term. For this purpose, ‘sells or buys’ means in return for money or the equivalent of money, service or other benefit.”¹³⁰

Despite the existence of legal means, their actual implementation leaves much to be desired. For example, most of the women brought to court do not know what offenses they are testifying to. Sometimes the women who have testified learn that a plea bargain has been signed with the pimp only when they are transferred from the hostel in which they were waiting to give testimony to jail - or from the trafficker himself.¹³¹ Moreover, even if it were implemented in full, existing legislation is inadequate. Amendment 56 to the Penal Code consists of no more than a single clause, drafted in haste, as a result of external pressure; it was appended to the Penal Code as part of the section dealing with prostitution and offenses under the obscenity law. Because of the wording of the amendment, trafficking in persons for other purposes, for example for the purpose of the women serving as surrogate mothers, remains legal. Nor does the amendment provide an answer to the problems that confront the authorities when they come to enforce the law. It stipulates the punishment for the trafficker of women, entirely ignoring the fate of the victims. It fails entirely to relate to where prosecution witnesses are to stay until they testify, proposals concerning their rehabilitation, legal aid, the confiscation of property generated by means of trafficking in women (as done in the case of drug traffickers), closing down brothels, and so on.

Because there are no explanatory notes to the amendment (unlike most pieces of legislation), lawyers and judges have difficulties understanding the legislators’ intent and the meaning of the expressions “sells,” “buys,” and “acts as an intermediary.” A number of courts have criticized the amendment. For example, Justice Amit has written: “[The legislators acted] in haste in light of the waxing tide of “imports” of women into Israel for the purpose of prostitution. ... Consequently, both the explanatory remarks to the Law and the Knesset’s comments ... are extremely brief on matters that might shed light on the components of the offense and the legislative purpose [of the law].”¹³² The Parliamentary Inquiry Committee recently submitted two bills designed to correct some of the shortcomings: one bill prohibiting trafficking in persons, and another bill mandating a government body to combat trafficking in persons. These bills include important clauses, such as the granting of legal aid and monetary compensation to the victims. They were formulated with the assistance of human rights organizations, which have accumulated a great deal of experience in the matter. It is notable that since its establishment in 2000, the Parliamentary Inquiry Committee has cooperated with human rights organizations. In contrast, other authorities were unwilling to cooperate with human rights organizations, until the publication in July 2001 of the U.S. report about trafficking in persons. It was this report that brought about the most significant change in the attitude of Israeli authorities to trafficking.

¹³⁰ Amendment 56 to the Penal Code (1977), § 203 (i) (a).

¹³¹ From testimony given by T.J., a Russian national, on August 14, 2002 at Neve Tirza prison.

¹³² Serious Criminal Case (Tel Aviv-Jaffa) 1064/02 *State of Israel vs. Genady Bedian and Others* District Court Reports 2002 (3), 4839, 4841.

U.S. law and trafficking in women in Israel

Recent years have seen a vast increase in U.S. involvement in combating trafficking in persons and trafficking in women. Pursuant to a law that was passed in 2000 and came into force in 2001, the U.S. State Department investigates trafficking around the world every year, dividing countries into three categories.¹³³ The first comprises countries that are dealing successfully with trafficking, putting traffickers on trial, helping the victims, and carrying out preventative informational activities; the second comprises countries that are making an effort to meet these standards, but are only partially in compliance; the third comprises countries that do not meet even the minimal standards of combating trafficking in women, or that refuse to recognize the existence of the phenomenon within their borders. In the first report, Israel was ranked in the third category.¹³⁴ Not only did the publication of the U.S. report result in great embarrassment: it also constituted a very real threat, since U.S. legislation prohibits the provision of non-humanitarian economic aid to countries in category three from 2003 onward. Thus it was that, overnight as it were, Israel did a complete turnabout.

Government representatives hastily flew over to the USA and instigated action by the Jewish lobby in an effort to convince the Administration that this was all a mistake.¹³⁵ The Parliamentary Inquiry Committee met for an urgent session “in the wake of a fear of economic sanctions as a result of the publication of the State Department’s report putting Israel on the ‘blacklist’ of countries that traffic in human beings.”¹³⁶ Suddenly, the Israeli media’s agenda included stories about trafficking in women, partly on the initiative of the police, and talk shows competed with each other for interviews with victims of trafficking. Official bodies, such as the Israel Ministry of Justice and the Israel Police, disagree with the contention that it was the American report that brought about the change in Israel’s policy. However, it is hard to deny the rapid pace of the changes that have occurred since the report – changes that could scarcely have been imagined prior to its publication.

It should be noted that despite the signs of a change in policy, government circles in Israel took to task human rights organizations that had provided the information which formed the basis of the U.S. critique of Israel’s policy with regard to trafficking in women. The reaction of Justice Minister Meir Shitreet in this respect was particularly scathing. He accused the Hotline of betraying the country, telling its representative: “With all due respect to you and your organization, to vilify the State of Israel in Congress is absolutely disgusting behavior... You have caused the worst possible damage. This is a misguided approach, the complete opposite of what should have been done.” To the representative of the Awareness Center, who indicated that the Center regularly reported to the United Nations about trafficking in women in Israel, the Justice Minister of the State of Israel said the following: “I do not understand you. It’s just like collaborating with the enemy.”¹³⁷ Despite the criticism, there is no doubt that the American report has had more of an impact on trafficking of women in Israel than any

¹³³ Victims of Trafficking and Violence Protection Act 2000.

¹³⁴ Trafficking in Persons Report 2001- Israel, Tier 3.

¹³⁵ According to information on the Israel Justice Ministry site, at the beginning of 2002 Minister Meir Shitreet and the Ministry’s Director-General flew to the USA for a meeting on this subject.

¹³⁶ Special session held on July 18, 2001.

¹³⁷ Minutes of the session of the Parliamentary Inquiry Committee held on March 04, 2002: “The policy of the Justice Ministry in dealing with trafficking in women” (Protocol No. 26).

other factor; an offense, which prior to publication of the report was considered marginal, has suddenly shot onto the public agenda. The report's influence is very marked in the legislative sphere, and it is beginning to show signs of impacting on the more important field of enforcement as well.

Enforcement

The Internal Security Ministry and the Israel Police

The Israel Police began to acknowledge the need to combat trafficking in women as long ago as 1998. Recommendations were drawn up, directives were issued and a plethora of declarations made. However, as indicated above, a real change did not occur until publication of the American report. Over the last two years, an improvement has occurred in the efforts of the police to combat trafficking in women. According to police statistics, in 2002 they initiated 351 investigations into the crime of trafficking in women.¹³⁸ By comparison, in 2000, just one investigation was initiated into trafficking offenses and in the first half of 2001, 25 investigations.¹³⁹ In the women's detention facility in Hadera, there is an investigator responsible for collecting information from victims of trafficking. As a result of his work, a number of indictments have already been brought. Moreover, in January 2003 the Justice Ministry's Institute for In-service Prosecutor Training conducted a course on trafficking in women, which included members of the police force. The general awareness of trafficking and the attitude of the senior ranks of the police force, appear to be improving. However, the behavior of the Israel Police is still deficient in many respects. We will address these deficiencies below.

Absence of a special police force to combat trafficking in women

All the committees that have discussed the issue have recommended establishing a special police force trained to work with victims of trafficking, which would operate in cooperation with human rights organizations.¹⁴⁰ Since the police have complained that the lack of Russian-speaking police officers has a negative impact on its effectiveness in combating trafficking, it has been agreed that the force should include Russian speakers.¹⁴¹ At the time of writing, this special anti-trafficking force has yet to begin operation. Meanwhile, the area has largely been entrusted to the country's central police units. It is our impression that units in the central part of the country have taken the new procedures far more seriously than those operating elsewhere. They make far more targeted arrests of traffickers and appear to understand the importance of cooperating with human rights organizations in order to assist victims. In contrast, officers at police stations in outlying areas make do with simply arresting trafficked women. These officers also tend to view organizations providing support and assistance to victims as "bleeding hearts" who subvert the work of the deportation mechanisms, which they consider the only way to deal with the phenomenon. Until the special unit is

¹³⁸ According to Israel Police figures, in response to the application under the Freedom of Information Act, February 10, 2003.

¹³⁹ Hotline for Migrant Workers, *Trafficking in Women in Israel*, 2001, p. 10.

¹⁴⁰ In 2002 police officers started to attend lectures given by Isha L'Isha at the Police Training College in Tel Aviv, at Police National Headquarters, and in the Coastal District.

¹⁴¹ Minutes of the session of the Parliamentary Inquiry Committee held on May 16, 2001 (Protocol No. 6) and also the report of the interministerial task force, p. 21.

set up, efforts must be made to ensure that the new procedures are implemented at all police stations, especially those in outlying areas.

Wasting limited police resources on checking the passports of women in brothels

Policemen routinely enter brothels and check the women's passports.¹⁴² Indeed, 33% of the interviewees reported that policemen had come into the brothels for this purpose. The policemen asked them whether they were voluntarily on the premises, but they did not ask whether the women's passports had been confiscated by the pimp. The inspection generally focused on the legality of the documents. If it turned out that a woman was illegally present in the country or that her passport was forged, the policeman arrested her. The police claim that these inspections are intended to show a police presence in brothels and to find women whom the police are trying to locate. However, it is not clear what the real benefit is of a police presence in brothels; in contrast, the damage it causes is immediate and tangible. Women who are locked up against their will see the policeman arrive, check their passports, and go along on his way as if nothing is amiss. They conclude that there is no point in trying to run away and contact the police, if the only thing the police care about is the legality of their presence and the quality of their documents. The fact that the only thing the police do is to check passports serves to corroborate the traffickers' warning that in Israel, being in the country illegally is a serious offense. In this way, the police provide legitimization for the misdeeds of the traffickers and pimps.

Passport checks cannot be effective to begin with because of the high caliber of some of the forgeries, as well as the fact that most policemen have not had any special training in detecting forgeries, nor do they have any special equipment. Quite a few women indicate that the same documents were checked repeatedly and found to be valid: only when they were inspected by additional policemen a few months later were they identified as forgeries and the women arrested. Visits to brothels were also proven to be ineffective in locating and rescuing women who had disappeared. The Hotline submitted five requests to the police to locate women about whom reports of disappearance had been received from their countries of origin. Searches for them continued for weeks and months, frequently without any success whatsoever. On December 8, 2002 the Hotline asked the police to locate a trafficking victim. Only in April 2003 did law students from the Human Rights Division of the Ramat Gan Academic College of Law find the woman in prison awaiting deportation. It is not clear why the police complain about lack of manpower, when they waste valuable resources on checking passports. It would be better for the police to allocate all of its available resources to quality, in-depth investigations.

Using pimps to obtain information about "serious" offences

Until recently, it was police practice to use traffickers as informants about crimes the police considered to be "really" serious, as opposed to the "negligible" offense of trafficking in women. In return the police turned a blind eye to trafficking offenses or brought minor charges only. As a result, the victims of trafficking also became victims of the authorities. At a session of the Parliamentary Inquiry Committee the Deputy Attorney-General claimed that the police were forced to make use of these sources of

¹⁴² This practice is the upshot of directives laid down by the State Attorney's Office, as subsequently elucidated in the section discussing the State Attorney's Office.

information.¹⁴³ The interministerial task force also discussed the problematic use made by the police of pimps and traffickers in order to obtain information, while deliberately ignoring trafficking offenses.¹⁴⁴ Inspector-General Moshe Mizrachi testified that he thought that the police were handling trafficking in women and the traffickers properly.¹⁴⁵ Nevertheless, the interministerial task force recommended that any request to reward an individual accused of trafficking in women with a mitigating plea bargain, on the sole grounds that he had acted as an intelligence source, should be approved by a senior police officer. In addition, the task force determined that the State Attorney's Office should make sure that this practice was complied with.

Cooperation between policemen and traffickers

While there is regulation of the use of traffickers as a source of information, we see no improvement in the issue of cooperation between police and traffickers. Passive cooperation is reflected in the fact that policemen come to brothels as customers, or in order to visit the traffickers with whom they have developed ties. 44% (!) of the women interviewed testified that policemen were clients of the brothels, 13% referred to friendly relationships between policemen and pimps, and three women reported seeing money change hands between pimps and police. These visits have a devastating effect on the victims' faith in the police. They corroborate the pimps' claims to having connections in the police force, and the women conclude that there is no point in running away. As one woman commented cynically: "I can meet my clients at the brothel, there's no need for me to go to the police to see them." In this way the police/clients actually help to bolster trafficking. Furthermore, of all people, the police should know that many women are held under duress and are forced to have sex under threats and violence. In such cases police/clients are in fact committing rape rather than carrying out their duty – to help the victims of trafficking to extricate themselves and to bring traffickers and pimps to justice.

The blurring between policemen's visits to a brothel for the purpose of "work" and "recreation" is reflected in the following account: "Two clients turned up. One chose me, took me to the room and half an hour later his friend began yelling and banging on the door for him to come out. He got up, dressed, and said to me, 'Come on darling, you're busted.' I thought he was joking, but a squad car was waiting downstairs and took me to the lockup."¹⁴⁶ When she was asked whether she would testify against the policemen, she said: "I've already seen what the police here are like," and refused. The Hotline contacted the Investigations of Police Unit (at the Justice Ministry) about three women who claimed that the policemen who arrested them had been clients at the brothel the very same morning. The response of the Unit speaks volumes about its attitude to the phenomenon of police who are also brothel clients: "The general complaint about policemen who receive sex services in return for payment is not indicative of any suspicion as to criminal activity, nor does a complaint about a policeman who in the morning arrived as a client and in the evening as a policeman. The complaints involve issues in the disciplinary sphere [rather than the criminal

¹⁴³ Minutes of the session of the Parliamentary Inquiry Committee held on March 04, 2002: "The policy of the Justice Ministry in dealing with trafficking in women" (Protocol No. 26).

¹⁴⁴ Report of the interministerial task force, p. 22.

¹⁴⁵ Ibid.

¹⁴⁶ H.A.'s testimony was taken on November 11, 2001 at the Kishon lockup in Haifa.

one].”¹⁴⁷ The Hotline petitioned the High Court of Justice in respect of the Israel Police’s refusal to investigate the complaint, and it was not until after the petition was submitted that the police instigated an investigation.¹⁴⁸

A presentation given by a Hotline representative at a conference organized by the Internal Security Ministry on July 31, 2001 on trafficking in women, at which the above accounts were presented, was given a contemptuous and insulting reception. Police Chief Shlomo Aharonishky, accompanied by other officers, even walked out. However, the head of the police manpower division took the matter seriously and subsequently issued a circular forbidding officers to associate with criminals and pimps.¹⁴⁹ Nevertheless, since trafficked women are still reporting friendly relations between pimps and policemen, it would appear that standing rules are not sufficient. Another phenomenon that undermines the trafficked women’s faith in the police - and in the entire establishment - is the “organized tours” of brothels arranged for legislators, ministers, and policemen and their wives.¹⁵⁰ The trafficked women conclude from these “official visits” that trafficking is considered legitimate, and this also deters them from complaining to the authorities.

The cooperation between policemen and traffickers is not passive only. To date, one case is known of an officer named Oskar Siss, who was also involved in buying and selling women and employing them in prostitution by coercion. Fortunately for him he did this before Amendment 56 came into force. True, the prosecution stated that the accused’s offense “makes any intelligent person in a moral, civilized society shudder.” Nevertheless, the prosecution accepted a plea bargain arrangement with six months in jail, and the court endorsed the arrangement.¹⁵¹ Cases are also known in which policemen have tipped off pimps about impending police raids on brothels, and worse, as testified to by a woman who was held under duress: “The policemen came in and saw that my ID was forged. I heard the pimp’s girlfriend whispering to him, ‘Call your friend now.’ The pimp made just one phone call, gave the phone to the police, they listened and left the premises.”¹⁵² In the next case policemen were even involved in bringing back trafficked women who had run away:

“The brothel was always locked and we were closely guarded. Sasha accompanied us to the customer and brought us right back to the brothel. When I was with the customer, he would walk up and down the cars and put flyers for the brothel under the windshield wipers. Do you know what it feels like to know that all you’re worth is something that’s stuck under people’s wipers? I knew I’d be working in prostitution, but I didn’t think that it would be like prison, with 30 customers a day, no asking if you want to or not, endless hours of work, and you have to be ready all the time, maybe a customer wants you at 10 in the morning even though you didn’t

¹⁴⁷ Letter by Varda Shacham, head of investigations into police officers at the Internal Affairs Unit, dated May 13, 2001.

¹⁴⁸ High Court of Justice 3536/01, *John Doe vs. State of Israel*, Dinim Elyon, Vol. 59, 979.

¹⁴⁹ Report of the interministerial task force, p. 16.

¹⁵⁰ Saban, Itzik, “Police officers and their wives taken for an evening out at the massage parlor”, *Yediot Aharonot*, June 14, 2002, p. 9; Fishbein, Einat, “The parliamentarians visit the massage parlors, but the trafficking goes on”, *Haaretz*, March 2, 2000.

¹⁵¹ Criminal Case 2444/01 *State of Israel vs. Oskar Siss* (unpublished).

¹⁵² The testimony of M.P., a Moldavian national, was taken on January 7, 2003 at the women’s detention facility in Hadera.

get to sleep until 7. One day one of the girls managed to escape. I don't know how, but we got up in the morning and she wasn't there. We were so happy, both because it really made the pimp mad, he completely lost it, and also because we hoped that if she had managed, one day we would manage too. That's the only day that I remember since arriving in Israel when I stopped feeling nothing but desperation and terror, and I started to hope. In the evening there was a knock on the door. Two policemen dragged her in. A few days later she was sold, we don't know who to, but we haven't seen her or heard from her since."¹⁵³

Cooperation between policemen and traffickers is not unique to Israel. However, It could be stated that one yardstick of a civilized country is its willingness and ability to act against corruption. In Israel, cooperation between policemen and traffickers is possible because of the powerlessness of the Investigations of Police Unit, as expressed in the above reply to the Hotline over the police/client issue. Generally, foreigners, and especially victims of trafficking, make very few complaints. The Investigations of Police Unit does not initiate any investigations on its own and instead waits for complaints to come in. These complaints are dealt with belatedly, if at all. For example, the Investigations of Police Unit received many complaints by the Hotline concerning police excessive use of force in arrests of migrant workers, but it failed to take these complaints seriously or to investigate them as quickly as it should, given the fact that the complainants are likely to leave the country voluntarily or be deported. The Hotline has submitted an application under the Freedom of Information Act for information about policemen against whom files have been opened in connection with trafficking offenses. However, it has received no response. This reinforces the impression that not enough has been done to eradicate the problem. Over the years, many newspaper articles have appeared about police involvement in trafficking of women. From what is known, in no instance did suspicions result in the bringing of an indictment, other than in the case of Oskar Siss mentioned above.¹⁵⁴

Arrest and deportation of victims without taking statements from them

The duty to take statements from victims of trafficking has been published in a circular by the Israel Police Investigations and Prosecutions Division. The circular states that even if trafficked women refuse to make a statement upon arrest, an attempt should be made to obtain a statement after they have been transferred to jail.¹⁵⁵ The State

¹⁵³ A.N.'s testimony was taken on June 18, 2002 in a hostel for prosecution witnesses in Tel Aviv.

¹⁵⁴ Caro, N., "Policeman suspected of arresting women working in brothels and then releasing them in return for bribes", *Haaretz*, March 1, 2000, p. A13; Arbeli, E., "Policeman in Beersheba arrested on suspicion of pimping", *Haaretz*, May 3, 2000, p. A12; Ratner, D., "Hadera police chief questioned on suspicion of involvement in bribetaking from massage parlors", *Haaretz*, August 4, 2000, p. 6; Shmuel, L., Goell, B., "Day-time cop – night-time strip club partner", *Yediot Aharonot*, September 1, 2000, p. 10; Goell, B., "Haifa: Policemen suspected of involvement in importing prostitutes", *Yediot Aharonot*, May 1, 2001, p. 19; Ratner, D., "Haifa police superintendent arrested on suspicion of morals offenses", *Haaretz*, September 4, 2001, p. A15; Glickman, A., "Suspicion: Policemen 'turned a blind eye' to a brothel and were given sex", *Yediot Aharonot*, February 22, 2002, p. 8; Shalom, Y., "The prostitute testified: They gave sexual services to policemen in uniform – free of charge", *Kol Ha-Emek vaha-Galil*, March 1, 2002, p. 48; Ben David, A. "Suspicion: The outstanding police officer took a bribe and was involved in trafficking in women", *Maariv*, July 29, 2002, p. 10.

¹⁵⁵ According to the interministerial task force report, on June 19, 2001 the head of the police investigations and prosecutions unit issued a circular containing instructions to the effect that in all cases

Attorney's directives also require investigations into suspicions of trafficking in all instances where foreign women are arrested at a brothel.¹⁵⁶ The police claim that their hands are tied because many women are afraid to testify, but even when women ask to testify, the police may ignore their requests. The Hotline has had to petition the High Court in order to get the police to investigate women wishing to bring complaints against their pimps, as well as against policemen who have cooperated with the pimps.¹⁵⁷ Only after one such request had received media coverage was an investigation initiated into the case. Even today the police are not happy about investigating trafficking offenses. In 2002 Isha L'Isha filed six applications to initiate investigations into cases in which women were arrested without being asked whether or not they wanted to testify. An investigation was initiated in the case of only four of them. For example, T.K., from the Ukraine, was sold three times and agreed to testify against her traffickers. Her detailed testimony was passed on to three police stations, but after no response had been received within a month, she became desperate and returned to her home country. After being contacted numerous times, the police replied that there had been no need for her testimony, for reasons that were not specified.

On June 13, 2002, a trafficking victim, in the ninth month of pregnancy, came to the Haifa police. Not only was she not questioned: the lockup refused to admit her because she was pregnant. The police contacted Isha L'Isha and announced that they were going to leave the woman in the street. On March 20, 2003, Isha L'Isha received a phone call from a trafficking victim who had escaped from her pimp and come to the Jaffa police station, after wandering the streets for several days. The police simply referred her to the Uzbek Consulate, which referred her to Isha L'Isha. When a volunteer tried to check whether the escaped woman had been questioned about the trafficking offense, the detective replied, "Listen girlie, question her about what?" The officer explained to the volunteer what he expected: "Take her away, look after her, get her some documents at the consulate – just get her off our backs." When the "Immigration" Authority agreed to admit her to the Hadera detention facility, the volunteer called the Jaffa station and asked them to help the woman. She was told "What are you talking about? If you want her, come and get her – you want us to take her to Hadera? Let her make her own way!"

The State Attorney's Office

When the police investigations are finished, the file goes to the State Attorney's Office together with recommendations. The State Attorney's Office – the prosecuting authorities through whom indictments are submitted to the court – decides whether to put those suspected of the offense on trial. Until 2002, the State Attorney's Office's directives stated that there should be no interference in what went on in brothels other than in cases involving minors, prostitution by coercion, other criminal activities, or a nuisance to the neighbors.¹⁵⁸ The title of these directives speaks volumes: "Investigatory policy and prosecutions in the case of offenses involving soliciting for prostitution in connection with the giving of escort services and operating massage

where it was suspected that the detained alien awaiting expulsion had been the victim of an offense, s/he was to be encouraged to make a detailed complaint.

¹⁵⁶ <http://www.justice.gov.il>

¹⁵⁷ High Court of Justice 3536/01, *John Doe vs. Israel Police and Others*.

¹⁵⁸ State Attorney's Office Instructions 2.2, January 2, 1994.

parlors,” clearly demonstrating that the State Attorney’s Office ignored trafficking in women. Is it possible to find prostitution by coercion without entering brothels? And how can trafficking be combated if it is viewed as “escort and massage services”? Jackie Yazadi, the owner of the Tropicana brothel, gave voice to the confident feeling enjoyed by traffickers and spoke openly in an interview he gave to ABC News about how he buys and sells women. The only Israeli authority that showed any interest in what he said was the Income Tax Authority.¹⁵⁹ At the end of 2001, in light of the change that had occurred in attitudes to trafficking in women, he became more circumspect, contending that the women he employed came to him of their own free will.¹⁶⁰

At the beginning of 2002, following the furor aroused in the wake of the U.S. State Department report, the State Attorney’s Office drew up new directives for the police regarding action to be taken against trafficking in women. The directives emphasize that “even if the women expressed willingness to engage in prostitution, this must not be considered significant in light of the rationale behind the prohibition on human trafficking.”¹⁶¹ However, some of the previous directives remained valid, including the guideline not to enforce the law about the offenses of pimping and running brothels, unless they were associated with an additional offense or a public nuisance.¹⁶² A glaring disparity exists between the directives and what happens in practice. The police still tend to ignore brothels, and when foreign women are arrested and it is suspected that they have been trafficked, they are often still not questioned properly. The prosecuting authorities’ new directives have not yet proven to be effective in combating trafficking, although they appear to have served to improve Israel’s image: in the U.S. report on trafficking for 2002, Israel was promoted to the second category.¹⁶³

The State Attorney’s Office has the authority to accept plea bargain arrangements, meaning that a person who has been indicted admits to the offense or some of the offenses with which he is charged, in return for a reduced sentence. While plea bargains save the overloaded legal system time and money,¹⁶⁴ the fact that so many bargains are struck in the area of trafficking in women, of all things, strengthens the impression that the prosecuting authorities do not treat these cases as seriously as they should. No one denies that offenses of trafficking in women present the State Attorney’s Office with numerous difficulties, and that because of the lack of clarity in the law, the prosecuting authorities lack the requisite legal tools to combat this crime. However, the mushrooming of lenient plea bargains is in sharp contrast to the severity of the offense – the reason for there being a 16-years-in-prison punishment for

¹⁵⁹ Immerglick, S. “Owner of the Tropicana massage parlor also suspected of importing call girls”, *Maariv*, September 26, 2000, p. 20. According to the article, income tax investigators obtained a copy of a video tape of an interview in which Yazadi said that he had paid 5% protection money out of his turnover, an amount equivalent to around \$25,000 a day.

¹⁶⁰ Shavit, Oriah, “End of the brothel,” *Haaretz Supplement*, November 2, 2001, p. 24; Ariel Amir Tal, “The fall of the high-class brothel in Israel”, *Tel Aviv*, November 2, 2001, p. 22; Na’a Buki, Kravitz Amir, “The result of the situation: The prestigious brothel in Israel closes its doors”, *Maariv*, October 15, 2001, p. 24.

¹⁶¹ § 4 (ii), State Attorney’s Office Instructions, Policy on Investigating and Prosecuting Prostitution and People Trafficking Offenses, February 2002.

¹⁶² In March 2003, the Hotline and the Anti-People Trafficking Clinic at the Ramat Gan Academic College of Law applied to the Attorney-General to re-examine these instructions.

¹⁶³ <http://state.gov/g/tip/rls/tiprpt/2002/>

¹⁶⁴ Following Justice Haim Cohn, Criminal Appeal 532/71 *Humitzky vs. State of Israel* Law Reports 26 (1) 543, 550.

trafficking. The Justice Ministry has posted a notice on its Web site to the effect that as of February 2002, 42 indictments had been brought against persons suspected of human trafficking. Twenty-eight trials ended in convictions: in 20 of these – over 70% - the prosecuting authorities accepted a plea bargain.¹⁶⁵

The Parliamentary Inquiry Committee acknowledged the problematic nature of the proliferation of plea bargains, and held a number of sessions on the subject. At one of these, the Deputy State Attorney explained that plea bargains were sometimes an inevitable fact of legal life, mainly in cases where without them, it was impossible to convict the criminals.¹⁶⁶ The Attorney-General emphasized the need for a hard-line approach, and reported to the Committee that the State Attorney had asked for each plea bargain to be scrutinized, in order to tighten the punishments meted out to women traffickers.¹⁶⁷ Awareness appears to have begun to permeate the State Attorney's Office that in order to combat trafficking in women, they should refrain from plea bargains, or at the very least set a higher standard of punishment. As will be shown below, the courts also play an important role when it comes to plea bargains, since they have the authority to reject excessively lenient arrangements and to increase the sentences handed down for crimes accompanying trafficking, such as pimping.

The courts

The crime of trafficking is condemned unreservedly by all courts. Judge Englerod drew on Jewish law in stating that the Ten Commandments themselves prohibited human trafficking: “‘Thou shalt not steal’ refers to the abduction of persons.”¹⁶⁸ Justice Turkel has ruled that: “The offense of trafficking in human beings in order to engage them in prostitution is one of the most heinous and loathsome crimes... It has strong overtones of the horror of selling people... as well as of the humiliation involved in sexual exploitation and the terror accompanying extortion.”¹⁶⁹ Judge Ofir-Tom was horrified at the traffickers' language: “The routine language used, with its references to “buying” and “selling” people, as if they were items of merchandise, instantly turns the clock back to those dark centuries of the slave trade we thought had long since passed from our world, which adorns itself in progress and liberalism; but this is far from the true state of affairs. The eye has difficulties perceiving the cold business terminology that accompanies this despicable dealing in the market of human trafficking, which rides roughshod over all remnants of the free will of the woman who is sold, as well as any vestige of her dignity and freedom.”¹⁷⁰

Justice Mishael Cheshin has written that the crime of trafficking is a serious one, and it is not for nothing that the sentence for this crime is 16 years: “[We must] combat this ugly modern image of the slave trade... And we, in the courts, have a mission – to

¹⁶⁵ <http://www.justice.gov.il>

¹⁶⁶ Minutes of the Parliamentary Inquiry Committee session held on March 04, 2002: “The policy of the Justice Ministry in dealing with trafficking in women” (Protocol No. 26).

¹⁶⁷ Minutes of the Parliamentary Inquiry Committee session held on July 15, 2002: “Methods of combating trafficking in women: legislation and enforcement” (Protocol No. 32).

¹⁶⁸ Miscellaneous Criminal Applications 291/01 *Rivai vs State of Israel* Supreme Court Reports 2001 (1), 110, 112.

¹⁶⁹ Miscellaneous Criminal Applications 9274/01 *State of Israel vs. Ami Yeshai* Supreme Court Reports, 2001 (4), 57, 58.

¹⁷⁰ Serious Criminal Case (Tel Aviv-Jaffa) 1060/02 *State of Israel vs. Dimitry Ilinsky* District Court Reports 2002 (2), 8152, 8155.

make our own contribution to this war, which is an all-out war.”¹⁷¹ Judge Cheshin’s observation has become the most widely cited quotation in the verdicts on trafficking, but immediately after the citation, judges handed down a light sentence that is a far cry from the “all-out war.” Before the enactment of the anti-trafficking legislation, traffickers were sentenced for accompanying crimes such as rape. The height of absurdity is that the penalties handed down for these crimes, for which traffickers were prosecuted, were higher than those handed down today. One trafficker, Pietr Pinchasov, was sentenced to 15 years in prison.¹⁷² As far as we know, since the enactment of Amendment 56 to the Penal Code in 2000, harsh sentences have been handed down in three cases only, and they ranged from 8 to 10 years in prison.¹⁷³ In the other verdicts, sentences tended to be two years in prison or less. Trafficker Victor Machloof was sentenced to a jail term of two years;¹⁷⁴ Arthur Hanochof to 18 months in jail;¹⁷⁵ Reuben Salomon was sentenced to 17 months in jail, while others in the same case received even lighter sentences.¹⁷⁶

The court’s lenient policy towards trafficking is expressed in its acceptance of plea bargains proposed by the prosecuting and defense attorneys. The court has the authority to reject these plea bargains, but to the best of our knowledge, it has done so only in one case.¹⁷⁷ Although judges tend to endorse plea bargains, sometimes they express their amazement at the lightness of the sentence or note that the arrangement has been accepted “with a heavy heart.” In one instance the court noted: “We do not deny that, in light of the severity and base nature of the crimes to which the accused have confessed and for which they have been convicted, the punishments that the prosecution requests are on the lenient side, but it is a known fact that in plea bargains, what is concealed is far greater than what is revealed.”¹⁷⁸

Consequently, it is hard to avoid the suspicion that Amendment 56, which defined the crime of trafficking in women, has actually led to a reduction in punishments meted out to traffickers. Before it was enacted, the courts related to the whole range of crimes perpetrated against victims of trafficking, such as rape and incarceration. What the amendment did was to place victims of trafficking in a separate category, as foreign women, most of whom knew that they would be engaged in prostitution. The resulting distinction between trafficked and “ordinary” rape victims may have resulted in the injuries suffered by the former being perceived as less heinous in the eyes of the courts, as evidenced by the sentences passed prior to the enactment of Amendment 56 and those passed subsequently. In other words, the crime of trafficking in women has become no more than a minor offense. At a session of the Parliamentary Inquiry

¹⁷¹ Miscellaneous Criminal Applications 7542/00 *Artur Hanuchov vs. State of Israel* Supreme Court Reports 2000 (3), p. 1992, 1994.

¹⁷² Criminal Appeal 4511/93 *Peter Pinchasov vs. State of Israel* Supreme Court Reports 96 (2), 1271.

¹⁷³ For example, in Serious Criminal Case 1210/01 *State of Israel vs. Georgy Yosef* (as yet unpublished).

¹⁷⁴ Criminal Case 40230/00 *State of Israel vs. Viktor Machloof* (unpublished).

¹⁷⁵ Criminal Case 1156/00 *State of Israel vs. Artur Hanuchov* Dinim Mehozi, 33 (1) 835. It should be noted that in this case, when an appeal was filed with the Supreme Court, Justice Cheshin held that the enforcement authorities’ war on trafficking in women should resemble Israel’s war on Amalek – a simile which did not prevent the District Court from handing down a mild sentence.

¹⁷⁶ Serious Criminal Case 1029/01 *State of Israel vs. Reuven Salomon and Others* Dinim Mehozi 33 (1) 810.

¹⁷⁷ Criminal Appeal 4886/02 *Boris Glashenko vs. State of Israel* (as yet unpublished)

¹⁷⁸ Serious Criminal Case (Tel Aviv-Jaffa) 1029/01 *State of Israel vs. Reuven Salomon and Others* Dinim Mahozi 33 (1) 810.

Committee, MK Zehava Gal'on reported on her meetings with traffickers who had been arrested: "They were pretty smug. They understand that they've been arrested, it isn't pleasant, they pay out hefty sums to the attorneys, the situation is very unpleasant, but they know... that in the end they'll get off cheaply."¹⁷⁹

In June 2001, the Knesset passed a preliminary bill sponsored by MK Yael Dayan, fixing a minimum sentence equivalent to a quarter of the maximum sentence for this crime. In the explanatory notes to the bill, it was stated that pimps and traffickers receive "ridiculous punishments..."¹⁸⁰ However, Justice Dan Arbel, Director of the Courts Administration, stated that in principle he opposed minimum sentences, because in his opinion, they weaken judicial discretion.¹⁸¹ Arbel's position ranks the independence of judicial discretion above existing distortions in the legal system relative to the crime of trafficking in women. The fact is that lenient sentencing does not deter the criminals, and what's worse, it reinforces and perpetuates the prevailing view that trafficking in women is no more than a marginal offense. As such, it encourages contempt for the principle of human rights.

The lenient punishments for trafficking in women are influenced by a number of factors. One concerns the issue of the victim's consent. Traffickers' defense attorneys frequently argue that because the women knew that they would be engaged in prostitution, what is involved is not trafficking but freely given consent between two adult parties. However, Israel's Supreme Court has ruled that in order for an offence to be defined as trafficking for the purpose of prostitution, "there is no need whatsoever for the objects of the trafficking to show any absence of agreement to any of the things done to them."¹⁸² Nevertheless, the fact that some of the women knew they would be engaged in prostitution is stressed in the case law as a mitigating factor for traffickers. The following example is from the trial of a trafficker by the name of Yossefov: "The complainant came to Israel of her own free will in order to engage in prostitution,"¹⁸³ and in Machloof's trial: "She came to Israel of her own free will in order to work as a call girl."¹⁸⁴ In the case of Saban, the judge even noted: "I find unreliable the argument that the women did not know for what purpose they were coming to Israel. In the circumstances in which they arrived, illegally via Egypt, it would seem that they did know that they were coming to engage in prostitution."¹⁸⁵

A similar discussion ensued as to the question of the victim's consent in the context of the crime of rape. The Israeli Penal Code used to define rape as sexual contact against a woman's will; thus victims were required to prove resistance in order for the crime to be defined as rape. Studies have shown that judges view differently rape committed by a man known to the victim, and rape by a stranger who attacks a woman

¹⁷⁹ Minutes of the Parliamentary Inquiry Committee session held on November 28, 2001, on instructions to the State Attorney's Office (Protocol No. 18).

¹⁸⁰ Draft Penal Code (Amendment – Applying a Minimal Sentence to Trafficking in Persons) (2001), March 27, 2001.

¹⁸¹ Minutes of the Parliamentary Inquiry Committee session held on December 12, 2001 on the issue of courts' attitude towards trafficking in women (Protocol No. 19).

¹⁸² As per Judge Strassberg Cohen in Miscellaneous Criminal Applications 9190/02 *Ben David Yaish vs. State of Israel* Supreme Court Reports 2002 (3), 70, 71.

¹⁸³ Criminal Case (Tel Aviv-Jaffa) 1018/01 *State of Israel vs. Isaac Yusipov* (unpublished).

¹⁸⁴ Criminal Case 40230/00 *State of Israel vs. Viktor Machlouf* (unpublished).

¹⁸⁵ Criminal Case (Haifa) 133/01 *State of Israel vs. Rahamim Saban* District Court Reports 2001 (2), 4256, 4261.

without warning. Judges have also tended to examine whether the raped woman had a permissive life style, what her relationships were with men, and other questions that are irrelevant to the crime and the law, but reflect conventional stereotypes.¹⁸⁶ Rape victims questioned about their sexual past and the intimate details of their lives have sometimes experienced the trauma of the rape for a second time in the framework of the investigation and trial procedures. Subsequently, the law was changed, and rape is now defined as sexual contact without freely given consent. Victims of trafficking undergo a series of trials and tribulations similar to those of rape victims; they are questioned about their knowledge and their “consent” concerning their engagement in prostitution, despite the fact that case law has already determined that these are not relevant to the crime of trafficking. Generally speaking, in the legal system, attitudes towards victims of trafficking are worse than attitudes to other rape victims.

The distinction between pimps and traffickers is also likely to influence sentencing levels. A pimp is defined in the law as a person whose earnings, whether in whole or in part, permanently or temporarily, are derived from the gains of a person who is engaged in prostitution. The punishment for a pimp is five years imprisonment.¹⁸⁷ The penalty for a trafficker, the person who sells, buys, or acts as a broker in a transaction involving the buying or selling of a human being, is 16 years imprisonment; and the penalty for a person who causes somebody else to leave their country in order to engage in prostitution is 10 years imprisonment.¹⁸⁸ While the pimp is an old figure in Israeli law, the trafficker is a new one. The law’s limited definition of the crime of trafficking generally, and of the trafficker specifically, leaves the work of delineating the image in the hands of the courts.¹⁸⁹ Judges have various views about this issue, leading to absurd results – an accused can be convicted of the crime of trafficking if he has been tried in Tel Aviv, or acquitted of the same crime if he was tried in Beersheba. The following court rulings bear this out.

In the trial of Bedian and others, one of the accused argued that he admitted to the facts – he supervised the women, incarcerated them in an apartment, threatened them and so on – but he claimed that these were at most pimping offenses, not trafficking crimes.¹⁹⁰ The court found him guilty of human trafficking for the purpose of engaging in prostitution. The conviction was based, inter alia, on the ruling in the case of Schreifer, where it was held that all those who are part of the trafficking chain are party to the crime: “These deals of human trafficking for the purpose of prostitution, ordinarily involve different people at different stages of the trafficking, each playing a more or less vital role. Trafficking in human beings for the purpose of prostitution can be compared with the operation of a chain between different people, and the combination of all these links is what results in the trafficking.”¹⁹¹

¹⁸⁶ Bogoch, Rina, Don Yehia Rachel, *Gender and Law – Discrimination of Women in Israel’s Courts* (Hebrew), Jerusalem: Israel Women’s Network, 1999, p. 33.

¹⁸⁷ § 199 of the Penal Code (1977).

¹⁸⁸ § 203 (i) of the Penal Code (1977).

¹⁸⁹ § 203 (i) of the Penal Code (1977).

¹⁹⁰ Serious Criminal Case (Tel Aviv-Jaffa) 1064/02 *State of Israel vs. Genady Bedian and Other* (Supplementary Finding for Accused No. 3), District Court Reports 2002 (3), 4839.

¹⁹¹ Miscellaneous Criminal Applications 8077/01 *Alexander Schreifer and Others vs. State of Israel*, Takdin Elyon 2001 (3), 225, 226.

In contrast, in the case of Duschker, the court came to the opposite conclusion. The accused, who was charged with trafficking in women, had incarcerated the complainant, driven her to the brothel, forced her to engage in prostitution after she had had an abortion, beaten her, and forced her to have sexual relations with him. The court found the accused guilty of the crime of pimping, not trafficking, saying: “In the absence of any proof as to a payment made for the complainant, the accused is entitled to the benefit of the doubt concerning whether or not he purchased the complainant, as indicated by the circumstantial evidence, and the court must simply find him guilty of pimping.”¹⁹² The court argued that Section 203(a) of the Penal Code makes it difficult to prove the crime of trafficking, since it requires proof that a payment has been made for the woman. Furthermore, the court held: “It must not be forgotten that they came to Israel of their own free will, with the declared purpose of engaging in prostitution; no one forced them to engage in it, and hence it cannot be said that it was the accused who brought about, in the broadest sense of the word, their engagement in prostitution.”

The disparity revealed in court rulings is the outcome of the inadequate formulation of Amendment 56. Until the legislation is amended, the crime of trafficking must be implied from the purpose of the law, from the nature of trafficking as a human rights violation, as well as from international conventions and accumulated experience.¹⁹³ According to these, trafficking is a human rights violation. Its gravity results from the individual’s being deprived of freedom, will, and dignity, as well as from the ultimate exploitation to which its victims are subjected. A person’s wish to be trafficked is not relevant, because a person cannot agree to be deprived of her own freedom. In the past this evidential problem was present in the crime of rape, when the laws of evidence stipulated that the testimony of the raped woman was not sufficient. This requirement was revoked, *inter alia*, in order to make the victim’s situation less distressing. This approach needs to be applied to the crime of trafficking in women. The emphasis in this crime must be on the denial of a person’s freedom and her subjection to the trafficker’s will. It is sufficient to prove the means that have been adopted for this purpose as defined in the UN Protocol, beginning with charging the individual with the cost of bringing her into another country, through incarceration and passport confiscation, all the way to violence and threats. There must also be proof of the existence of a link with the trafficking chain – the recruitment, transfer to Israel, examination of the victim’s body, and above all the selling of that person and the ways of subjugating her freedom to the trafficker and other persons who do his bidding. The contention that unless it can be proven that money has exchanged hands, no trafficking has occurred, should be rejected out of hand.

When it comes to the issue of remanding traffickers in custody until the end of the legal proceedings, there is a striking consensus between the State Attorney’s Office and the courts. In a large number of rulings, it is held that trafficking constitutes a cause for detention until the end of the proceedings. Justice Beinisch held as follows: “Generally speaking, it is impossible to prevent the criminal engagement in pimping for prostitution and trafficking in women other than through detention. True, the court must always check whether a suitable alternative to detention exists... However, in the case of a

¹⁹² Serious Criminal Case 910/02 *State of Israel vs. Simiyon Dushker and Others* (not yet published).

¹⁹³ Based on the lectures of Advocates Itai Frost and Rachel Gershuni of the Israel Justice Ministry, given at the continuing education program on trafficking in women held at the Continuing Education Institute for Prosecutors, January 21-22, 2003.

crime of this type, an alternative will only be found in exceptional and extraordinary circumstances.”¹⁹⁴ In hearings about remanding traffickers in custody until the end of the proceedings against them, the courts also take account of the fact that most of the accused are from the former Soviet Union, and Israel is not always the “center of their lives”; hence it is quite easy for them to flee the country.¹⁹⁵ According to the Criminal Procedure Law, legal procedures must be completed within nine months of the day on which the indictment is brought. However, in a number of cases, remand has been extended beyond this nine-month limit, with the courts observing that despite the damage this causes the accused, they prefer to take account of the gravity of the crime and the danger to public security resulting from the accused.¹⁹⁶ The courts’ resolute stance toward remanding suspects in custody until the end of the proceedings is in marked contrast to the lenient sentences subsequently handed down.

Women can wait for many months before testifying, despite the prosecuting attorneys’ requests to take their evidence as soon as possible. The State Attorney informed the Parliamentary Inquiry Committee that as early as November 2000, she had asked the courts administrator to give priority to trafficking cases and to allow the women to testify as soon as possible.¹⁹⁷ The reports of the interministerial task force and the Parliamentary Inquiry Committee both recommend that the waiting time for giving testimony be shortened considerably.¹⁹⁸ Protracted waiting heightens the women’s exposure to threats by the pimps, weakens what in any case is their limited faith in the authorities and encourages them to give up the idea of testifying, and is, of course, very expensive. When it comes to the giving of preliminary evidence by victims of trafficking, one of the problems encountered is the small number of criminal benches available - compared with the large number of preliminary evidence hearings required. There is no doubt that transferring hearings in trafficking cases to a sole judge, at least for the purpose of hearing preliminary evidence, would speed up the taking of evidence. However, the Justice Ministry’s position is that the hearing of evidence must be left to a three-judge bench, in order to avoid violations of defendants’ rights.¹⁹⁹

Economic enforcement

The economic aspects of the phenomenon of trafficking in women were discussed on a number of occasions at the sessions of the Parliamentary Inquiry Committee and the interministerial task force. When the issue of rehabilitating victims of trafficking arises,

¹⁹⁴ Miscellaneous Criminal Applications 1524/01 *State of Israel vs. Ackerman* Supreme Court Reports 2001 (1) 1032, 1033.

¹⁹⁵ Miscellaneous Criminal Applications 3397/02 *Vladimir Borisov vs. State of Israel* Supreme Court Reports 2002 (2) 784, 785.

¹⁹⁶ Miscellaneous Criminal Applications 10599/02 *State of Israel vs. Ludmila Kremarenko*; Miscellaneous Criminal Applications 8878/02 *State of Israel vs. Simiyon Dushker* Supreme Court Reports 2002 (3), 2380.

¹⁹⁷ Minutes of the session of the Parliamentary Inquiry Committee held on November 11, 2001: “State Attorney Directives” (Protocol No. 18).

¹⁹⁸ Report of the interministerial task force, p. 30, bill prohibiting trafficking in persons (2002), § 25/

¹⁹⁹ Protocol No. 433 of the Parliamentary Constitution, Law and Justice Committee session held on February 2, 2002; Protocol No. 32 of the Parliamentary Inquiry Committee session, July 15, 2002.

Hearings of trafficking in women cases are held in a district court sitting with three judges because of the severity of the sentence for this offence, pursuant to §§ 37(i)(1), 40 and 51 of the Courts Law [Consolidated Version] (1984).

the argument is generally that there is no budget for this.²⁰⁰ The willingness to deal with the subject arises in a meaningful fashion when reference is made to charging taxes on the profits generated from trafficking. The Anti-Money Laundering Authority examines the flows of capital that point to criminal activity. It is supposed to provide the police with “high-caliber intelligence,” so that the latter can investigate money that originates in serious crimes, thus contributing to the war against those crimes. The list of offenses likely to provide a basis for money laundering appearing in the 2000 Anti-Money Laundering Law includes all the prostitution-related crimes. Advocate Yehuda Scheffer, head of the Authority, told the Inquiry Committee that “all operations involving assets that originate in one of these crimes are assets that we are entitled to and duty-bound to help the authorities to obtain.”²⁰¹

At a session the Inquiry Committee, the Income Tax Commissioner expressed her willingness to wage an economic war against trafficking. As she put it, in parallel to obtaining indictments, the Income Tax Authority was interested in handling the civil part as well, in the form of taxes. The representative of the Customs and VAT Division, who also participated in the Parliamentary Inquiry Committee session, emphasized that collecting taxes in no way indicated recognition of trafficking, nor did it provide any legitimization to involvement in prostitution. The approach of income tax and VAT authorities, borne out by case law, is that crime should not pay, and that criminals should not enjoy both illegal profits *and* income tax evasion.²⁰² It is worth arguing that at least part of the money collected from trafficking and prostitution crimes should be utilized for the rehabilitation of victims, since, after all, they are the ones who have paid a heavy physical and psychological price for the generation of such revenue. A further means that could serve this same objective would be the seizure of traffickers’ assets, just as drug dealers’ assets are impounded.²⁰³

Enforcement against the victims – theory and practice

In 2003, victims of trafficking were still perceived as criminals, even though in Israel prostitution is not considered an offence. The fact that trafficked women are in the country illegally (illegal aliens) is the most serious offence involved, as far as the authorities are concerned; for this the women are routinely arrested, locked up, and deported. It is true that the proportion of women testifying against traffickers before they are deported has increased, from 7% of all deportees in 2000 to around 20% in 2002, but the fact remains that most of trafficked women still do not testify as to the crimes committed against them.²⁰⁴ Not only are they not treated properly as victims of a serious crime: the main “treatment” given them – deportation – is no solution to human trafficking, and makes its victims’ situation worse.

The authorities wrap the arrests and mass expulsions of trafficked women in sterile, “laundered” expressions; victims are not in “detention” but in “custody,” not deported but merely being “distanced,” by “inspectors” or “patrolmen” of the “Immigration”

²⁰⁰ For instance, the Health Minister, Nissim Dahan, referred to budgetary problems at the Parliamentary Inquiry Committee session of November 7, 2001.

²⁰¹ Minutes of the session of the Parliamentary Inquiry Committee held on May 20, 2002: “The economic fight against trafficking in women” (Protocol No. 28).

²⁰² Ibid.

²⁰³ Dangerous Substances Ordinance [New Version] (1973).

²⁰⁴ Report of the interministerial task force, p. 14.

Authority, who are no more and no less than policemen of what is in fact a Deportation Authority. It would be better if Israeli legal authorities were to abandon their efforts to camouflage the true state of affairs, and instead took action against the parties responsible for this situation: the traffickers.

Arrest and deportation

The Law of Entry to Israel and its 2001 amendment were intended to regulate the presence of foreign nationals in Israel, and to make sure that their deportation was handled in accordance with legal process, including right to judicial review.²⁰⁵ A police officer or inspector duly authorized by the Interior Minister has the power to arrest a foreign national suspected of being in the country unlawfully, for a period of 24 hours. Generally speaking, the detainee is moved to a detention facility close to the place of arrest. The law stipulates that the detainee must be notified of his rights in a language he understands, and he must be enabled to inform somebody close to him, a lawyer, or his country's representation, of his arrest. The police are supposed to bring the detainee before a border control officer acting on behalf of the Interior Ministry within 24 hours. This officer is to allow the detainee to voice his arguments, and if the officer is convinced that the detainee is unlawfully present in the country, he can issue an expulsion order, pursuant to which the person will be held in detention until deportation. The border control officer has the power to decide to release the detainee on bail (1) if he is convinced that he will leave Israel of his own volition, or (2) on humanitarian grounds.

The actual state of affairs, however, is utterly different from the theory. The chances of a woman who has been arrested at a brothel of being released by the border control officer are nil.²⁰⁶ Not all border control officers know Russian, and in most hearings no interpreter is present – a state of affairs which makes a mockery of the whole procedure. The information about the detained women's rights is provided to them in a partial fashion and by human rights organizations only – not by the police as the law requires. Often consuls are only informed of arrests after the women have been transferred from a detention center to another facility from which they will be deported, long after the arrest. Because the police do not inform the women of their rights at detention centers, they are unable to realize these rights. In this way, trafficked women are deprived of legal representation, as well as of the opportunity to apply for release on bail. The right to appeal a deportation order is particularly important if there is reason to believe that the woman will be in mortal danger in her native country. After the procedure at the police detention station has been concluded, the women are transferred to other detention facilities until deportation.

Victims of trafficking are often “stuck” for extended periods in lockups scattered throughout the country rather than being moved to detention facilities intended for deportees. The poor conditions in these lockups were publicized in the January 2002 Public Defenders' Office report.²⁰⁷ In a June 2002 visit to the Kishon lockup by

²⁰⁵ Law of Entry to Israel (2001) (Amendment No. 9).

²⁰⁶ A question on this subject, which was addressed to the Interior Ministry on January 1, 2003 under the Freedom of Information Act, was not answered, but as far as we are aware, no use has ever been made of this authority in any matter relating to victims of trafficking.

²⁰⁷ Public Defender's Office, *Conditions of Detention at Police Stations and Other Israel Police Detention Facilities in 2001* (Hebrew), 2002, pp. 5-6.

representatives of Physicians for Human Rights, it was found that 448 detainees were being held at the facility, although it had only 340 beds. Inmates reported that because of the overcrowding, they were forced to step on each other.²⁰⁸ On October 5, 2001, V.A., a trafficking victim from Moldova, arrived at the Haifa lockup after being arrested at a Haifa brothel. Since the Hotline had been asked by her country of origin to locate her, and the request had been passed on to the police, the duty officer at the lockup telephoned the Hotline with a request to look after her as a matter of local urgency, saying, “I’ve already got a whole bunch of girls on the floor. I can’t pile them up one on top of the other.” Furthermore, at these lockups victims of trafficking are kept in the same cell as criminal detainees, in breach of the stipulations of the Law of Entry to Israel as well as in breach of the provisions of the International Covenant on Civil and Political Rights.²⁰⁹

In addition, officers at police stations and lockups where women are detained do not always allow the women to make a telephone call, neither do they make a point of explaining their rights to them. Many stations do not permit volunteers to enter the lockups. Women from Uzbekistan who were arrested upon arrival in Israel, between August and October 2002, were discriminated against for unknown reasons. Instead of transferring them to the detention facility in Hadera, where conditions are relatively better, they were held for a long time at various lockups in the south of the country. Once every few days or weeks they were transferred from one lockup to another. One woman who met a Hotline volunteer on December 15, 2002 had been sent from pillar to post for close to four months, moving between the various lockups (Sderot, Negev, Ofakim, and Beersheba). The day after their meeting, she was transferred to yet another lockup.

The police do not always treat the women with decorum; in fact they sometimes act very coarsely. The following testimonies have been given concerning the police in Upper Nazareth. On October 15, 2002 policemen came to pick up prosecution witnesses who had just testified. When they asked the police to help them carry their gear, one of the policemen retorted, “Is schlepping hard for you, slut?” When an Isha L’Isha volunteer called the police station and asked for information about these victims of trafficking, the detective replied, “I don’t know any victims, I know two hookers who gave evidence in the case.” Another woman who was arrested by the Upper Nazareth police recounted having asked for pills that she needed for her heart condition, and the police refusing. None of the women who were arrested with her were given a change of clothing, soap or a towel, for three days. When they asked one of the policemen taking them in the patrol car where they were being transferred, he replied that they were being taken to their own execution.²¹⁰

Conditions at detention facilities

Prior to November 2002, most victims of trafficking in women awaiting deportation were held at the Neve Tirza Women's Prison. At any given time, there were 30-40

²⁰⁸ Physicians for Human Rights, *The price of density* (Hebrew), June 2002.

²⁰⁹ According to § 13(v) of the Law of Entry to Israel (1952), “an individual who is in the country illegally shall be held in a separate cell from criminal detainees and prisoners”, as well as the International Covenant on Civil and Political Rights (ICCPR), 1966.

²¹⁰ According to the testimony of A.Z, a Moldavian national, taken on November 11, 2002 at the Neve Tirza prison.

women at the jail.²¹¹ The separation between criminal prisoners and deportees was not strictly observed as required by the Law of Entry to Israel, but to balance this, favorable mention must be made of the way that the prison personnel treated the trafficked women. Hotline volunteers visited the women regularly and were accorded full cooperation by the personnel. Volunteers found that police classified the women as follows: those who had been arrested for being illegally present in the country (“illegal aliens”) were marked “C” (for “criminal”), while those who had been arrested at brothels were marked “P” (for “prostitute”). This insulting classification system came to an end when the amendment to the Law of Entry to Israel came into force; since November 2001, all women have been given consecutive serial numbers for identification purposes.

In November 2002, a detention facility was opened in Hadera for foreign women awaiting deportation. It is supposed to contain 120 places. At the time of writing, up to 84 women, around half of them victims of trafficking, are being detained there. The conditions in the facility are reasonable: 6-8 women per room, and the rooms are supplied with magazines and television sets. The personnel treat the trafficking victims fairly well, but despite the fact that a considerable proportion of the women are suffering from physical and psychological trauma, victims of trafficking receive no psychological counseling, rehabilitation, or medical treatment over and beyond first aid. Conversations with trafficked women would seem to indicate that as far as they are concerned, detention is a direct continuation of their incarceration at the hands of their traffickers, adding to the misdeeds committed against them. Isha L’Isha and Hotline volunteers as well as students from the Human Rights Division of the Ramat Gan Academic College of Law pay visits to the prison, but these are limited to two days a week. The volunteers provide assistance such as legal advice, liaison with the women’s home countries and acquaintances in Israel, and explanations about their rights. The volunteers also represent the women at the hearings of the Administrative Tribunal for Review of the Detention of Illegal Aliens (Custody Review Tribunal), to be discussed at length below. Given the large number of victims of trafficking at the facility, volunteers should be enabled to visit more than twice a week.

Since victims of trafficking usually do not have valid passports, one of the factors that determines how long they will have to wait in jail for their deportation is the speed with which the consuls of their countries act. It is their role to identify the women and to provide them with travel documents. Another important factor is the time it takes until authorization is provided by the State for financing airline tickets in the case of women who are unable to finance these themselves.²¹² As long as they were held at the Neve Tirza Women’s Prison, most women waited between 18 and 26 days before they were expelled, although women from countries without representations in Israel waited far longer. For example, T.A., a woman from Tajikistan, was deported on June 3, 2001, 290 days (!) after her arrest. Apart from the suffering caused by this protracted

²¹¹ Minutes of the session of the Parliamentary Inquiry Committee held on April 30, 2001: “Visit to Neve Tirza prison” (Protocol No. 5)

²¹² According to an arrangement worked out in High Court of Justice case 199/98 *Levrick and Others vs. Interior Minister* (unpublished).

incarceration, her detention cost the Israeli taxpayer nearly twenty thousand dollars.²¹³ There are as yet no statistics concerning the average time that women remain in the Hadera detention site awaiting deportation, but it is clear that the expulsion of victims of trafficking from Uzbekistan is a long, drawn-out process. The reasons are in part a result of the Uzbek Consulate's insistence on the payment of \$25 for travel documents, a sum which, generally speaking, the women just do not have. For example, the incarceration of H.A. lasted for 74 days, simply because she was unable to pay this sum, and it cost the public coffers hundreds of dollars because the "Immigration" Authority refused to pay \$25.

In response to the Hotline's request to subsidize this sum, the "Immigration" Authority replied that it was "doing everything in its power in conjunction with the Foreign Ministry in Israel and abroad in order to obtain ... the amounts required, in light of the fact that before their entry to Israel they hid or destroyed their IDs in order to make it more difficult to send them back. We do not intend to pay the 'fine' because it is unethical, and hence could constitute a precedent... It is not the State of Israel's role to finance this expenditure. In my humble opinion, it would be justified for the Hotline for Migrant Workers to examine the possibility of financing these payments."²¹⁴ In reaction to the stalemate, the Uzbek women launched a hunger strike in April 2003. The consul was called in; and told the women that they were besmirching his good name. He warned them that if they did not call off the hunger strike, he would make sure that the vice division would make their lives hell after they had returned home.²¹⁵ The strike was called off following a promise to speed up the handling of their affairs – a promise that was kept in part.

Arrest and deportation as a way of combating trafficking in women are inappropriate and of doubtful effectiveness. Locking up 30 victims of trafficking at the Neve Tirza Women's Prison costs the public coffers some \$50,000 a month, not including the price of airline tickets and additional expenses. Spending these vast amounts on combating the traffickers in a targeted fashion, instead of incarcerating and deporting their victims, would help to eradicate, or at least to curtail, trafficking far more effectively. Moreover, as long as the "demand" for prostitution services continues to be perceived as a legitimate need, the "supply" will also continue to enter the country. The focus on the arrest and deportation method means "treating" the symptoms of the problem instead of its roots. Hence it is condemned to failure from the very outset, in terms of combating trafficking in women (as well as dealing with foreign workers).²¹⁶

²¹³ The cost of one day of incarceration at the Neve Tirza prison: NIS 272.11, according to a reply by the Israel Prisons Service of August 8, 2002, in response to a request for information from the Hotline for Migrant Workers.

²¹⁴ Letter by Superintendent Shelly Harpaz Greenberg dated March 27, 2003. The letter is cited exactly, including the quotation marks.

²¹⁵ According to testimonies given by two Uzbek nationals, N.S and K.G., who were detained in Hadera detention facility at the time.

²¹⁶ A further problem arising in the context of detention pending expulsion involves privatization of prisons. Private bodies are already involved in running the detention facilities of illegal aliens in Hadera and Nazereth, for the moment providing board and security services. Worldwide, experience shows that privatization, which is intended to reduce expenditure, is likely to lead to human rights violations. The process of privatizing Israel's prison system is in its early stages and its implications should be monitored carefully.

While lockups and detention facilities are far from ideal locations for keeping the victims of trafficking, given the current circumstances they are sometimes the lesser of two evils, particularly for women who have escaped from brothels using their own resources. If the alternatives available to these women are between a lockup and sleeping on the streets without a penny in their pockets or returning to brothels, the first possibility is preferable. However, the police do not always have enough room for them. According to the testimony of Superintendent Pini Aviram to the Parliamentary Inquiry Committee, the police sometimes refuse to arrest trafficked women due to lack of space.²¹⁷ He reported that when he brought women to their consulates and asked them to deal with them, he was reprimanded by the Foreign Ministry.²¹⁸ So far, no alternative solution has been found, and there is no doubt that a special shelter for victims of trafficking in women would be the best solution.

Judicial review of arrest and deportation

Section 13 of the International Covenant on Civil and Political Rights stipulates that an individual shall be expelled from a state only pursuant to a decision reached in accordance with the law and that an opportunity must be provided to appeal the expulsion decision.²¹⁹ Israel is a signatory to the Covenant, which it has also ratified, but victims of trafficking, like the thousands of migrant workers expelled from Israel every year, do not benefit from proper judicial review of the deportation process. In theory a Review Tribunal has been established for the detention of illegal aliens (the Custody Review Tribunal, hereafter “the Tribunal”).²²⁰ According to the Law of Entry to Israel, an individual whose arrest has been ordered by a border control officer must be brought before the Tribunal as soon as possible and no later than 14 days after the arrest. The Tribunal is not authorized to revoke an expulsion order, but it does have the power to lay down conditions under which the detainee is to be held and to release her on bail. The Tribunal is supposed to undertake judicial review of the detention order, but deportees do not always have an opportunity to speak. No responsible body informs them of the nature of this Tribunal, or what their rights are. The hearings take place at the detention facilities and there are absolutely no distinguishing features to indicate that this is a judicial procedure, or that this represents an opportunity for detainees to voice opposition to their expulsion.

The lawyers who sit on the Tribunal do not speak the languages relevant to victims of trafficking, and many applications to provide them with interpreters have elicited no response. The hearings are held in Hebrew, which most of the deportees do not understand, and in broken sentences in a mixture of languages. The only words with which the Tribunal is familiar are “dingi leBILET” (in Russian, money for an airline ticket) or “passport original” (genuine passport). For lack of any other option, communication with the male and female detainees who appear before the Tribunal is frequently based on gestures, a mode not exactly appropriate to a judicial proceeding.

²¹⁷ Minutes of the session of the Parliamentary Inquiry Committee held on May 16, 2001: “Dealing with trafficking in women in Tel Aviv” (Protocol No. 6).

²¹⁸ Minutes of the session of the Parliamentary Inquiry Committee held on June 19, 2002: “Police account of recent arrests of traffickers” (Protocol No. 29).

²¹⁹ International Covenant on Civil and Political Rights, 1966.

²²⁰ At this Administrative Tribunal, competent officials include all those competent to serve as a judge in a magistrates’ court and who are proficient in the laws on entering and leaving Israel. The period of office of the Tribunal’s judges is three years and they are appointed by recommendation of the Interior Minister.

The Tribunal sometimes uses the services of one of the detained women who speaks slightly better Hebrew than the others. However, this practice is likely to deter a trafficking victim from testifying, since she may fear that her testimony will become known to the other women, and perhaps to the traffickers as well. In these circumstances the hearings do not take place in a way that enables the women to present their cases in any real sense. An interpreter needs to be appointed as soon as possible for the Tribunal's hearings, so as to make them meaningful and not just an empty procedure. Translation is a basic right under the U.N. Protocol also. The women should be given legal aid so that they also have counsel when they appear before the Tribunal.

There are further problems in terms of how the Tribunal operates.²²¹ The Tribunal conducts weekly hearings in the detention facility in Hadera, but the Hotline and students from the Human Rights Division of the Ramat Gan Academic College of Law are not always notified of its sessions in sufficient time – a state of affairs that deprives the women of their right to be properly represented. The dates of the Tribunal's hearings are not published, and there is no known address, mailbox or fax number through which the Tribunal can be contacted. The Tribunal's records are not published anywhere, and they can only be obtained through Hotline volunteers or by applying to the Tribunal's judges via their cellular phones. When victims of trafficking appear before the Tribunal, the record sometimes indicates that they were arrested because of prostitution or forged documents instead stating that there is “a suspicion of trafficking in women.”

As has been indicated, the law requires a foreign detainee to be brought before the Tribunal as soon as possible and within 14 days of her arrest. This stipulation discriminates between foreigners and Israelis, the latter of whom must be brought before a judge within 24 hours. But even here neither the police nor the Tribunal itself pays any attention to the deadline laid down in the law. The Hotline has documented countless cases in which victims of trafficking were brought before the Tribunal very late, and the Tribunal provided ex post facto authorization of their detention. A.K., for example, was brought before the Tribunal belatedly. The Tribunal ruled as follows: “The detainee was brought before me when more than 14 days had elapsed since the day of her arrest, in breach of the stipulations of the Law of Entry to Israel – 1952. Nevertheless, and since there is a substantial danger that if she is released she will return to the arms of her employer, I confirm her detention ex post facto.”²²² The Hotline volunteers' request to transfer women who were brought before the Tribunal with a significant delay to the hostel where prosecution witnesses are housed until their deportation was rejected out of hand. It must be stated that in the absence of any sanctions for failure to bring the women before the Tribunal within the time limits, the authorities do not hasten to comply with the law.

In the case of Israeli citizens, detention is the exception and liberty the norm. The law stipulates that “a judge shall not order an arrest ... if the purpose of the arrest can be attained by setting bail and conditions for the posting of a bond, which impact less on

²²¹ For a more in-depth discussion of the shortcomings of the Tribunal's operations, see: Hotline for Migrant Workers, *“For You Were Strangers” - Modern Slavery and Trafficking in Human Beings in Israel*, 2002, pp. 46-47.

²²² Decision by Advocate Sharon Bavly-Lary, issued on October 3, 2002 at the Abu Kabir detention center.

the liberty of the suspect.”²²³ As far as foreign nationals are concerned, the opposite applies. The Tribunal abstains from releasing victims of trafficking and agrees to transfer them to the hostel mainly if they become prosecution witnesses. The Hotline documented two cases of women who were released in order to try to locate the babies whom their traffickers forced them to give up. In order to understand the dimensions of the absurdity, we must look at the decision of Israel’s Supreme Court in the matter of a man accused of trafficking who was released on bail in the amount of just one thousand dollars.²²⁴ In this discussion, Justice Ayala Procaccia ruled that bail conditions should be set which would ensure that detainees, including human traffickers, should not languish in detention for extended periods of time simply because they were unable to pay the bail. We have not yet reached the stage at which traffickers and their victims receive the same consideration; apparently even during detention, the rights of traffickers take precedence over those of their victims.

Attitudes to prosecution witnesses

Prosecution witnesses are a key factor in bringing traffickers to justice, but despite this fact the way witnesses are treated while they are awaiting testimony and subsequently is utilitarian at best. They are used, and afterwards dumped back in their countries and abandoned to their fate like a vessel that nobody wants. In line with the policy of the prosecuting authorities, until July 2000 most prosecution witnesses were kept in detention until they gave testimony,²²⁵ after which they were expelled to their countries of origin. These periods of detention lasted for many weeks and sometimes even months.²²⁶ This state of affairs continued notwithstanding the criticism voiced. Legislator Yuri Stern made the following comments after visiting the Neve Tirza Women’s Prison together with fellow legislator Yael Dayan: “The more [the trafficked woman] cooperates, the longer she spends in jail. We saw two women who have been held for three months since their arrest... when the only reason they’re in jail for so long is that they’re waiting to give evidence. This is utterly scandalous. I consider it a stark violation of human dignity.”²²⁷ Nevertheless, Prosecuting authorities continued to apply for the detention of witnesses on a variety of grounds, including the danger to the women’s lives, the fear they will not turn up to give testimony, and the possibility that the Interior Ministry will expel them before they have had a chance to testify.²²⁸

In July 2000 an important precedent was set at the Tel Aviv District Court. Judge Edmond Levy held that not only were the witnesses not to be detained, but the State was obliged to finance their expenses up to the time they testified: “Remanding the respondents in detention, simply because they are to testify in proceedings against other persons ... is as I see it an intolerable outcome and one which is unbecoming of a legal system that professes the right of all individuals to remain free ... It is possible to

²²³ Criminal Procedure Law (Powers of Enforcement Arrests) (1996).

²²⁴ Miscellaneous Criminal Applications 3153/00 *Arnold Shlumov vs. State of Israel*, Dinim Elyon, Vol. 58, 4.

²²⁵ Pursuant to § 73 (iv) of the Courts Law [Consolidated Version] (1984).

²²⁶ According to Hotline figures, women who testified in 2000 were in prison for around two months on average and were individuals who were kept in detention for this reason for six months.

²²⁷ Comments made at the session of the Joint Committee of the Foreign Workers Committee and the Committee for the Advancement of the Status of Women, March 2000.

²²⁸ Miscellaneous Applications 91417/00 *State of Israel vs. Ludmila Rusayeva and Others* (unpublished), Miscellaneous Applications 92855/99 *State of Israel vs. Danilov* (unpublished).

achieve this outcome of ensuring that they will testify ... without it being necessary to take the drastic step of detention. In these circumstances the question naturally arises as to providing them with means of subsistence and a roof over their heads... and here too the answer must be the logical one – viz., that the party that instigates the criminal proceeding must bear this cost. And if an argument arises that this is a burden on the state, all that I can say is that a criminal proceeding is an expensive matter that is financed by public funds, and the financing issue is subsidiary when the court comes to rule on the issue of an individual's liberty to go about freely until his testimony is heard."²²⁹

Other judges have followed this precedent and ruled that women must not be remanded in custody for the purpose of giving testimony.²³⁰ As a result, the State Attorney's Office and the police have been forced to change their policy and have issued new directives instructing that prosecution witnesses be housed in a hostel.²³¹ The Attorney-General has also endorsed this welcome change, noting: "In this matter our position is unequivocal: there must be no arresting of victims of trafficking who are to be defense witnesses or prosecution witnesses. Court rulings have been very helpful in this respect, but over and beyond this the logic is as follows, on the basis of common sense: why should an individual languish in detention if innocent of any crime?"²³² Generally speaking, some 50 victims of trafficking are waiting to give testimony at any given time.²³³ In the whole of 2002, there were 130 witnesses waiting at hostels.²³⁴ In reply to a question about the number of trafficking in women witnesses incarcerated in detention centers awaiting testimony, the police replied that they "are not supposed to be in detention."²³⁵ However, in reality the situation is quite different, and to this day witnesses in trafficking cases are still being held in jail, as we will see below.

The attitude to prosecution witnesses touches upon the issue of legal aid and representation of victims of trafficking. At the hearing at which the precedent laid down by Judge Levy was set, the women were represented by a lawyer from the Public Defender's Office. It was he who opposed the application for remand in custody and insisted on the woman being released – a situation that more than likely led to the above court ruling. Because most victims of trafficking are not prosecuted but instead issued a deportation order, most of them are not entitled to representation by the Public Defender's Office. This may well prevent them from receiving additional relief from the court. The problem of legal representation is also relevant to prosecution witnesses housed in hostels. Despite the fact that they are involved in a legal process that they do not understand, there are no arrangements that enable them to receive appropriate legal mentoring and assistance. For example, women who have testified are not always informed when the legal process has come to an end, and what the court's verdict was.

²²⁹ Miscellaneous Applications 91548/00 *State of Israel vs. Julia Verivkin* (unpublished).

²³⁰ Miscellaneous Applications 8891/00 *State of Israel vs. Natalia Pinsko* (unpublished). An application submitted by the State Attorney's Office to review this case was rejected.

²³¹ Circular: "The giving of testimony by illegal aliens in Israel awaiting expulsion (81/ 0110 – 114873, dated June 19, 2001), Inter-Ministerial Task Force Report, p. 14; State Attorney's Office Instructions, December 27, 2001, according to information on the Israel Justice Ministry site. <http://www.justice.gov.il>

²³² Minutes of the session of the Inquiry Committee held on July 15, 2002 (Protocol No. 32).

²³³ Report of the interministerial task force, p. 14.

²³⁴ According to the Israel Police reply to the letter under the Freedom of Information Act, December 29, 2002.

²³⁵ *Ibid.*, paragraph 2.

Even if a plea bargain has been reached, as happens in many cases, they are not duly informed.

In the months between the court's precedent-setting ruling concerning the remand of witnesses and the publication of the new directives of the State Attorney's Office and the Israel Police, the police and courts continued to behave as in the past. The police applied for the remand in custody of Yulia Fiznitz, a trafficking victim, because she expressed her wish to register a complaint and give testimony: "Her testimony contains the contention that she was employed at a massage parlor and that her employer also raped her; thus we must also investigate in this direction, in which she is not a suspect but a complainant."²³⁶ The same applies to the case of Yelena Nastrova, where the complainant said: "I agree to the extension of my detention in order to give evidence in court, but I ask the court to act quickly to fix a date for the hearing of my testimony. I have been sleeping on the floor, and I ask the court to take this into account." In this matter the court simply held that: "The suspect drew the court's attention to her living conditions in prison. Since she is not a 'normal' suspect but in fact a witness, because otherwise she would have already been sent back to her country, arrangements should be made to ensure that she has better conditions in prison to the extent possible."²³⁷

It should be noted that the new police and State Attorney's Office directives concerning the detention of prosecution witnesses have been taken far more seriously by central stations in the larger cities. However, when it comes to police stations in outlying areas, the directives are viewed as non-binding recommendations at best. Since the establishment of the "Immigration" Authority the situation has deteriorated, and more prosecution witnesses than in the past are being arrested and transferred to detention facilities. In January-March 2003, at least nine prosecution witnesses were held at the Hadera detention facility. The Israel Police uses one of three methods to detain the witnesses: detention without any contact whatsoever with judicial authority; application to remand in custody, deliberately and consciously ignoring the new directives of the police and State Attorney's Office; or filing a charge sheet for illegal presence in the country, an unusual practice in the case of foreigners, unless they have committed serious offences such as rape or murder, or are Palestinians. The following cases illustrate these methods of operation.

In a charge sheet submitted in March 2002 to a court in Ashdod, in the south of the country, two victims of trafficking were charged with possession of a small amount of narcotics and illegal presence.²³⁸ In the application for their detention, a different reason was indicated: "Providing sexual services in aggravating circumstances, which constitute reasonable grounds for concern that releasing them from detention will endanger the public peace, security, and health."²³⁹ In a charge sheet submitted to the Nazareth court in November 2002, three victims of trafficking were indicted for the sole offense of illegal presence in Israel, but the police applied for their detention in order for them to act as witnesses for the prosecution. These charge sheets are serious matters,

²³⁶ Custody Case 1302/01, *State of Israel vs. Yulia Pezintz* (unpublished).

²³⁷ Custody Case 946/01, *State of Israel vs. Nastrova Yelena* (unpublished), hearing held on February 4, 2001.

²³⁸ Criminal Case 1288 Miscellaneous Applications (Ashdod) 1460/02 *State of Israel vs. Tsaifini Nadia and Others* (unpublished).

²³⁹ Paragraph 5 of the application to remand until the end of proceedings submitted to the Ashdod Magistrates' Court on March 10, 2002.

irrespective of whether they were submitted out of ignorance or whether they were submitted in disregard of the directives. The Hotline and Isha L'Isha contacted the police in order to clarify the reasons for the bringing of a charge sheet designed to keep prosecution witnesses in detention in violation of the directives. In a letter dated December 18, 2002, the police admitted that in this instance "there was no justification for submitting a charge sheet against the witnesses for illegal presence; this was a mistake which is not indicative of the rule. The units have been given instructions ... in order to prevent any recurrence of these instances in the future." It is to be hoped that this will indeed be the case.

The State Attorney's Office has also continued to ask the court to detain witnesses in the case of trafficking offenses. On May 31, 2002, the Southern District State Attorney's Office applied to the Beersheba District Court for the detention of nine prosecution witnesses, citing the following arguments: "The respondents have no fixed abode and when they were picked up they were in possession of forged papers and hence there are grounds for assuming that unless they are detained until they give testimony or post appropriate bail to guarantee that they will turn up at the hearing, they will not give testimony."²⁴⁰ When the application was heard on June 3, 2002, the State Attorney's Office representative said, "In the past, attempts were made to hold other witnesses in various hostels, but these attempts were unsuccessful, and the witnesses ran away and there were also attempts to subvert the course of justice." It must be emphasized that the application was submitted after the new State Attorney's Office directives had been issued and was in breach of them. After the Hotline contacted the Investigations Division at National Police Headquarters, and after the women received representation by the Public Defender's Office, the parties agreed to transfer the witnesses to a hostel.

As serious as the detention of women through exploitation of the legal system is, far more serious is the detention of victims of trafficking without the authorization of a court of law. This is precisely what happened to two women from Moldova, T.G. and S.F., who were kept in the Negev detention center for a month and a half. The women reported that during the period of their incarceration, they were taken to court to testify. Only there did they hear from the man against whom they were supposed to testify that a plea bargain had been struck and that their testimony was not necessary. Not only were they kept in detention in order to give evidence, but they were detained after the trial as well, because their travel documents were not ready.²⁴¹ Another case: on March 18, 2003 there appeared before the Tribunal at the prison a woman in whose testimony the police were interested. In reply to a question from a Hotline representative present at the hearing, the Tribunal replied that there was no injunction delaying her expulsion. It turned out that she had been detained without legal authority. As a result of the Hotline's intervention, the woman was released to the hostel designated for prosecution witnesses.

No protection for prosecution witnesses waiting to testify

In the days when the State Attorney's Office used to ask the court to remand prosecution witnesses in custody, it would emphasize to the court the dangers lying in

²⁴⁰ This application was submitted on May 31, 2002 as part of Miscellaneous Applications 21299/03 by Adv. Yoav Kishon, from the Southern District State Attorney's Office.

²⁴¹ The testimonies were taken at the Neve Tirza prison on August 14, 2002

wait for the women, and above all the menacing Russian mafia. These dangers evidently “vanished” once the women were transferred to hostels, for in most of these hostels there is no security. Things have come to such a pass that while a volunteer from Isha L’Isha was talking to a prosecution witness at a hostel, a woman from a local brothel turned up and suggested to the women, including the Isha L’Isha volunteer, that they engage in prostitution while waiting for trial, or that they forget about testifying and move to the brothel. This woman knew the precise location of the hostel and the identity of its residents. Another example: in his testimony to the Parliamentary Inquiry Committee, Police Superintendent Pini Aviram spoke of a prosecution witness abducted from a hostel in order to prevent her from giving testimony.²⁴² At the same time, the police admitted that in the previous year, over 20 prosecution witnesses had disappeared from the hostels.²⁴³ Despite this state of affairs, the Hotline’s applications to the police to provide the witnesses with protection, at least within the hostel, have been turned down. The absence of proper security arrangements endangers the women and sabotages the fight against the traffickers; such arrangements need to be instituted as a matter of urgency.

Defense witnesses

One of the most troublesome and least known issues is the way victims of trafficking are detained and prevented from leaving the country in order to give evidence on behalf of traffickers and pimps. For the most part, these are women who do not know their rights, whose detention has been extended so that they can give evidence without their even being asked, and who can be presumed to be testifying on behalf of traffickers and pimps because of threats to their loved ones in their countries of origin, or after they have been promised some inducement in return for their testimony – a state of affairs that naturally discredits them as reliable witnesses. In the course of 2001-2002, the Hotline documented 10 cases in which the court was asked by traffickers’ counsels to prevent the departure from Israel of women held in detention in order for them to testify on behalf of the defense – applications which effectively extended their detention. The arrangements applicable to prosecution witnesses do not apply in the case of defense witnesses; the latter remain in jail, sometimes for several months.

In May 2001 three victims of trafficking in women were arrested, and a deportation order was issued against them. In accordance with the procedures, if the woman has a passport but lacks the money for an airline ticket, she waits for the State to provide the requisite financing, a procedure that can take up to two weeks. When Hotline volunteers noticed that some women had been in detention for longer periods of time, they were told that an attorney had promised to bring them an airline ticket and that they were therefore not entitled to State financing. It turned out that the attorney, who was representing the traffickers, applied to the court to delay the women’s departure from Israel, in order for two of them to act as defense witnesses.²⁴⁴ The State did not oppose the application and the court acceded to it, extending the women’s remand without giving them the right to object. The court also rejected the Hotline’s application to appoint independent counsel for the women, arguing that “even a witness who is not an

²⁴² Minutes of the session of the Inquiry Committee held on June 19, 2002 (Protocol No. 29).

²⁴³ Singer, R. “Police in trouble: Vanishing testimony against women traffickers”, *Haaretz*, May 25, 2003, p. A13.

²⁴⁴ Criminal Case (Tel Aviv) 1063/01, *State of Israel vs. Romano* (unpublished).

alien does not have such a privilege.” The court did not take account of the fact that an Israeli witness does not remain in jail until giving evidence, in particular if he is a defense witness. The Hotline has in its possession additional information about the scope of this phenomenon. Many women are known to be “delayed” in lockups, but the Hotline has limited access to them.

At a meeting held in the Attorney-General’s office, it was held that “preference should be given to the preliminary testimony option, which, subject to budgetary resources, will also be documented by means of video recording. While this is admittedly not an ideal solution, whether for the defense or for the prosecution, in terms of the requisite balances in the issue this would not appear to be a dramatic impairment of the defendant’s rights. This approach would keep to the minimum the stay in Israel of the witness who is a victim of the crime of trafficking... Facilities for accommodation would be arranged according to the circumstances of each case, making sure to separate prosecution witnesses from defense witnesses.”²⁴⁵ These instructions have not permeated down into the system. In July 2002 three women were arrested in Eilat, in the country’s south, and were kept in detention for a protracted period. The trafficker’s defense lawyer brought an application to delay the women’s expulsion so that they could act as defense witnesses. Eventually, after the women had been in detention for a number of months, the defense decided to forgo their testimony and they were deported from the country. Likewise, in January-February 2003, at least one defense witness was held at the Hadera detention center awaiting testimony on behalf of a trafficker or pimp.²⁴⁶

If parts of the judicial and enforcement systems agree that detention for the purpose of testifying is an unreasonable practice, then this applies all the more so to defense witnesses. These women should be provided by the State with legal representation. Refusal to provide them with representation on the grounds that an Israeli witness is not so represented ignores the fact that these are foreign women who are unfamiliar with the language and the laws of the country, and whose financial resources are meager. Even if a woman has agreed to wait in detention until she testifies, the application must be rejected, because it is unreasonable for an individual to sit in jail of her own free will; hence the reason for such a state of affairs would apparently be either threats or inducements. Any such evidence would also be legally defective. If a witness is prevented from leaving the country, a place for her must be found outside of prison, which meets the approval of the court, where she can remain until she gives testimony. The place should be financed by the party who requested that she remain in the country. There should be additional restrictive conditions, such as posting bail, but detention should be the last and not the first resort for defense witnesses.

Compensation for victims

The new directives issued in 2002 by the State Attorney’s Office stipulate that “taking the specific circumstances into account, in cases prosecuted on the grounds of trafficking in women, an application must be made to the court, pursuant to Section 77

²⁴⁵ The meeting took place at the Attorney-General’s office on June 16, 2002, at the initiative of Rachel Gershuni, head of legislation in the Justice Ministry’s Legal Advice and Legislation Division. Participants included representatives from various government ministries, the prosecuting authorities, the Courts Directorate, and the Hotline.

²⁴⁶ A.K., a Moldavian national, was detained for about a month at the Michal detention facility in Hadera.

of the Penal Code – 1977, to the effect that if the defendant is convicted, the court will order that he be required to pay compensation to the person who has suffered because of the crime, for the damage or suffering he has caused that person.”²⁴⁷ In practice, in many trafficking cases no ruling is made concerning any compensation for victims. When compensation is stipulated, the sums are negligible relative to the profits made by traffickers, generally around \$1,000-\$2,000. Even such paltry sums are not paid out promptly, to put it mildly. A far more common demand is for the payment of a fine on the part of the traffickers, but the fine is paid to the State, not to the victim. In one case the prosecution applied for “an eight-month prison sentence, a suspended sentence, and a fine. We did not ask for compensation for the complainant, because of the defendant’s economic situation.”²⁴⁸ Such a stance results in an absurd situation in which the State prefers receiving a share of the trafficking profits to giving some compensation to its victims, not to mention the undue consideration showed towards traffickers.

When the State Attorney’s Office does not apply for compensation, the courts do not generally do so on their own initiative. In one instance, the Haifa District Court gave the following reasons: “I believe that this case is not the right place to order the payment of compensation, lest this be perceived as encouraging and providing a stamp of approval to those selfsame women who came to Israel unlawfully to engage in prostitution. I do not believe that under these circumstances it would be right for the court to become the collector of the prostitutes’ fees for them.”²⁴⁹ The court emphasized that it would consider this possibility if violence or rape were involved, but mere trafficking did not justify the payment of compensation to a victim. These comments testify to a lack of understanding concerning the nature of trafficking in women. One can understand the problem involved in the court acting as a “collector of prostitutes’ fees.” However, payment of compensation at a realistic level, proportionate to the gravity of the crime, would have an adverse effect on traffickers, would reduce the profitability of “employing” trafficked women, and of course would help to rehabilitate the victims.

²⁴⁷ Investigation and Prosecutions Policy for Prostitution and People Trafficking Offenses (Hebrew), 2002.

²⁴⁸ Serious Criminal Case 1113/01 (Tel Aviv-Jaffa) *State of Israel vs. Eli Ben Zakan* (unpublished).

²⁴⁹ Criminal Case 133/01 *State of Israel vs. Rahamim Saban* District Court Reports 2001 (2), 4256, 4262.

CHAPTER 4: PROTECTION AND REHABILITATION OF VICTIMS OF TRAFFICKING

“You want to rehabilitate Russian prostitutes? Come off it – let’s not go overboard. They should be sent back as fast as possible to where they came from after testifying” – MK Ophir Paz-Pines, Chairperson of the Knesset Constitution Committee, to MK Zahava Gal’ on, Chairperson of the Parliamentary Inquiry Committee on the Trading in Women.²⁵⁰ This position reflects not only attitudes to the victims of trafficking but also the strength of opposition to beginning their rehabilitation in Israel. It goes without saying that a comprehensive process of rehabilitation is absolutely vital for the victims of trafficking. If the women are not at risk in their countries of origin, the best thing is for the main part of their rehabilitation to be provided there, where their families and friends are. However, it is in Israel that they have undergone terrifying experiences as victims of trafficking, and the country cannot ignore its responsibility. Hence some measure of “first aid” is necessary, while they are still in Israel. Such assistance should, where appropriate, include medical and psychological treatment, as well as the receipt of temporary employment visas.

Shelter and emergency hotline

One of the subjects about which there is no disagreement between the authorities and the human rights organizations is the urgent need to establish a shelter. A shelter would be a suitable solution for all victims of trafficking, irrespective of whether or not they have decided to testify. A shelter is particularly vital for women who have escaped from their traffickers with nothing but the clothes on their backs, with nowhere to stay and afraid to turn to the police. The following cases will illustrate the need for a shelter for these women. The Hotline has documented the story of a woman who escaped from her pimp and wandered the beach utterly destitute. A police patrol car which located her brought her back to the brothel (!), and subsequently the woman refused to listen to any suggestions about going to the police, requesting instead assistance from human rights organizations only.²⁵¹ In another case a trafficking victim came to hospital after being attacked and escaping from the brothel. The woman was referred to the Hotline by a hospital social worker after a policeman who was called in to take her statement recommended that she “steal something small so that she’d be arrested and expelled from Israel.”²⁵² If Israel had a proper shelter, a representative of the law would not have to make such an absurd recommendation.

Although all circles acknowledge the need for a shelter, as yet no practical steps have been taken to set one up. On April 23, 2002 a decision was taken by the Ministerial

²⁵⁰ Minutes of the session of the Knesset Constitution Committee held on February 02, 2002 (Protocol No. 433).

²⁵¹ The testimony of A.K., a Ukrainian national, was taken on June 17, 2002 in a hideaway apartment.

²⁵² The referral to the Hotline was received on July 4, 2002. An application to the Interior Ministry, in which the story was recounted of a woman who had escaped from her traffickers and was afraid to return to her country because she feared she would suffer harm there, was replied to in a letter dated February 20, 2002, stating that: “It is not clear to us why Ms. D. does not return to her family abroad. It would seem to us that the best place for a girl in her position is her home.” In a phone conversation about the matter with the Interior Ministry, when it was suggested that the woman could stay on a kibbutz as a volunteer, the Ministry’s reaction was that in principle it did not issue volunteer visas on kibbutzim for people from Eastern European countries.

Committee for the Advancement of the Status of Women in Israel, chaired by Education Minister Limor Livnat, concerning the establishment of a shelter for the victims of trafficking in women. Similarly, a decision was taken to establish a task force headed by the Director-General of the Justice Ministry, including representatives from the relevant ministries, which would make recommendations to the Committee on all matters relating to the operation of the shelter. On July 15, 2002, the Attorney-General declared that a shelter for victims of trafficking would be opened at the beginning of 2003.²⁵³ According to a government decision dated December 1, 2002 the shelter was supposed to be set up in March 2003, but the shelter did not stem from any recognition of the fact that the trafficked women are victims of a serious crime, but was taken in order to rescue Israel from its embarrassing ranking in the U.S. trafficking report; hopefully it will be implemented in the near future.

According to a plan approved by the government, the shelter is to have 50 places and include two wings: an open wing, intended for prosecution witnesses, where women can come and go as they please; and a “protected” wing (i.e. prison) for those women awaiting expulsion and for women who are in a “thinking it over” phase, during which they decide whether or not they wish to testify.²⁵⁴ The shelter is supposed to offer a therapeutic framework, including psychological, social and medical care, as well as legal aid from the Justice Ministry. On January 12, 2003, the Hotline contacted the Ministry of Labor and Social Affairs with a proposal to help set up the shelter, but it laid down a number of conditions, first and foremost among which was the non-incarceration of victims. The reason behind this was that the so-called “protected” wing is merely a different name for a jail, and irrespective of how good the conditions in it are, an organization dedicated to promoting human rights for men and women alike cannot collaborate in incarcerating the victims of trafficking. The Ministry’s reply was negative, since in accordance with the government decision, the shelter is to include an incarceration facility.

In contrast to the shelter, the interministerial task force’s recommendation for setting up an emergency hotline for victims of trafficking has been implemented.²⁵⁵ In December 2002, the helpline for victims of trafficking began operations, under the auspices of the emergency line for preventing violence in the family and for aiding children at risk that operates in Haifa. The line is staffed by Russian-speaking volunteers, who receive training that enables them to provide callers with information and first aid and put them in touch with the appropriate agencies.²⁵⁶ Information about the line has been publicized in the Russian press, on the radio and on flyers circulated at venereal disease clinics, consulates, and crisis organizations. An attempt was made to post notices in areas with large numbers of brothels, particularly in Haifa, but the idea was dropped because of fears of retaliation on the part of the traffickers. The notices posted were immediately torn down. To date 33 calls have been made to the hotline: men have called asking to rescue women or asking for information on their behalf, and

²⁵³ Minutes of the session of the Parliamentary Inquiry Committee held on July 15, 2002 (Protocol No. 32).

²⁵⁴ A “thinking it over” period is common in many countries. In Belgium, for example, the women are given 14 days to decide whether they wish to testify, and in Germany 28 days.

²⁵⁵ Report of the interministerial task force, p. 28.

²⁵⁶ Most of the women who operate the Line are volunteers from Isha L’Isha or are trained by them. The Line operates daily. Its phone numbers are: 1-800-22-0000 or 04-8530161.

calls were made from the police or the hostels housing prosecution witnesses. Trafficked women have also called the line, but some of them were already in custody. The nature and number of calls indicate that there is not enough publicity about the line. Efforts should be stepped up to publicize it, above all in the large cities, as well as to ensure that those who post the notices have proper protection.

Legal advice and representation for victims of trafficking

Most victims of trafficking have no legal representation or advice, since they have no means to pay for a lawyer. The help offered by crisis organizations is limited, being based on volunteers and sometimes encountering a lack of cooperation on the part of the authorities. On October 2, 2002, the anti-trafficking clinic of the Human Rights Division of the Ramat Gan Academic College of Law, together with the Hotline, contacted the police and asked for entry permits to the detention centers in order to provide the women with legal advice. The request was turned down for a number of strange reasons, including a concern that legal proceedings and the undertaking of investigations would be disrupted (there are no proceedings or investigations concerning the affairs of women awaiting expulsion), and giving an “unfair advantage to volunteers over other agencies wishing to represent the victims.” The letter stated that the police recognize the importance of giving legal advice to victims of trafficking, and have even contacted the Legal Aid Office at the Justice Ministry over this matter. To the best of our knowledge, however, not only do lawyers from the Legal Aid Office not visit the detention facilities for this purpose: following case law they are prevented from assisting non-citizens.²⁵⁷ Consequently, it has so far been impossible for victims of trafficking who are in custody in detention facilities to receive any legal advice.

Over the years, traffickers have made use of lawyers in order to release women from detention and bring them back to the brothels. In these cases, the “purchase price” and fines imposed on the women are augmented by the lawyers’ fees and the bail posted by the pimp in order to release them. Some women have indeed left Israel on the appointed date, but in other cases the trafficker “returned” another woman with the passport of the one who had been released on bail. In this way the trafficker enjoys both the refund of the bail and the services of the woman whom he has effectively bought from the Interior Ministry. In a petition for the release on bail of a victim of trafficking, made by a pimp’s lawyer,²⁵⁸ the Hotline applied for *amicus curiae* status,²⁵⁹ arguing that the representation of victims of trafficking by the attorneys of traffickers-pimps is fundamentally flawed. Justice Aharon Barak, President of the Supreme Court, accepted this argument and wrote a decision which deserves repetition and ought to constitute the basis of behavior toward the victims of trafficking in women and toward all foreigners in the State of Israel:

²⁵⁷ Miscellaneous Applications (Jerusalem) 7072/99 *Abu Levda vs. the Public Defender’s Office* (unpublished).

²⁵⁸ High Court of Justice 1119/01 *Olena Zaritzkiya vs. Interior Ministry* Supreme Court Reports 2991 (2) 649. The pimp was represented by advocate Israel Klein.

²⁵⁹ An “amicus curiae” (friend of the court) is a body which is not a party to the actual proceedings and does not take part in the arguments, offering the court assistance on the basis of his or her experience. This institution is primarily used by organizations representing public interests and wishing to bring their position before the court. The “amicus” institution is not directly grounded in legislation, and the court can use its discretion over whether to involve it in a petition.

“The problem raised by the petition has not been solved, and it is at the very gates of Israel society and its authorities... We conclude that many women are today in the situation in which the petitioner was. The State and its authorities must take action, speedily: the law must be enforced in all matters relating to the prohibition of trafficking in women... Proper legal representation must be assured for women such as the petitioner; a situation must be prevented in which – as the Hotline complains – frequently the traffickers determine who is to represent them in court; it must be ensured that the women – and the other foreign workers – are not deprived of their rights in accordance with the laws of the State of Israel. Proper conditions of detention must be assured, with consideration given to a suitable alternative to detention that will guarantee the women’s welfare and the public peace. We are concerned about a major and grave social problem. An offence is being committed at our very door! Something must be done – without delay.”

Supreme Court Justice Jacob Turkel began to apply the rule laid down by Justice Barak when he ordered the appointment of a Public Defender’s Office lawyer to represent victims of trafficking who appeared before him without any legal representation. He set out the following reasons for this step: ‘What this is about is the human dignity – of all of us.’²⁶⁰ The observations of the President of the Supreme Court were translated into a bill in the Parliamentary Inquiry Committee. It was proposed that under Section 26 of the Anti- Trafficking Bill, 2002, the Legal Aid Office should provide legal counseling to victims of trafficking in proceedings involving the Law of Entry to Israel or involving civil proceedings originating in a trafficking offence. The interministerial task force also agreed to the provision of legal representation, but only to women staying in the shelter once it was set up. In addition, there was opposition to the rule that private lawyers should not represent victims of trafficking as this might violate their right to freedom of occupation.²⁶¹ In any case, to date, both the Supreme Court’s recommendations and the parliamentary draft bill have not been acted upon.

Very few victims of trafficking have sued their traffickers, for reasons that include the difficulties of accessing the courts of law, the high cost of legal representation, and victims’ disinclination to utilize the legal system, which is viewed more as an enemy than as a tool for getting justice. The past two years have witnessed an increase in the number of victims of trafficking turning to the courts to demand their rights. Most of these petitions were submitted through the Hotline. For example, victims of trafficking petitioned to receive health insurance during the time that they were waiting to testify,²⁶² to instigate an investigation because the police had ignored their complaint,²⁶³ to receive financial aid while awaiting testimony,²⁶⁴ and to receive permits to reside in Israel after

²⁶⁰ Miscellaneous Criminal Applications 9016/01 *State of Israel vs. Nikolayeva Yelena Lyonid and Others* Supreme Court Reports 2001 (3) 533, 534.

²⁶¹ Report of the interministerial task force, p. 32.

²⁶² High Court of Justice 5945/02 *Jane Does and Others vs. Attorney-General*. The application was filed by the Hotline for Migrant Workers and Physicians for Human Rights and was prepared by Tel Aviv University’s Human Rights Clinic (proceedings in this case have not yet been completed).

²⁶³ High Court of Justice 3536/01 *Jane Does vs. Israel Police* Supreme Court Reports 2001 (2) 412.

²⁶⁴ High Court of Justice 967/01 *Victoria Moldovnova vs. Internal Security Minister* Supreme Court Reports 2001 (1), 1589.

the trial.²⁶⁵ Apart from petitions concerning fundamental rights, the Hotline has also submitted a number of civil suits on behalf of victims of trafficking against their traffickers. For example, a trafficked woman by the name of Victoria Moldovnova, claimed compensation and salary from the traffickers and pimps who had taken advantage of her.²⁶⁶ The Hotline also filed three civil suits against traffickers following criminal proceedings against them.²⁶⁷

Absence of a witness protection plan

There is no need to elaborate on the importance of testimony by victims of trafficking against their traffickers. As has been indicated, these witnesses are at risk, and the danger does not disappear when they return to their own countries, in particular given the close ties between the traffickers in Israel and those in the country of origin. The combination of countries of origin in which the rule of law is shaky at best, and traffickers who wish to prevent women from testifying, creates a presumption of danger. Israel is duty-bound to look after prosecution witnesses and to immediately put an end to the current policy, i.e. expelling the women once their testimony has been obtained. This duty is grounded in the U.N. Protocol, which asks all countries to adopt the requisite measures in order to enable the victims of human trafficking to remain within their borders, temporarily or permanently, as necessary.²⁶⁸ The Supreme Court has also ruled in this spirit: “Even when applying the authority of expulsion, account must be taken of the individual’s life and liberty. An individual who enters Israel and resides there unlawfully is not entitled to remain in Israel, but he is entitled not to have his life put at risk – not in Israel and not in the target country to which he will be expelled.”²⁶⁹

The legal authorities demonstrate complete imperviousness to the danger facing victims of trafficking on their return to their countries, in particular those who have testified. Dozens of applications by the Hotline to the Interior Ministry for temporary residence permits for victims have been rejected or gone unanswered. In the matter of Y.L. from Moldova, who had testified against her trafficker, the Ministry replied in a letter as follows: “If the [Israel Police] Investigations Division recommends giving Ms. Y.L. a residence permit for Israel after it has become convinced that there is a danger to her life in her country of origin, the Interior Ministry will consider the recommendation favorably. The same applies to the other girls who have agreed to testify.”²⁷⁰ The Hotline approached the police and the reply it received contained the following: “It is our opinion that for the sake of the safety of victims of trafficking they must leave the country immediately after the completion of the legal proceedings involving them.”²⁷¹ This was written without indicating the basis for the opinion, after years of arguing

²⁶⁵ Administrative Application 673/02 *Anonymous and Others vs. Internal Security Minister and Others* (proceedings in this case have not yet been completed).

²⁶⁶ Labor Court (Beersheva) 2581/00 *Victoria Moldovnova vs. Yuri Slasbersky* (proceedings in this case have not yet been completed).

²⁶⁷ TA (Tel Aviv) 3368/01 *Jane Doe vs. Isaac Yusipov*; TA 2191/01 *Jane Doe vs. Igor Zak and Others*. (Proceedings in both cases have not yet been completed).

²⁶⁸ United Nations Protocol, § 7 (1).

²⁶⁹ High Court of Justice 4702/94 *Salah Ahmed Kadem Al Tay, Others vs. Interior Minister*, Law Reports 49 (3) 843, 844.

²⁷⁰ Letter by Batya Carmon, head of Visas and Aliens Division, September 10, 2001.

²⁷¹ Letter by Superintendent Dudi Peretz, inspections and drawing of lessons officer, August 7, 2002.

exactly the opposite – that the danger to these women was so great that they had to be kept in jail for their own safety.

The following cases indicate that the police are aware that after they return to their home country, some of the women at least – especially prosecution witnesses – are still in mortal danger.

The Hotline petitioned the court, arguing that two women were in mortal danger because they had been prosecution witnesses.²⁷² Following the arrest of the traffickers in the case in which one of them had testified, the police issued the following statement: “The heads of the network have a habit of obtaining information from the girls about close relatives, and when one of them shows signs of wanting to escape or manages to do so, they send messages containing threats about harming their relatives.”²⁷³ Efforts were made to dissuade the second petitioner from testifying by means of threats against her family. When she was at the police station that was investigating her complaint, she telephoned the liaison people in her country of origin. The conversation, which involved explicit threats, was recorded. However, the police did not find that any danger existed and tried to expel the woman and her infant son, who had suffered brain damage caused by circumstances related to her trafficking. When the Hotline contacted the Interior Ministry and applied for a stay of expulsion on account of the serious condition of the baby, who was likely to die without treatment, the answer was as follows: “He will survive the plane trip.” In reply to the question as to what would happen to the baby subsequently, it was stated this had nothing to do with the State of Israel. The final verdict in the petition has not yet been handed down.

The need to protect prosecution witnesses who return to their countries is more widely recognized than in the past, but the recommendation of the interministerial task force in this matter amounted to no more than a notification to the country of origin and making use of crisis and assistance organizations.²⁷⁴ At a session the Inquiry Committee, the Deputy Internal Security minister said that budgetary difficulties were holding up the witness protection program.²⁷⁵ Checking on the dangers to which the women are exposed is indeed problematic, since a long chain of traffickers is involved, in different countries. It is a moot point whether the police are capable of identifying any tangible danger, particularly in light of the resources available and its lack of willingness to undertake such investigations. At most – and not consistently – it contacts the embassy in Israel of the country in question or the police in the country of origin. To the best of our knowledge, in all their contacts the police were assured that the woman would not be at risk when she returned. Such a reply is only to be expected, since if the country in question were to admit that it was unable to protect its citizens, it would be greatly embarrassed. As a result of this “check,” to this day not one of the over 200 women who have testified against their traffickers is considered at risk.

²⁷² Administrative Application 673/02 *Anonymous and Others vs. Internal Security Minister and Others* (proceedings in this case have not yet been completed). The application was drawn up by the Justice Haim Cohn Center for the Legal Defense of Human Rights, an association of volunteer lawyers who provide legal services in order to defend human rights.

²⁷³ Published by the Police spokesman on May 19, 2002 at the police website <http://www.police.gov.il>.

²⁷⁴ Report of the interministerial task force, p. 33.

²⁷⁵ Minutes of the session of the Parliamentary Inquiry Committee held on October 16, 2002: “Protection prosecution witnesses” (protocol no. 34)

Information about the disappearance and murder of victims of trafficking from the 1990s has been received by the Hotline, but this has not been officially substantiated.²⁷⁶

Since the State of Israel is duty bound to protect victims of trafficking, the starting point should not be that there is no danger as long as the contrary has not been proved, but the opposite – it must be assumed that there is a danger, unless proven otherwise. The reason is that in those countries with organized crime networks, which will not hesitate to harm victims in order to make an example of them, and which sometimes enjoy the cooperation of a corrupt police force, there is no practical way to determine the extent of any danger awaiting the women and certainly not to guarantee their safety. Even if we accept the country's position that the expelled women's lives are not really in danger after they have testified against their traffickers, all it takes is for the women themselves to fear for their lives in their countries of origin to be deterred from testifying. The touchstone must be the **subjective** test, i.e. the fears of the woman who is supposed to testify, and not the **objective** test of proving mortal danger. The “negative incentive” that is provided by the traffickers' threats can be balanced out by a “positive incentive” such as providing victims of trafficking with a residence and work permit for a specified period, especially to those women who have dared to testify against the traffickers.

In many countries that are working to combat trafficking in women, such as the United States, Germany, and Italy, prosecution witnesses receive work permits for at least six months, or a temporary resident visa. Issuing a visa is an expression of the country's obligations towards victims of a crime committed on their territory, an assumption of responsibility for the lives of the women who have testified, and acknowledgement of the risks awaiting them in their countries as a result of this. True, all the victims of trafficking entered and were present in Israel illegally, but this is a marginal offence compared with the crime of trafficking. In the case of State's witnesses, too, these are forgiven for far more serious offences than illegal residence in return for their testimony. We have only to think of the traffickers who enjoyed practically unlimited immunity because they provided the police with information. If the traffickers' lawyers should argue in court that the women testified in return for a work visa, this contention can be dealt with, just as similar arguments are dealt with in respect of State's witnesses. In the context of giving work visas to victims of trafficking who have testified against their traffickers, it should be remembered that around 100,000 migrant workers are legally present in Israel today, including tens of thousands of women. Will the State of Israel not benefit if instead of bringing in additional female workers from the four corners of the earth, it issues work visas to the victims of trafficking already here, in return for their testimony?

Limited medical and psychological aid

Justice Aharon Barak, President of Israel's Supreme Court, has held that: “A person who does not have access to elementary medical treatment is a person whose dignity is

²⁷⁶ For example, the Hotline coordinated the return of K.M. with an aid organization from Moldova. Although she was not a prosecution witness, she disappeared after landing on August 16, 2001. To this day it is not known what became of her. In another case a police officer informed a Hotline volunteer that two victims of trafficking who had been prosecution witnesses were murdered after being deported back to their countries. Later the police retracted this statement, but what happened to the women is not known.

violated.²⁷⁷ According to the U.N. Protocol, each signatory is obliged to provide the victims of trafficking with medical and psychological assistance to the best of its ability.²⁷⁸ Israel's Patients' Rights Law (1996) stipulates that all individuals who require medical treatment are entitled to receive it in accordance with standard conditions and arrangements. In a medical emergency, an individual is entitled to receive unconditional emergency medical attention. Furthermore, patients must not be discriminated against on the basis of religion, race, sex, nationality, country of origin, and so on. Victims of trafficking come to Israel from countries where basic medical services are not taken for granted. In addition to the neglect in their countries of origin, most of them are in Israel without passports or any other identifying papers, and hence are unable to arrange for medical insurance during the period they are in a brothel. As a result, they have no direct access to health services – except through their pimps.

Following the increase in sexually transmitted diseases at the end of the 1990s, the Health Ministry decided to investigate the phenomenon and arranged interviews with people who had fallen ill with VD. Statistics presented by the Ministry to the Inquiry Committee showed that half of infected persons had reported paying for sex.²⁷⁹ The Ministry decided to check women working in prostitution. A medical team with a police escort examined 300 women in brothels, took blood and urine samples from them, as well as throat swabs, and offered them antibiotic first aid. The Ministry claims that the examinations were performed after receiving legal counseling, and that it did not force the women to undergo these check-ups. However, the interviews show that the doctors did not always make a point of obtaining the women's consent, simply making do with the consent of their pimps. S.S. gave the following account: "I was forced to work in prostitution against my will in Israel. I was pregnant and I was afraid to tell. When I was in my sixth month, I think, doctors with policemen came to the brothel where I was working. They told us that we had to be checked. The policeman was in plain clothes and demanded IDs from everyone. At that time I was emotionally and physically shattered, and I was scared to ask for help. A woman doctor examined us. A month later they told me that everything was OK, but nothing was OK."²⁸⁰

These women undoubtedly need medical attention, but to examine them without their express consent is a serious matter, and in this sense is similar to the examinations that their pimps perform on them. The way that the examinations were carried out is not in compliance with the Patients' Rights Law, and reflects the contempt with which the Health Ministry treats the women. A Health Ministry representative said in the discussion at the Inquiry Committee: "In the worst case scenario, she will suffer, be examined and treated... Of course our presence with the police is problematic, but it's either do something or be a bleeding heart."²⁸¹ The Health Ministry ignored non-contagious diseases that the women were found to be suffering from, focusing only on diseases dangerous to the public. The fact that the examinations were carried out with a police escort had a particularly invidious effect on the women. The presence of the

²⁷⁷ Civil Appeals Authority 4905/98 *Gamzu vs. Yishayahu* 55 (3) 360, 375.

²⁷⁸ United Nations Protocol, § 6 (3).

²⁷⁹ Minutes of the session of the Parliamentary Inquiry Committee held on November 07, 2001: "The medical, physical and mental state of victims of trafficking" (Protocol No. 20).

²⁸⁰ S.S.'s testimony was taken on July 21, 2002 at a hideaway apartment.

²⁸¹ Minutes of the session of the Parliamentary Inquiry Committee held on November 07, 2001 (Protocol No. 20).

policemen reduced their ability to resist. Moreover, the whole scene confirmed the traffickers' contention that the authorities were not interested in the women's situation, only their physical health, and only then if it represented a risk to the public health.

An unexpected result of the checks was the cynical use that the traffickers made of them in order to publicize their brothels and thereby increase the legitimization of commercial sex. For example, in March 2002, an advertising magazine was published containing sex adverts. In addition to advertisements such as: "arrival of new black meat" or "lovely striptease pair," there was an announcement promising, "our girls have been checked and found to be AIDS-free! Health Ministry certificates available!". Another, more positive, result of the examinations was the Health Ministry's decision to open two clinics specializing in sexually transmitted diseases, in Tel Aviv and Haifa.²⁸² The clinics provide their services to all comers, with no ID or health insurance required. They offer diagnosis and treatment of venereal diseases, plus counseling and information. It would have been preferable for this welcome outcome to have been obtained without the compulsory examinations at the brothel.

Victims of trafficking waiting in hostels to give testimony also have major health problems to which, until recently, the solutions provided by the police have been inadequate. While conditions at the hostel are incomparably better than those in jail or brothel, the witnesses have no structured framework for medical and psychological care. The police often lack knowledge regarding where to send the women for treatment, and in many instances the women's medical problems have been placed on the shoulders of volunteer organizations, in particular Physicians for Human Rights. A woman in need of medical treatment would also have to wait for an available policeman and patrol car. At a session of the Inquiry Committee, Police Superintendent Pini Aviram described the difficulties involved in providing medical treatment to women awaiting testimony, including escorting them to abortions, dental clinics and other venues – a state of affairs which ties up police resources as well as detracting from the force's ability to deal with other trafficking cases.²⁸³

Sometimes the police also added to the difficulties. A woman suffering from gynecological problems was referred to a specialist clinic and taken there by a volunteer. The police refused to pay the cost of the visit, around \$10, a special price for Physicians for Human Rights patients, arguing that the woman should have gone to the police-operated specialist clinics that treat foreigners. When the Hotline representative asked for the phone number of these clinics, they were given the Physicians for Human Rights number, as well as the Hotline's own number. Physicians for Human Rights and the Hotline, in cooperation with Tel Aviv University's Human Rights Clinic, have on a number of occasions applied to the Attorney-General with a request to regulate the health insurance for women in the hostel. In the absence of any response, the



An advertisement in Hebrew stating :
"our girls have been checked and found to be AIDS-free! Health Ministry certificates available!"

²⁸² Tel Aviv clinic: 108 Levinsky Street, tel.: 03-5373738. Haifa clinic: 15 Haparsim Street, tel.: 04-8619719.

²⁸³ Minutes of the session of the Parliamentary Inquiry Committee held on June 19, 2002: "Police account of recent arrests of traffickers" (Protocol No. 29).

organization petitioned the High Court of Justice.²⁸⁴ In the framework of an interim arrangement reached in the wake of the petition, women living in the hostel began receiving treatment at hospital outpatient clinics.

The police do not always make a point of dealing properly with travel documents and airline tickets during the time trafficked women are waiting to give evidence. As a result, after she has completed her testimony, a woman is frequently transferred to a detention facility where she has another wait for the travel documents and airline tickets that she needs in order to be expelled from Israel.²⁸⁵ Victims of trafficking in women have suffered enough, and every effort should be made to treat them differently, including providing them with the appropriate medical, psychological, and legal assistance services for their problems. Likewise, prosecution witnesses should be given a work visa until the end of the legal proceedings, and consideration should be given to issuing a permanent visa in humanitarian cases. It should be noted that most of these recommendations appear in the interministerial task force report,²⁸⁶ but it would appear that there is “many a slip” between the recommendations and their implementation.

Consulates of the countries of origin in Israel and their attitudes to the victims of trafficking

Regrettably, even the representatives of the countries of origin do not appear to make any effort to compensate victims of trafficking for the way that they are treated in Israel, and in fact their own attitude can be seen as a direct continuation of that of Israeli authorities. Because most of the women are arrested without a passport, they cannot be expelled and they depend on their consulates’ “charity” to obtain travel documents. As has been indicated, the Uzbekistan Consulate is distinguished by its posing of obstacles. At a meeting with Isha L’Isha on December 12, 2002, the Uzbek consul claimed that the absence of computerization in his country was the cause of the delay. In contrast, Uzbek women claimed that the Interior Ministry in their country was computerized. Subsequently the Consulate began demanding the payment of \$25 in return for travel documents. As described above, the authorities in Israel preferred to waste hundreds of thousands of dollars on locking up the women rather than make the payment, but after the women began a hunger strike, handling of their cases was speeded up. Other consulates, such as the Moldavian Consulate, have adopted a policy of recording “suspected of engaging in prostitution” in the women’s travel documents, without any proof of such. All they need is for a young woman to be in police custody. And in this way, one of the basic components of the crime of human trafficking – confiscating the victim’s passport – has become a double-edged sword against the victim. The Hotline has made a request to the Foreign Ministry to contact the consulates and explain to them the damage caused to the citizens of their countries by this practice, but no response has been forthcoming. The Israeli Coalition against Trafficking in Women contacted the United Nations over the matter in February 2003.

²⁸⁴ High Court of Justice 5945/02 *Jane Doe and Others vs. Attorney-General and Others* (proceedings in this case have not yet been completed).

²⁸⁵ Witnesses are also supposed to receive NIS 200 a week from the police in order to buy personal hygiene products, calling cards, and so on. However, the money is sometimes significantly delayed – up to several months on occasion.

²⁸⁶ Report of the interministerial task force, p. 12.

Cooperation with international assistance organizations

In contrast to the indifference to the victims of trafficking on the part of a number of their countries of origin, international and local assistance organizations try to assist them in recovering in their own country. The International Organization for Migration (IOM) is one of the world's most active organizations in the area of migration and migrants generally, and trafficking of women specifically, and it advises numerous countries.²⁸⁷ The IOM refuses to assist countries over expulsion procedures, because these run counter to one of its principles – that any return by an individual to his country must be voluntary. The Hotline's legal adviser was invited to attend an international workshop in the Ukraine organized by the IOM in December 2002. The purpose of the workshop was to study the problems and work out joint ways of acting in combating trafficking in women and assisting its victims. A representative of Israel's Foreign Ministry told the Inquiry Committee that IOM had offered Israel its assistance and that the Foreign Ministry was interested in cooperating with it.²⁸⁸ However, it is difficult to see how this wish can be put into practice as long as the authorities continue to expel the victims of trafficking and are making it difficult for the volunteers of assistance organizations to enter detention facilities in order to, among other things, establish liaison between the women and organizations such as the IOM.

Recent years have seen closer ties between assistance organizations in Israel and international organizations as well as organizations in the countries of origin, in order to locate victims of trafficking in women, assist them in returning safely to their own countries and exchange information. Organizations which are constantly in touch include: Stop-Traffic – an organization that collects and disseminates information over the Internet concerning trafficking in women worldwide and provides liaison between organizations in the country of origin and the country of destination; La Strada – an organization that operates throughout the whole of Eastern Europe to prevent trafficking in women and assist the recovery of its victims, including by means of legislation and promoting ties between assistance organizations in different countries; Angel – a crisis and assistance center for the victims of sexual assault and rape in St. Petersburg, Russia, that heads the coalition of organizations combating trafficking in women and operates a shelter for victims returning to their country of origin; the Center for the Prevention of Trafficking in Women in Moldova; a crisis and assistance center for the victims of sexual assault and rape in Kishinev, Moldova; and a hotline for victims of trafficking in Uzbekistan which opened in November 2002. This international cooperation to eliminate trafficking and protect its victims is to be welcomed. However, cooperation between human rights organizations cannot replace cooperation between governments, and is no alternative to the changes required in Israel's policy toward trafficking in women.

²⁸⁷ The organization was founded in 1951 and works to promote legal migration for people whose human rights will be respected. <http://www.iom.int>

²⁸⁸ Protocol No. 20, Parliamentary Inquiry Committee session of November 14, 2001.

SUMMARY AND CONCLUSIONS

In the last two years a change has occurred in the attitude of the authorities in Israel to trafficking in women, but it is not sufficient. Israel's overall policy still views trafficking in women as a problem of illegal migration, of organized crime, and a public health hazard. There are important indications as to developing consideration of the human rights of victims of trafficking, but they are present solely in the area of recommendations. Only their application in full will bring about a genuine change in policy and an improvement in the human rights situation in Israel. This change will also lead Israel to a situation that it wishes to achieve in the U.S. State Department report – the group of countries working to stamp out trafficking and help its victims' recovery.

The means of stamping out trafficking in women are known and contain nothing innovative. The recommendations that appear below are based on the experience accumulated in Israel itself as well as worldwide, grounded in international covenants to which Israel is a signatory.

Enforcement: Increased enforcement is needed in respect of traffickers, pimps, and their collaborators. Action must be undertaken to change the prosecuting authorities' directives which allow the police to turn a blind eye to the activities of a brothel. Special units must be set up in the police and the State Attorney's Office, in order to focus on dealing with this area. Minimum use must be made of plea bargains, and the traffickers must also be tried for offenses which accompany trafficking, such as: rape, violence, assault, incarceration, etc. The level of punishment meted out must be raised so as to act as a deterrent. The property of traffickers in women must be confiscated and the money must be transferred to a special authority that provides treatment for victims of trafficking, in accordance with MK Gal'on's proposal.

Protection and rehabilitation: Illegal presence and possession of forged documents are minor offenses compared with the offense of trafficking, and hence victims of trafficking should not be arrested or prosecuted on these grounds. They must be given a temporary residence visa so that they can get organized for returning to their own country, enjoy protection, and be encouraged to testify against the traffickers. Cooperation must be improved with human rights organizations over providing victims with assistance and establishing a protected shelter that will offer them the requisite medical and psychological assistance so that they can start to recover. Work visas must be issued to women waiting to be tried or to testify. All of the rights given them under the law must be respected, they must be involved in and kept informed about the legal proceedings. Victims must not be subject to coerced expulsion and expulsion must not be carried out if their lives are in danger in their own country.

Legal aid: Women must be offered legal representation and interpretation services in all the legal proceedings in which they are involved, including the prosecution of traffickers. Even if they are to be expelled, they must at least be assured of genuine judicial review of the process of their expulsion.

Awareness: Representatives of the authorities: judges, State Attorney's Office, and police officers, must be informed and educated concerning the gravity of the offense of trafficking; action must be undertaken to bring about a change in attitudes which confer

legitimacy on the purchasing of sex services for money; and consideration must be given to taking steps against customers.

International cooperation: Close cooperation must be established between the countries of origin, the countries of transit, and Israel, so as to prevent and foil trafficking, and no less importantly, in order to assist the victims' acclimatization and rehabilitation process.

As has been indicated above, appropriate recommendations already exist, but the willingness to put them into practice does not. What separates the right attitude from the current attitude is opposition to switching from perceiving the women as "Russian prostitutes" to viewing them as victims of trafficking with rights. Israel's policy has had a harmful effect on the victims of trafficking as well as its image in the world. The time has come for Israel, as a country with aspirations to being a democracy that upholds the principle of human dignity and liberty, to come to terms with the fact that this is a crime which has few parallels in terms of gravity, and to take action against it in keeping with the guidance laid down by the President of its Supreme Court:

"We are concerned about a major and grave social problem. An offense is being committed at our very door! Something must be done – without delay."

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